

## JOURNAL OF THE SENATE

## Sixty-first Legislative Assembly

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Bismarck, March 18, 2009

The Senate convened at 1:00 p.m., with President Dalrymple presiding.

The prayer was offered by Pastor Marc P. Eidahl, New Life Church, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

## CORRECTION AND REVISION OF THE JOURNAL

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

Page 770, line 51, remove "HB 1392,"

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

## POINT OF PERSONAL PRIVILEGE

**SEN. NELSON:** Mr. President: I rise on a point of personal privilege.

**MR. PRESIDENT:** I rise today to congratulate my colleague, Senator Tim Mathern, who received a national award this week for his work in psychiatric health.

The Senator was awarded the 2009 Grassroots Leadership Award from the National Association of Psychiatric Health Systems for his long history of mental health advocacy. "Change happens because of the actions of individuals," the organization's director said when giving him the award in Washington, D.C. last weekend.

So, on behalf of all my colleagues, I want to say how proud we are of Senator Mathern for winning this award, and perhaps more importantly, for everything he has done and continues to do for mental health in our state.

## REQUEST

**SEN. NELSON REQUESTED** that her remarks be printed in the Journal, which request was granted.

## POINT OF PERSONAL PRIVILEGE

**SEN. KLEIN:** Mr. President: I rise on a point of personal privilege.

**MR. PRESIDENT:** On Saturday March 7 at the Alerus Center in Grand Forks, the Kidder County Lady Pirates won the 2009 State Class B Girls Basketball Championship.

The Lady Pirates battled throughout the tournament and came from behind in the championship game to come away with the victory when Eli Benz made the game winning shot at the buzzer.

The Lady Pirates had an impressive season going 26-1 and winning their first state championship.

Lady Pirates Junior Eli Benz was named the tournament MVP.

Congratulations Coach Mark Sand and the Kidder County Lady Pirates for a job well done. We salute your hard work, your sportsmanship and your victory.

**The 2008-2009 Kidder County Lady Pirates:** Liz Schneider, Shauna Slaughter, Lindsey Sand, Bailie Ziesch, Erica Schneider, Nicole Biesterfeld, Eli Benz, Molly Kahl, Amber Rangeloff, Julia Scherbenske, Shalee Martin, Kayla Pfaff. **Head Coach:** Mark Sand. **Assistant Coaches:** Scott Wolff, Dan Welder. **Statisticians:** Darla Dewald, Megan Riskedahl. **Superintendent:** Ken Miller. **Principal:** Darnell Schmidt. **Athletic Director:** Monty Mayer.

**REQUEST**

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

**CONSIDERATION OF AMENDMENTS**

**HB 1489, as engrossed: SEN. MILLER (Finance and Taxation Committee) MOVED** that the amendments on SJ page 795 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1407, as reengrossed: SEN. G. LEE (Transportation Committee) MOVED** that the amendments on SJ pages 793-794 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1227, as engrossed: SEN. HOGUE (Natural Resources Committee) MOVED** that the amendments on SJ page 756 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**.

**REQUEST**

**SEN. WANZEK REQUESTED** a recorded roll call vote on the motion to adopt the proposed amendments to Engrossed HB 1227, which request was granted.

**ROLL CALL**

The question being the motion to adopt the amendments to Engrossed HB 1227, the roll was called and there were 29 YEAS, 18 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Bowman; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Heckaman; Hogue; Horne; Krauter; Krebsbach; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nothing; Nodland; Oehlke; Pomeroy; Robinson; Seymour; Taylor; Triplett; Warner

**NAYS:** Behm; Christmann; Dotzenrod; Freborg; Grindberg; Holmberg; Kilzer; Klein; Lee, G.; Marcellais; Miller; O'Connell; Olafson; Potter; Schneider; Stenehjerm; Wanzek; Wardner

The motion to adopt the amendments to Engrossed HB 1227 passed.

**CONSIDERATION OF AMENDMENTS**

**HB 1068: SEN. POTTER (Transportation Committee) MOVED** that the amendments on SJ pages 792-793 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1543, as engrossed: SEN. KLEIN (Agriculture Committee) MOVED** that the amendments on SJ pages 795-796 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1459, as engrossed: SEN. MILLER (Agriculture Committee) MOVED** that the amendments on SJ pages 794-795 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1004:** A BILL for an Act to provide an appropriation for defraying the expenses of the state auditor; to provide legislative intent; and to amend and reenact section 54-10-10 of the North Dakota Century Code, relating to the salary of the state auditor.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 39 YEAS, 8 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Behm; Bowman; Christmann; Cook; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Marcellais; Mathern; Miller; Nothing; Nodland; Oehlke; Olafson; Potter; Robinson; Schneider; Seymour; Stenehjerm; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** Anderson; Bakke; Dever; Dotzenrod; Lyson; Nelson; O'Connell; Pomeroy

Engrossed HB 1004, as amended, passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1361:** A BILL for an Act to create and enact subsection 9 to section 43-55-08 and two new sections to chapter 43-55 of the North Dakota Century Code, relating to professional employer organizations; to amend and reenact sections 43-55-03 and 43-55-05 of the North Dakota Century Code, relating to licensing requirements for professional employer organizations; and to declare an emergency.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed HB 1361, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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### SECOND READING OF HOUSE BILL

**HB 1342:** A BILL for an Act to create and enact a new section to chapters 49-10 and 49-11 of the North Dakota Century Code, relating to public and private railroad crossings; to amend and reenact sections 49-11-21 and 49-11-22 of the North Dakota Century Code, relating to warning devices at railroad crossings; and to provide an effective date.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed HB 1342, as amended, passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1007:** A BILL for an Act to provide an appropriation for defraying the expenses of the labor commissioner; and to provide legislative intent.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed HB 1007, as amended, passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1219:** A BILL for an Act to amend and reenact section 39-20-01.1 of the North Dakota Century Code, relating to the chemical test of a driver in an accident.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Reengrossed HB 1219, as amended, passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1011:** A BILL for an Act to provide an appropriation for defraying the expenses of the securities commissioner; and to provide for a legislative council study.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed HB 1011, as amended, passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1002:** A BILL for an Act to provide an appropriation for defraying the expenses of the office of the secretary of state and public printing; to provide for a transfer; to provide legislative intent; to provide a contingent appropriation; to provide an exemption; and to amend and reenact sections 16.1-01-15 and 54-09-05 of the North Dakota Century Code, relating to interest earnings on the election fund and to the salary of the secretary of state.

**ROLL CALL**

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

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

**NAYS:** Potter

Engrossed HB 1002, as amended, passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1059:** A BILL for an Act to amend and reenact sections 54-36-01 and 54-36-03 of the North Dakota Century Code, relating to the members and the powers and duties of the Indian affairs commission; and to provide a continuing appropriation.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed HB 1059, as amended, passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1413:** A BILL for an Act to create and enact a new section to chapter 4-10.6 of the North Dakota Century Code or in the alternative to create and enact section 4.1-04-04.1 of the North Dakota Century Code, relating to corn utilization council elections; and to amend and reenact sections 4-10.6-02 and 4-10.6-08 of the North Dakota Century Code or in the alternative to amend and reenact sections 4.1-04-04 and 4.1-04-10 of the North Dakota Century Code, relating to corn assessments.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed HB 1413 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1386:** A BILL for an Act to amend and reenact sections 15-12-20 and 23-36-03 of the North Dakota Century Code, relating to rabies determinations.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed HB 1386 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1109:** A BILL for an Act to create and enact a new section to chapter 4-01 of the North Dakota Century Code, relating to meetings of commodity groups; and to amend and reenact sections 4-10.1-04, 4-10.2-03, 4-10.3-03, 4-10.4-03, 4-10.5-02, 4-10.7-02, and 4-27-04 of the North Dakota Century Code, or in the alternative to amend and reenact sections 4.1-02-01, 4.1-02-03, 4.1-02-09, 4.1-06-03, 4.1-07-01, 4.1-07-03, 4.1-07-08, 4.1-09-01, 4.1-09-04, 4.1-09-12, 4.1-10-03, 4.1-10-05, 4.1-10-06, 4.1-11-01, 4.1-11-03, and 4.1-11-08 of the North Dakota Century Code, relating to removal of the agriculture commissioner from governing bodies of commodity groups.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

HB 1109 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1491:** A BILL for an Act to amend and reenact sections 36-09-17, 36-09-20, 36-09-20.1, 36-09-22, and 36-09-23 of the North Dakota Century Code, relating to penalties imposed for violation of brand laws.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed HB 1491 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1484:** A BILL for an Act to amend and reenact subdivision c of subsection 2 of section 37-17.1-07.1 of the North Dakota Century Code, relating to hazardous chemical fees.

**ROLL CALL**

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

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

**NAYS:** O'Connell

HB 1484 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1525:** A BILL for an Act to provide for a workforce safety and insurance study of post-retirement benefits within the workers compensation system.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais;

Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed HB 1525 passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1575:** A BILL for an Act to create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to participation by peace officers employed by the bureau of criminal investigation in the defined benefit retirement plan; to amend and reenact subsection 11 of section 54-52-01, subsection 3 of section 54-52-05, and subsection 3 of section 54-52-17 of the North Dakota Century Code, relating to participation by peace officers employed by the bureau of criminal investigation in the defined benefit retirement plan; and to provide an appropriation.

### ROLL CALL

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

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

**NAYS:** Christmann

Engrossed HB 1575 passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1185:** A BILL for an Act to create and enact a new chapter to title 12.1 of the North Dakota Century Code, relating to human trafficking; and to provide a penalty.

### ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 6 YEAS, 41 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bakke; Dever; Horne; Mathern; O'Connell

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

Engrossed HB 1185 lost.

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### SECOND READING OF HOUSE CONCURRENT RESOLUTION

**HCR 3051:** A concurrent resolution directing the Legislative Council to study imposition of criminal and civil penalties, fines, fees, and forfeitures by administrative rule.

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

HCR 3051 was declared adopted, and the title was agreed to on a voice vote.

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### MOTION

**SEN. CHRISTMANN MOVED** that HB 1175, HB 1227, and HB 1489 be returned to the Senate floor from the **Appropriations Committee**, which motion prevailed.

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

**MR. SPEAKER:** The Senate has passed unchanged: HB 1147, HB 1280, HB 1389, HB 1545.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1128, HB 1181.

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

**MR. SPEAKER:** The Senate has failed to pass unchanged: HB 1457.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1151, HB 1194, HB 1295, HB 1391.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1001.

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

**MR. SPEAKER:** The Senate has amended, subsequently passed, and the emergency clause carried: HB 1438.

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

**MR. PRESIDENT:** The House has passed unchanged: SB 2370, SB 2388, SB 2389, SB 2416.

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

**MR. PRESIDENT:** The House has failed to pass unchanged: SB 2383, SB 2385, SB 2411.

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2035.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2035**

Page 1, line 4, after the second "coal" insert "or beneficiated coal used to produce steam that is"

Page 4, line 7, after "in" insert ", or coal used to produce steam that is used in,"

Page 4, line 10, after "subdivision" insert "of the state"

Page 4, line 12, after "in" insert ", or used to produce steam that is used in,"

Page 4, line 14, after "subdivision" insert "of the state"

Page 4, line 18, after "subdivision" insert "of the state or to produce steam that is used in any of those facilities"

Renumber accordingly

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

**MR. PRESIDENT:** The House has amended, subsequently passed, and the emergency clause carried: SB 2131.

**HOUSE AMENDMENTS TO SENATE BILL NO. 2131**

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

Page 2, after line 17, insert:

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

Renumber accordingly

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2033, SB 2153, SB 2217, SB 2259, SB 2274, SB 2309, SB 2313, SB 2321, SB 2349, SB 2354, SB 2380.

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

**MR. SPEAKER:** The President has signed: HB 1025, HB 1061, HB 1084, HB 1087, HB 1098, HB 1099, HB 1137, HB 1141, HB 1184, HB 1201, HB 1205, HB 1215, HB 1273, HB 1300, HB 1353, HB 1382, HB 1430, HB 1451, HB 1455, HB 1500, HCR 3023.



**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**  
**MR. SPEAKER:** The President has signed: HCR 3004.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: SB 2091, SB 2209, SB 2210, SB 2211, SB 2233, SB 2253, SB 2281, SB 2282, SB 2298, SB 2300, SB 2328, SB 2422.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: SB 2033, SB 2153, SB 2217, SB 2259, SB 2274, SB 2309, SB 2313, SB 2321, SB 2349, SB 2354, SB 2380.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1038, HB 1067, HB 1121, HB 1142, HB 1168, HB 1245, HB 1294, HB 1318, HB 1323, HB 1341, HB 1351, HB 1383, HB 1475, HB 1495, HB 1567.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**  
**MR. SPEAKER:** The President has signed: SB 2029, SB 2031, SB 2032, SB 2039, SB 2048, SB 2055, SB 2056, SB 2058, SB 2071, SB 2073, SB 2074, SB 2077, SB 2078, SB 2079, SB 2080, SB 2093, SB 2094, SB 2102, SB 2104, SB 2106, SB 2111, SB 2113, SB 2119, SB 2120, SB 2122, SB 2130, SB 2134, SB 2136, SB 2144, SB 2145, SB 2180, SB 2193, SB 2299, SB 2325, SB 2347, SB 2375, SB 2376, SB 2377, SB 2392.

#### **DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on March 18, 2009: SB 2029, SB 2031, SB 2032, SB 2039, SB 2048, SB 2055, SB 2056, SB 2058, SB 2071, SB 2073, SB 2074, SB 2077, SB 2078, SB 2079, SB 2080, SB 2093, SB 2094, SB 2102, SB 2104, SB 2106, SB 2111, SB 2113, SB 2119, SB 2120, SB 2122, SB 2130, SB 2134, SB 2136, SB 2144, SB 2145, SB 2180, SB 2193, SB 2299, SB 2325, SB 2347, SB 2375, SB 2376, SB 2377, SB 2392.

#### **DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolution was delivered to the Secretary of State for filing on March 18, 2009: SMR 8001.

#### **MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Thursday, March 19, 2009, which motion prevailed.

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

**HB 1039: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1039 was placed on the Sixth order on the calendar.

Page 1, line 2, after the fourth comma insert "47-18-04, 47-18-14,"

Page 1, line 3, after "process" insert "and the homestead exemption"

Page 7, line 21, overstrike "person" and insert immediately thereafter "individual"

Page 7, line 22, overstrike "shall consist" and insert immediately thereafter "consists"

Page 7, line 25, overstrike "eighty" and insert immediately thereafter "one hundred twenty-five"

Page 7, line 27, overstrike "In no case shall the" and insert immediately thereafter "The" and after "homestead" insert "may not"

Page 7, line 28, overstrike "they" and insert immediately thereafter "the lots or tracts of land"

Page 7, after line 30, insert:

**"SECTION 9. AMENDMENT.** Section 47-18-04 of the North Dakota Century Code is amended and reenacted as follows:

**47-18-04. When homestead subject to execution.** A homestead is subject to execution or forced sale in satisfaction of judgments obtained in the following cases:

1. On debts secured by mechanics' or laborers' liens for work or labor done or performed or material furnished exclusively for the improvement of the same.
2. On debts secured by mortgage on the premises executed and acknowledged by both husband and wife, or an unmarried claimant.
3. On debts created for the purchase thereof and for all taxes accruing and levied thereon.
4. On all other debts when, upon an appraisal as provided by section 47-18-06, it appears that the value of ~~said~~ the homestead is more than eighty one hundred twenty-five thousand dollars over and above liens or encumbrances thereon, and then only to the extent of any value in excess of the sum total of ~~such~~ the liens and encumbrances plus said ~~eighty one~~ eighty one hundred twenty-five thousand dollars.

**SECTION 10. AMENDMENT.** Section 47-18-14 of the North Dakota Century Code is amended and reenacted as follows:

**47-18-14. Proceeds of sale exempt - Disposition.** If the sale of a homestead is made as provided in section 47-18-13, the proceeds thereof to the amount of the homestead exemption must be paid to the claimant and the residue applied to the satisfaction of the execution. When the execution is against a married claimant whose spouse is living, the court may direct that the eighty one hundred twenty-five thousand dollars be deposited in court to be paid out only on the joint receipt of the husband and wife, and it shall possess all the protection against legal process and voluntary disposition by either spouse as did the original homestead premises whether paid directly to the claimant or to the husband and wife jointly."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1041: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1041 was placed on the Sixth order on the calendar.

Page 3, line 27, after "~~Victims~~" insert "a."

Page 4, line 2, after the period insert:

"b. Victims who are not registered must be given prompt notice by the law enforcement agency that has made an arrest in any case involving a crime of violence of any hearing in which the arrested person's pretrial release status will be determined. If the alleged offender in a crime of violence is scheduled to be released before an appearance in court, the custodial authority shall give prompt notice to the victim and witness or, if unavailable, to the arresting law enforcement agency, which shall provide the notice to the victim or witness.

c."

Page 6, line 10, after the period insert "Victims who are not registered must be given the same information by the prosecuting attorney."

Page 7, line 1, after the period insert "Victims who are not registered must be given the same notice by the prosecuting attorney."

Page 7, line 9, after the period insert "Victims who are not registered must be given the same notice by the appropriate custodial authority."

Page 7, line 13, remove the overstrike over "~~The notice given by the custodial authority must~~"

Page 7, remove the overstrike over line 14

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1159, as engrossed: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed HB 1159 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1176, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1176 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1207, as engrossed: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1207 was placed on the Sixth order on the calendar.

Page 1, line 15, after "**required**" insert " - **Exception**"

Page 1, line 17, after the period insert "This section does not apply to United States bankruptcy court proceedings or to matters in which the decedent, trustor, beneficiary, or protected individual is a spouse, child, grandchild, parent, grandparent, or sibling of the attorney serving as a fiduciary."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1234: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1234 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1255, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1255 was placed on the Sixth order on the calendar.

Page 1, line 10, remove the overstrike over "~~and~~" and after "~~six-tenths~~" insert "five-tenths"

Page 1, line 12, remove the overstrike over "~~four~~"

Page 1, line 13, remove the overstrike over "~~and~~" and replace "five" with "five-tenths"

Page 1, line 16, replace "one-tenth" with "five-tenths"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1265, as engrossed: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1265 was placed on the Sixth order on the calendar.

Page 1, line 1, after the second "and" insert "subdivision a of subsection 1 of"

Page 1, line 2, replace the second "to" with a period

Page 1, remove line 3

Page 1, line 15, remove the overstrike over "~~and~~"

Page 1, line 16, remove ", and for"

Page 1, remove line 17

Page 1, line 18, remove "Bond program"

Page 1, line 19, replace "Section" with "Subdivision a of subsection 1 of section"

Page 1, remove lines 21 through 23

Page 2, remove lines 1 through 6

Page 2, remove lines 12 through 31

Page 3, remove lines 1 through 31

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1272, as engrossed: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1272 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1302: Judiciary Committee (Sen. Nething, Chairman)** recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1302 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1304, as reengrossed: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1304 was placed on the Sixth order on the calendar.

Page 1, line 16, replace "three" with "five" and remove "seventy-five"

Page 4, line 27, remove "An"

Page 4, remove lines 28 and 29

Page 5, line 4, after "In" insert "determining the population of any city that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent. In"

Page 5, line 7, overstrike "section" and insert immediately thereafter "subdivision"

Page 6, line 7, replace "The state treasurer annually shall make payments to" with "Allocations to organized townships or to school districts under this subdivision may be made only for reimbursement of qualifying expenditures previously made by the applicant township or school district. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects."

Page 6, remove lines 8 through 11

Page 6, line 14, remove "An incorporated city may"

Page 6, remove line 15

Page 6, line 16, remove "during a fiscal year under this subsection and subsection 4."

Page 6, line 18, after the underscored period insert "In determining the population of any city that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1324, as reengrossed: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1324 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 1 of section 6-09.8-01, subsection 4 of section 10-33-124, subsection 5 of section 11-37-08, sections 27-17-06 and 37-28-07, subsections 1 and 3

of section 40-63-04, section 40-63-06, subsection 4 of section 40-63-07, subsections 1 and 2 of section 57-38-01.7, subsections 1 and 4 of section 57-38-01.8, sections 57-38-01.14, 57-38-01.16, and 57-38-01.17, subsection 1 of section 57-38-01.20, subsections 2 and 4 of section 57-38-01.21, sections 57-38-01.22, 57-38-01.23, 57-38-01.24, 57-38-01.25, and 57-38-01.26, subsection 6 of section 57-38-01.27, subsection 1 of section 57-38-01.29, subsection 1 of section 57-38-01.30, section 57-38-04, subsection 2 of section 57-38-08.1, sections 57-38-30.3 and 57-38-30.5, subdivision b of subsection 1 of section 57-38-40, and sections 57-38.5-03 and 57-38.6-03 of the North Dakota Century Code, relating to elimination of the optional long-form individual, estate, and trust income tax return; to repeal sections 57-38-01.2, 57-38-01.18, 57-38-02, 57-38-06.1, 57-38-29, 57-38-29.2, 57-38-30.4, 57-38-67, 57-38-68, 57-38-69, and 57-38-70 of the North Dakota Century Code, relating to elimination of the optional long-form individual, estate, and trust income tax return; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 6-09.8-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Beginning farmer" means ~~a person~~ an individual who qualifies as a beginning farmer ~~under subsection 2 of section 57-38-67~~ who:
  - a. Is a resident of this state;
  - b. Receives more than half of that person's gross annual income from farming, unless the person initially commences farming during the year of the application under this chapter;
  - c. Intends to use any farmland to be purchased or rented for agricultural purposes;
  - d. Is adequately trained by education in the type of farming operation which the person wishes to begin on the purchased or rented land referred to in subdivision c through satisfactory participation in the adult farm management education program of the state board for career and technical education or an equivalent program approved by the agriculture commissioner; and
  - e. Has, including the net worth of any dependents and spouse, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

**SECTION 2. AMENDMENT.** Subsection 4 of section 10-33-124 of the North Dakota Century Code is amended and reenacted as follows:

4. ~~a. An individual or a~~ A corporation that buys membership in, or pays dues or contributes to, a nonprofit development corporation is entitled to an income tax credit against the tax liability under section 57-38-30 equal to twenty-five percent of the amount paid.
- b. ~~This credit may not be claimed by an individual who elects to file an income tax return under section 57-38-30.3 or by a corporation that is recognized as a subchapter S corporation under section 57-38-01.4.~~
- c. ~~No taxpayer is entitled to more than two thousand dollars in total income tax credits under this section.~~
- d. ~~The amount of the credit under this section in excess of the taxpayer's income tax liability may be carried forward for up to seven taxable years.~~

**SECTION 3. AMENDMENT.** Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections 57-35.3-03, ~~57-38-29~~, 57-38-30, and 57-38-30.3.

**SECTION 4. AMENDMENT.** Section 27-17-06 of the North Dakota Century Code is amended and reenacted as follows:

**27-17-06. Immediate withdrawal of present active judges from judges retirement fund.**

1. From and after July 1, 1973, each judge of the supreme or district court serving on that date and each former judge of the supreme or district court, not receiving judicial retirement salary, may elect to withdraw the judge's previous contributions made pursuant to this chapter, and thereafter not participate in a judicial retirement program provided for by law. This option ceases to be available and may not be exercised after June 30, 1975. If a judge selects this option, the judge is entitled to receive the combined total of the following sums:
  - 4- a. The entire amount of the judge's previous contributions made pursuant to this chapter, to be calculated to the date of election under this section; plus
  - 2- b. An amount calculated by applying the vesting schedule set forth in section 54-52-11 to an amount equal to sixty percent of the judge's individual contributions as calculated in subsection 1, plus earnings thereon as calculated in subsection 3; plus
  - ~~3-~~ c. An amount calculated by applying the figure .05625 to the periodic annual or partial annual balances in the individual judge's account during the judge's years of service prior to selecting the option provided by this section. The figure applied pursuant to this ~~subsection~~ subdivision must be compounded annually.
2. The total amounts received pursuant to this section may not be considered taxable income for the purposes of chapter 57-38 ~~and may be treated as an additional adjustment reducing the amount of taxable income in addition to those provided in section 57-38-01.2.~~ Selection of the option provided by this section must be made in writing to the director of the office of management and budget.

**SECTION 5. AMENDMENT.** Section 37-28-07 of the North Dakota Century Code is amended and reenacted as follows:

**37-28-07. Payments exempt from taxation and from execution - Assignments void - Debts to state and political subdivisions not deducted.** Payments under this chapter are exempt from all state and local taxes, including taxes determined under section ~~57-38-29 or~~ 57-38-30.3, and from levy, garnishment, attachment, and sale on execution. Any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any claim or payment under this chapter is void and payment to the veteran may not be denied because of any sums owed to the state or any political subdivisions, except as provided in section 37-26-05.

**SECTION 6. AMENDMENT.** Subsections 1 and 3 of section 40-63-04 of the North Dakota Century Code are amended and reenacted as follows:

1. An individual taxpayer who purchases or rehabilitates single-family residential property for the individual's primary place of residence as a zone project is exempt from up to ten thousand dollars of personal income tax liability as determined under section ~~57-38-29 or~~ 57-38-30.3 for five taxable years beginning with the date of occupancy or completion of rehabilitation.
3. If the cost of a new business purchase or expansion of an existing business, approved as a zone project, exceeds seventy-five thousand dollars, and the business is located in a city with a population of not more than two thousand five hundred, an individual taxpayer may, in lieu of the exemption provided in subsection 2, elect to take an income tax exemption of up to two thousand dollars of personal income tax liability as determined

under section ~~57-38-29~~ or 57-38-30.3. The election must be made on the taxpayer's zone project application. The election is irrevocable and binding for the duration of the exemptions provided in subsection 2 or this subsection. If no election is made on the zone project application, the taxpayer is only eligible for the exemption provided in subsection 2.

**SECTION 7. AMENDMENT.** Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

**40-63-06. Historic preservation and renovation tax credit.** A credit against state tax liability as determined under sections 57-35.3-03, ~~57-38-29~~, 57-38-30, and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

**SECTION 8. AMENDMENT.** Subsection 4 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

4. A credit against state tax liability as determined under section 57-35.3-03, ~~57-38-29~~, 57-38-30, or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

**SECTION 9. AMENDMENT.** Subsections 1 and 2 of section 57-38-01.7 of the North Dakota Century Code are amended and reenacted as follows:

1. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a credit against the income tax ~~imposed by this chapter~~ liability under section 57-38-30 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund.
  - a. ~~In the case of a taxpayer other than a corporation, the amount allowable as a credit under this subsection for any taxable year may not exceed forty percent of the taxpayer's total income tax under this chapter for the year, or two hundred fifty dollars, whichever is less.~~
  - b. ~~In the case of a corporation, the~~ The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.
2. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a credit against the income tax ~~imposed by this chapter~~ liability under section 57-38-30 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of secondary education, located within the state.
  - a. ~~In the case of a taxpayer other than a corporation, the amount allowable as a credit under this subsection for any taxable year may not exceed forty percent of the taxpayer's total income tax under this chapter for the year, or two hundred fifty dollars, whichever is less.~~
  - b. ~~In the case of a corporation, the~~ The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.

**SECTION 10. AMENDMENT.** Subsections 1 and 4 of section 57-38-01.8 of the North Dakota Century Code are amended and reenacted as follows:

1. ~~Any~~ A taxpayer filing a North Dakota income tax return pursuant to the provisions of this chapter may claim a credit against the tax liability under section 57-38-30 for the cost of a geothermal, solar, wind, or biomass energy device installed before January 1, 2011, in a building or on property owned or leased by the taxpayer in North Dakota. The credit provided in this section for a device installed before January 1, 2001, must be in an amount equal to five percent per year for three years, and for a device installed after December 31, 2000, must be in an amount equal to three percent per year for five years of the actual cost of acquisition and installation of the geothermal, solar, wind, or biomass energy device and must be subtracted from any income tax liability of the taxpayer as determined pursuant to the provisions of this chapter.
4. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity that installs a geothermal, solar, wind, or biomass energy device in a building or on property owned or leased by the passthrough entity must be considered to be the taxpayer for purposes of this section, and the amount of the credit allowed with respect to the entity's investments must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the corporate partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

**SECTION 11. AMENDMENT.** Section 57-38-01.14 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.14. No gain recognized on property subject to eminent domain sale or transfer.** If any private property, through the exercise of eminent domain, is involuntarily converted into property of either like or unlike kind, no gain, either ordinary or capital, may be recognized for corporate income tax purposes.

**SECTION 12. AMENDMENT.** Section 57-38-01.16 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.16. Income tax credit for employment of developmentally disabled or chronically mentally ill persons.** ~~Any A taxpayer filing an income tax return under this chapter, except a return on which liability is determined under section 57-38-30.3,~~ may claim a credit against the tax liability imposed under section 57-38-30 for a portion of the wages paid to a developmentally disabled or chronically mentally ill employee. The credit allowed under this section equals five percent of up to six thousand dollars in wages paid during the first twelve months of employment by the taxpayer for each developmentally disabled or chronically mentally ill employee of the taxpayer. Only wages actually paid during the taxpayer's taxable year may be considered for purposes of this section. An employee of a subcontractor is considered an employee of the contractor to the extent of any wages paid under the contract.

The total of credits allowed under this section may not exceed fifty percent of the taxpayer's liability under this chapter.

**SECTION 13. AMENDMENT.** Section 57-38-01.17 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.14. Credit for investments in development corporations.** ~~An individual, estate, trust, or A~~ corporation is allowed, as a credit against a tax otherwise due under section ~~57-38-29 or~~ 57-38-30, the credit for buying membership in, or paying dues or contributions to, a certified nonprofit development corporation as provided in section 10-33-124.

**SECTION 14. AMENDMENT.** Subsection 1 of section 57-38-01.20 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual is entitled to a credit against the tax imposed under section ~~57-38-29 or~~ 57-38-30.3 in the amount of qualified care expenses under this section paid by the individual for the care of a qualifying family member during the taxable year.

**SECTION 15. AMENDMENT.** Subsections 2 and 4 of section 57-38-01.21 of the North Dakota Century Code are amended and reenacted as follows:



2. An individual is allowed a tax credit against the tax imposed by section ~~57-38-29~~ or 57-38-30.3 in an amount equal to forty percent of the present value of the aggregate amount of the charitable gift portion of planned gifts made by the taxpayer during the year to a qualified nonprofit organization or qualified endowment. The maximum credit that may be claimed under this subsection for contributions made in a taxable year is ten thousand dollars, or twenty thousand dollars for married individuals filing a joint return. The credit allowed under this section may not exceed the taxpayer's income tax liability.
4. An estate or trust is allowed a tax credit in an amount equal to forty percent of a charitable gift to a qualified endowment. The maximum credit allowed under this subsection for contributions made in a taxable year is ten thousand dollars. The allowable credit must be apportioned to the estate or trust and to its beneficiaries on the basis of the income of the estate or trust allocable to each, and the beneficiaries may claim their share of the credit against the tax imposed by section ~~57-38-29~~, 57-38-30, or 57-38-30.3. A beneficiary may claim the credit only in the beneficiary's taxable year in which the taxable year of the estate or trust ends. Subsections 6 and 7 apply to the estate or trust and its beneficiaries with respect to their respective shares of the apportioned credit.

**SECTION 16. AMENDMENT.** Section 57-38-01.22 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.22. Income tax credit for blending of biodiesel fuel.** A fuel supplier licensed pursuant to section 57-43.2-05 who blends biodiesel fuel is entitled to a credit against tax liability determined under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 in the amount of five cents per gallon [3.79 liters] of biodiesel fuel of at least five percent blend, otherwise known as B5. For purposes of this section, "biodiesel" means fuel meeting the specifications adopted by the American society for testing and materials. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for the taxable year and each year's unused credit amount may be carried forward for up to five taxable years.

A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of this section, and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

**SECTION 17. AMENDMENT.** Section 57-38-01.23 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.23. Income tax credit for biodiesel sales equipment costs.** A seller of biodiesel fuel is entitled to a credit against tax liability determined under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 in the amount of ten percent per year for five years of the biodiesel fuel seller's direct costs incurred after December 31, 2004, to adapt or add equipment to a facility, licensed under section 57-43.2-05, to enable the facility to sell diesel fuel containing at least two percent biodiesel fuel by volume. For purposes of this section, "biodiesel fuel" means fuel meeting the specifications adopted by the American society for testing and materials. The credit under this section may not exceed a taxpayer's liability as determined under this chapter for the taxable year and each year's unused credit amount may be carried forward for up to five taxable years. A biodiesel fuel seller is limited to fifty thousand dollars in the cumulative amount of credits under this section for all taxable years. A biodiesel fuel seller may not claim a credit under this section for any taxable year before the taxable year in which the facility begins selling biodiesel fuel containing at least two percent biodiesel fuel by volume, but eligible costs incurred before the taxable year sales begin may be claimed for purposes of the credit under this section for taxable years on or after the taxable year sales of biodiesel fuel begin.

A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of this section, and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners,

shareholders, or members in proportion to their respective interests in the passthrough entity.

**SECTION 18. AMENDMENT.** Section 57-38-01.24 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.24. Internship employment tax credit.**

1. A taxpayer that is an employer within this state is entitled to a credit as determined under this section against state income tax liability under section ~~57-38-29~~, 57-38-30; or 57-38-30.3 for qualified compensation paid to an intern employed in this state by the taxpayer. To qualify for the credit under this section, the internship program must meet the following qualifications:
  - a. The intern must be an enrolled student in an institution of higher education or vocational technical education program who is seeking a degree or a certification of completion in a major field of study closely related to the work experience performed for the taxpayer;
  - b. The internship must be taken for academic credit or count toward the completion of a vocational technical education program;
  - c. The intern must be supervised and evaluated by the taxpayer; and
  - d. The internship position must be located in this state.
2. The amount of the credit to which a taxpayer is entitled is ten percent of the stipend or salary paid to a college intern employed by the taxpayer. A taxpayer may not receive more than three thousand dollars in total credits under this section for all taxable years combined.
  - a. The tax credit under this section applies to a stipend or salary for not more than five interns employed at the same time.
  - b. A partnership, subchapter S corporation, or limited liability company that for tax purposes is treated like a partnership that is entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. The total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

**SECTION 19. AMENDMENT.** Section 57-38-01.25 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.25. Workforce recruitment credit for hard-to-fill employment positions.** A taxpayer that is an employer in this state is entitled to a credit as determined under this section against state income tax liability under section ~~57-38-29~~, 57-38-30; or 57-38-30.3 for costs the taxpayer incurred during the tax year to recruit and hire employees for hard-to-fill employment positions within this state for which the annual salary for the position meets or exceeds the state average wage.

1. The amount of the credit to which a taxpayer is entitled is five percent of the salary paid for the first twelve consecutive months to the employee hired for the hard-to-fill employment position. To qualify for the credit under this section, the employee must be employed by the taxpayer in the hard-to-fill employment position for twelve consecutive months.
2. For purposes of this section:
  - a. "Extraordinary recruitment methods" means using all of the following:
    - (1) A person with the exclusive business purpose of recruiting employees and for which a fee is charged by that recruiter.
    - (2) An advertisement in a professional trade journal, magazine, or other publication, the main emphasis of which is providing information to a particular trade or profession.

- (3) A web site, the sole purpose of which is to recruit employees and for which a fee is charged by the web site.
- (4) Payment of a signing bonus, moving expenses, or nontypical fringe benefits.
- b. "Hard-to-fill employment position" means a job that requires the employer to use extraordinary recruitment methods and for which the employer's recruitment efforts for the specific position have been unsuccessful for six consecutive calendar months.
- c. "State average wage" means one hundred twenty-five percent of the state average wage published annually by job service North Dakota and which is in effect at the time the employee is hired.
- 3. The taxpayer may claim the credit in the first tax year beginning after the employee hired for the hard-to-fill position has completed the employee's first twelve consecutive months of employment in the hard-to-fill position with the taxpayer.
- 4. The credit under this section may not exceed a taxpayer's liability for the taxable year as determined under this chapter. Any amount of unused credit may be carried forward for up to four taxable years after the taxable year in which the credit could initially be claimed.
- 5. A partnership, subchapter S corporation, or limited liability company that for tax purposes is treated like a partnership that is entitled to the credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the passthrough entity level must be allowed to the members in proportion to their respective interests in the passthrough entity.

**SECTION 20. AMENDMENT.** Section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.26. Angel fund investment tax credit.** A taxpayer is entitled to a credit against state income tax liability under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 for an investment made in an angel fund that is incorporated in this state. The angel fund must be in compliance with the securities laws of this state for the investment to qualify for the tax credit under this section. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in an angel fund during the taxable year. The aggregate annual credit for which a taxpayer may obtain a tax credit is not more than forty-five thousand dollars. To be eligible for the credit, the investment must be at risk in the angel fund for at least three years. Investments placed in escrow do not qualify for the credit. The credit must be claimed in the taxable year in which the investment in the angel fund was received by the angel fund. The credit allowed may not exceed the liability for tax under this chapter. If the amount of credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the four succeeding taxable years. A taxpayer claiming a credit under this section may not claim any credit available to the taxpayer as a result of an investment made by the angel fund in a qualified business under chapter 57-38.5 or 57-38.6.

**SECTION 21. AMENDMENT.** Subsection 6 of section 57-38-01.27 of the North Dakota Century Code is amended and reenacted as follows:

- 6. A taxpayer that is certified as a microbusiness is entitled to tax credits against tax liability as determined under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 equal to twenty percent of the taxpayer's new investment and new employment in the microbusiness during the taxable year. A taxpayer may not obtain more than ten thousand dollars in credits under this section over any combination of taxable years.

**SECTION 22. AMENDMENT.** Subsection 1 of section 57-38-01.29 of the North Dakota Century Code is amended and reenacted as follows:

- 1. In addition to any other credit or deduction allowed by law for a homeowner, an individual is entitled to a credit against the tax imposed

under section ~~57-38-29~~ or 57-38-30.3 for taxable years 2007 and 2008 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against the individual's homestead in this state. For purposes of this section, "property taxes" does not include any special assessments.

**SECTION 23. AMENDMENT.** Subsection 1 of section 57-38-01.30 of the North Dakota Century Code is amended and reenacted as follows:

1. In addition to any other credit or deduction allowed by law for a property owner, an individual or corporation is entitled to a credit against the tax imposed under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 for taxable years 2007 and 2008 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against commercial property in this state. For purposes of this section, "property taxes" does not include any special assessments.
  - a. The amount of the credit under this section may not exceed one thousand dollars for any taxpayer.
  - b. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
  - c. The amount of the credit under this section may not exceed one thousand dollars for married persons filing a joint return or five hundred dollars for a single individual or married individual filing separate returns.

**SECTION 24. AMENDMENT.** Section 57-38-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-04. Allocation and apportionment of gross income of individuals.** The gross income of individuals must be allocated and apportioned as follows:

1.
  - a. Income from personal or professional services performed in this state by individuals must be assigned to this state regardless of the residence of the recipients of such income, except that income from such services performed within this state by an individual who resides and has the individual's place of abode in another state to which place of abode the individual customarily returns at least once a month must be excluded from the individual's income for the purposes of this chapter if such income is subject to an income tax imposed by the state in which the individual resides, provided that the state in which the individual resides allows a similar exclusion for income received from similar services performed in that state by residents of North Dakota.
  - b. Notwithstanding any other provision of this chapter, the compensation received from services performed within this state by an individual, who performs services for a common carrier engaged in interstate transportation and who resides and has the individual's place of abode to which the individual customarily returns at least once a month in another state, must be excluded from income to the extent that the income is subject to an income tax imposed by the state of the individual's residence; provided, that the state allows a similar exclusion of the compensation received by residents of North Dakota for similar services performed therein, or a credit against the tax imposed on the income of residents of this state that is substantially similar in effect. For purposes of this subdivision, the term an individual who performs services for a common carrier engaged in interstate transportation is limited to an individual who performs the services for a common carrier only during the course of making regular runs into North Dakota or from within North Dakota to outside North Dakota, or both, on the transportation system of the common carrier.
2. ~~a.~~ Income received from personal or professional services performed by residents of this state, regardless of where such services are

performed, and income received by residents of this state from intangible personal property must be assigned to this state.

- b. ~~A resident individual, estate, or trust is entitled to a credit against the tax imposed under this chapter equal to the amount of income tax paid for the taxable year to another state or territory of the United States or the District of Columbia on income derived from sources in those jurisdictions that is also taxable under this section. The tax commissioner may require written proof of the tax paid to another state. The required proof must be provided in a form and manner as determined by the tax commissioner. For an individual, estate, or trust that is a resident of this state for the entire taxable year, the credit allowed under this subdivision may not exceed an amount equal to the tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction divided by total federal adjusted gross income less the amounts under subdivisions a and s of subsection 1 of section 57-38-01.2. For an individual, estate, or trust that is a resident of this state for only part of the taxable year, the credit allowed under this subdivision may not exceed the lesser of the following:~~
  - (1) ~~The tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from North Dakota sources less the amounts under this subsection.~~
  - (2) ~~The tax paid to the other jurisdiction multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from sources in the other states.~~
- 3. Income and gains received from tangible property not employed in the business and from tangible property employed in the business of the taxpayer, if such business consists principally of the holding of such property and collection of income and gains therefrom, must be assigned to this state without regard to the residence of the recipient if such property has a situs within this state.
- 4. Income derived from business activity carried on by an individual as a sole proprietorship, or through a partnership, subchapter S corporation, or other passthrough entity, must be assigned to this state without regard to the residence of the individual if the business activity is conducted wholly within this state. Income derived from gaming activity carried on in this state by an individual must be assigned to this state without regard to the residence of the individual.
- 5. Whenever business activity is carried on partly within and partly without this state by a nonresident of this state as a sole proprietorship, or through a partnership, subchapter S corporation, or other passthrough entity, the entire income therefrom must be allocated to this state and to other states, according to the provisions of chapter 57-38.1, providing for allocation and apportionment of income of corporations doing business within and without this state.
- 6.
  - a. Income and gains received by a resident of this state from tangible property not employed in the business and from tangible property employed in the business of the taxpayer, if the business consists principally of the holding of the property and the collection of income and gains from the business, must be assigned to this state without regard to the situs of the property.
  - b. Income derived from business activity carried on by residents of this state, whether the business activity is conducted as a sole proprietorship, or through a partnership, subchapter S corporation, or other passthrough entity, must be assigned to this state without regard to where the business activity is conducted, and the provisions of chapter 57-38.1 do not apply. If the taxpayer believes the operation of this subdivision with respect to the taxpayer's income is unjust, the

taxpayer may petition the tax commissioner who may allow use of another method of reporting income, including separate accounting.

- e. ~~A resident individual, estate, or trust is entitled to a credit against the tax imposed under this chapter equal to the amount of income tax paid for the taxable year to another state or territory of the United States or the District of Columbia on income derived from sources in those jurisdictions that is also subject to tax under this section. The tax commissioner may require written proof of the tax paid to another state. The required proof must be provided in a form and manner as determined by the tax commissioner. For an individual, estate, or trust that is a resident of this state for the entire taxable year, the credit allowed under this subdivision may not exceed an amount equal to the tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction divided by total federal adjusted gross income less the amounts under subdivisions a and s of subsection 1 of section 57-38-01.2. For an individual, estate, or trust that is a resident of this state for only part of the taxable year, the credit allowed under this subdivision may not exceed the lesser of the following:~~
- (1) ~~The tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from North Dakota sources less the amounts under subdivisions a and b of subsection 2.~~
  - (2) ~~The tax paid to the other jurisdiction multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from sources in the other states.~~
7. All other items of gross income must be assigned to the taxpayer's domicile.
8. The privileges granted nonresidents apply only when other states grant to the residents of North Dakota the same privilege.

~~This section applies to every income year beginning after December 31, 1956.~~

**SECTION 25. AMENDMENT.** Subsection 2 of section 57-38-08.1 of the North Dakota Century Code is amended and reenacted as follows:

2. Resident partners, limited to individuals, estates, and trusts, must report their entire distributive share to this state as provided in subdivision b of subsection 6 of section 57-38-04, and may claim a credit for taxes paid to another state on that portion of their distributive share attributable to and taxed by another state, as provided in subdivision e j of subsection 6 1 of section ~~57-38-04~~ 57-38-30.3.

**SECTION 26. AMENDMENT.** Section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-30.3. ~~Simplified method of computing~~ Individual, estate, and trust income tax.**

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing

status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:

Not over ~~\$27,050~~ \$33,950

Over ~~\$27,050~~ \$33,950 but not

over ~~\$65,550~~ \$82,250

Over ~~\$65,550~~ \$82,250 but not

over ~~\$136,750~~ \$171,550

Over ~~\$136,750~~ \$171,550 but not

over ~~\$297,350~~ \$372,950

Over ~~\$297,350~~ \$372,950

The tax is equal to:

~~2.40%~~ 1.70%

~~\$568.05~~ \$577.15 plus ~~3.92%~~ 3.40%

of amount over ~~\$27,050~~ \$33,950

~~\$2,077.25~~ \$2,219.35 plus ~~4.34%~~ 3.60%

of amount over ~~\$65,550~~ \$82,250

~~\$6,467.33~~ \$5,434.15 plus ~~5.04%~~ 4.25%

of amount over ~~\$136,750~~ \$171,550

~~\$13,261.57~~ \$13,993.65 plus ~~5.54%~~ 5.00%

of amount over ~~\$297,350~~ \$372,950

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:

Not over ~~\$45,200~~ \$56,750

Over ~~\$45,200~~ \$56,750 but not

over ~~\$109,250~~ \$137,050

Over ~~\$109,250~~ \$137,050 but not

over ~~\$166,500~~ \$208,850

Over ~~\$166,500~~ \$208,850 but not

over ~~\$297,350~~ \$372,950

Over ~~\$297,350~~ \$372,950

The tax is equal to:

~~2.40%~~ 1.70%

~~\$949.20~~ \$964.75 plus ~~3.92%~~ 3.40%

of amount over ~~\$45,200~~ \$56,750

~~\$3,459.96~~ \$3,694.95 plus ~~4.34%~~ 3.60%

of amount over ~~\$109,250~~ \$137,050

~~\$5,944.64~~ \$6,279.75 plus ~~5.04%~~ 4.25%

of amount over ~~\$166,500~~ \$208,850

~~\$12,539.45~~ \$13,254 plus ~~5.54%~~ 5.00%

of amount over ~~\$297,350~~ \$372,950

c. Married filing separately.

If North Dakota taxable income is:

Not over ~~\$22,600~~ \$28,375

Over ~~\$22,600~~ \$28,375 but not

over ~~\$54,625~~ \$68,525

Over ~~\$54,625~~ \$68,525 but not

over ~~\$83,250~~ \$104,425

Over ~~\$83,250~~ \$104,425 but not

over ~~\$148,675~~ \$186,475

Over ~~\$148,675~~ \$186,475

The tax is equal to:

~~2.40%~~ 1.70%

~~\$474.60~~ \$482.38 plus ~~3.92%~~ 3.40%

of amount over ~~\$22,600~~ \$28,375

~~\$1,729.98~~ \$1,847.48 plus ~~4.34%~~ 3.60%

of amount over ~~\$54,625~~ \$68,525

~~\$2,972.34~~ \$3,139.88 plus ~~5.04%~~ 4.25%

of amount over ~~\$83,250~~ \$104,425

~~\$6,269.73~~ \$6,627.01 plus ~~5.54%~~ 5.00%

of amount over ~~\$148,675~~ \$186,475

d. Head of household.

If North Dakota taxable income is:

Not over ~~\$36,250~~ \$45,500

Over ~~\$36,250~~ \$45,500 but not

over ~~\$93,650~~ \$117,450

Over ~~\$93,650~~ \$117,450 but not

over ~~\$151,650~~ \$190,200

Over ~~\$151,650~~ \$190,200 but not

over ~~\$297,350~~ \$372,950

Over ~~\$297,350~~ \$372,950

The tax is equal to:

~~2.40%~~ 1.70%

~~\$761.25~~ \$773.50 plus ~~3.92%~~ 3.40%

of amount over ~~\$36,250~~ \$45,500

~~\$3,041.33~~ \$3,219.80 plus ~~4.34%~~ 3.60%

of amount over ~~\$93,650~~ \$117,450

~~\$5,528.53~~ \$5,838.80 plus ~~5.04%~~ 4.25%

of amount over ~~\$151,650~~ \$190,200

~~\$12,871.84~~ \$13,605.68 plus ~~5.54%~~ 5.00%

of amount over ~~\$297,350~~ \$372,950

e. Estates and trusts.

If North Dakota taxable income is:

Not over ~~\$1,800~~ \$2,300

Over ~~\$1,800~~ \$2,300 but not

over ~~\$4,250~~ \$5,350

Over ~~\$4,250~~ \$5,350 but not

over ~~\$6,500~~ \$8,200

Over ~~\$6,500~~ \$8,200 but not

over ~~\$8,900~~ \$11,150

Over ~~\$8,900~~ \$11,150

The tax is equal to:

~~2.40%~~ 1.70%

~~\$37.80~~ \$39.10 plus ~~3.92%~~ 3.40%

of amount over ~~\$1,800~~ \$2,300

~~\$133.84~~ \$142.80 plus ~~4.34%~~ 3.60%

of amount over ~~\$4,250~~ \$5,350

~~\$231.49~~ \$245.40 plus ~~5.04%~~ 4.25%

of amount over ~~\$6,500~~ \$8,200

~~\$352.45~~ \$370.78 plus ~~5.54%~~ 5.00%

of amount over ~~\$8,900~~ \$11,150

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and

- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. For taxable years beginning after December 31, 2001, the tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.
- i. A resident individual, estate, or trust is entitled to a credit against the tax imposed under this chapter equal to the amount of income tax paid for the taxable year to another state or territory of the United States or the District of Columbia on income derived from sources in those jurisdictions that is also taxable under this section. The tax commissioner may require written proof of the tax paid to another state. The required proof must be provided in a form and manner as determined by the tax commissioner. For an individual, estate, or trust that is a resident of this state for the entire taxable year, the credit allowed under this subdivision may not exceed an amount equal to the tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction divided by total federal adjusted gross income. For an individual, estate, or trust that is a resident of this state for only part of the taxable year, the credit allowed under this subdivision may not exceed the lesser of the following:
- (1) The tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from North Dakota sources less the amounts under this subsection.
- (2) The tax paid to the other jurisdiction multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from sources in the other states.
- j. A resident individual, estate, or trust is entitled to a credit against the tax imposed under this chapter equal to the amount of income tax paid for the taxable year to another state or territory of the United States or the District of Columbia on income derived from sources in those jurisdictions that is also subject to tax under this section. The tax commissioner may require written proof of the tax paid to another state. The required proof must be provided in a form and manner as determined by the tax commissioner. For an individual, estate, or trust that is a resident of this state for the entire taxable year, the credit allowed under this subdivision may not exceed an amount equal to the tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction divided by total federal adjusted gross income. For an



individual, estate, or trust that is a resident of this state for only part of the taxable year, the credit allowed under this subdivision may not exceed the lesser of the following:

- (1) The tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from North Dakota sources less the amounts under subdivision i.
    - (2) The tax paid to the other jurisdiction multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from sources in the other states.
2. For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, or trust as computed under the Internal Revenue Code of 1986, as amended, adjusted as follows:
  - a. Reduced by interest income from obligations of the United States and income exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.
  - b. Reduced by the portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.
  - c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
  - d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.
  - e. Increased by the amount of a lump sum distribution for which income averaging was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C. 402], as amended. This adjustment does not apply if the taxpayer received the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.
  - f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
  - g. Reduced by the amount received by the taxpayer as payment for services performed when mobilized under title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. This subdivision does not apply to federal service while attending annual training, basic military training, or professional military education.
  - h. Reduced by income from a new and expanding business exempt from state income tax under section 40-57.1-04.
  - i. Reduced by interest and income from bonds issued under chapter 11-37.
  - j. Reduced by up to ten thousand dollars of qualified expenses that are related to a donation by a taxpayer or a taxpayer's dependent, while living, of one or more human organs to another human being for

human organ transplantation. A taxpayer may claim the reduction in this subdivision only once for each instance of organ donation during the taxable year in which the human organ donation and the human organ transplantation occurs but if qualified expenses are incurred in more than one taxable year, the reduction for those expenses must be claimed in the year in which the expenses are incurred. For purposes of this subdivision:

- (1) "Human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person.
  - (2) "Organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow.
  - (3) "Qualified expenses" means lost wages not compensated by sick pay and unreimbursed medical expenses as defined for federal income tax purposes, to the extent not deducted in computing federal taxable income, whether or not the taxpayer itemizes federal income tax deductions.
- k. Increased by the amount of the contribution upon which the credit under section 57-38-01.21 is computed, but only to the extent that the contribution reduced federal taxable income.
  - l. Reduced by the amount of any payment received by a veteran or beneficiary of a veteran under section 37-28-03 or 37-28-04.
  - m. Reduced by the amount received by a taxpayer that was paid by an employer under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to hire the taxpayer for a hard-to-fill position under section 57-38-01.25, but only to the extent the amount received by the taxpayer is included in federal taxable income. The reduction applies only if the employer is entitled to the credit under section 57-38-01.25. The taxpayer must attach a statement from the employer in which the employer certifies that the employer is entitled to the credit under section 57-38-01.25 and which specifically identified the type of payment and the amount of the exemption under this section.
  - n. Reduced by the amount up to a maximum of five thousand dollars, or ten thousand dollars if a joint return is filed, for contributions made under a higher education savings plan administered by the Bank of North Dakota, pursuant to section 6-09-38.
  - o. Reduced by the amount of income of a taxpayer, who resides within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe, from activities or sources within the boundaries of any reservation in this state.
3. Married individuals filing a joint federal income tax return shall file a joint state income tax return if the return is filed under this section. If separate federal income tax returns are filed, one spouse's state income tax return may be filed under this section and the other spouse's income tax return may be filed under the other provisions of this chapter.
  4.
    - a. A resident individual, estate, or trust is entitled to a credit against the tax imposed under this section for the amount of income tax paid by the taxpayer for the taxable year by another state or territory of the United States or the District of Columbia on income derived from sources in those jurisdictions that is also subject to tax under this section.
    - b. For an individual, estate, or trust that is a resident of this state for the entire taxable year, the credit allowed under this subsection may not exceed an amount equal to the tax imposed under this section multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction divided by federal adjusted gross income less the amounts under subdivisions a and b of subsection 2.

- c. For an individual, estate, or trust that is a resident of this state for only part of the taxable year, the credit allowed under this subsection may not exceed the lesser of the following:
    - (1) The tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from North Dakota sources less the amounts under subdivisions a and b of subsection 2.
    - (2) The tax paid to the other jurisdiction multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from sources in the other states.
  - d. The tax commissioner may require written proof of the tax paid to another state. The required proof must be provided in a form and manner as determined by the tax commissioner.
- 5. Individuals, estates, or trusts that file an amended federal income tax return changing their federal taxable income figure for a year for which an election to file state income tax returns has been made under this section shall file an amended state income tax return to reflect the changes on the federal income tax return.
- 6. The tax commissioner may prescribe procedures and guidelines to prevent requiring income that had been previously taxed under this chapter from becoming taxed again because of the provisions of this section and may prescribe procedures and guidelines to prevent any income from becoming exempt from taxation because of the provisions of this section if it would otherwise have been subject to taxation under the provisions of this chapter.
- 7. A taxpayer filing a return under this section is entitled to the following tax credits:
  - a. Family care tax credit under section 57-38-01.20.
  - b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
  - c. Agricultural business investment tax credit under section 57-38.6-03.
  - d. Seed capital investment tax credit under section 57-38.5-03.
  - e. Planned gift tax credit under section 57-38-01.21.
  - f. Biodiesel fuel tax credits under sections 57-38-01.22 and 57-38-01.23.
  - g. Internship employment tax credit under section 57-38-01.24.
  - h. Workforce recruitment credit under section 57-38-01.25.
  - i. Angel fund investment tax credit under section 57-38-01.26.
  - j. Microbusiness tax credit under section 57-38-01.27.
  - k. Marriage penalty credit under section 57-38-01.28.
  - l. Homestead income tax credit under section 57-38-01.29.
  - m. Commercial property income tax credit under section 57-38-01.30.
  - n. Research and experimental expenditures under section 57-38-30.5.
- 8. A taxpayer filing a return under this section is entitled to the exemption provided under section 40-63-04.

9. a. If an individual taxpayer engaged in a farming business elects to average farm income under section 1301 of the Internal Revenue Code [26 U.S.C. 1301], the taxpayer may elect to compute tax under this subsection. If an election to compute tax under this subsection is made, the tax imposed by subsection 1 for the taxable year must be equal to the sum of the following:
    - (1) The tax computed under subsection 1 on North Dakota taxable income reduced by elected farm income.
    - (2) The increase in tax imposed by subsection 1 which would result if North Dakota taxable income for each of the three prior taxable years were increased by an amount equal to one-third of the elected farm income. However, if other provisions of this chapter other than this section were used to compute the tax for any of the three prior years, the same provisions in effect for that prior tax year must be used to compute the increase in tax under this paragraph. For purposes of applying this paragraph to taxable years beginning before January 1, 2001, the increase in tax must be determined by recomputing the tax in the manner prescribed by the tax commissioner.
  - b. For purposes of this subsection, "elected farm income" means that portion of North Dakota taxable income for the taxable year which is elected farm income as defined in section 1301 of the Internal Revenue Code of 1986 [26 U.S.C. 1301], as amended, reduced by the portion of an exclusion claimed under subdivision d of subsection 2 that is attributable to a net long-term capital gain included in elected farm income.
  - c. The reduction in North Dakota taxable income under this subsection must be taken into account for purposes of making an election under this subsection for any subsequent taxable year.
  - d. The tax commissioner may prescribe rules, procedures, or guidelines necessary to administer this subsection.
10. The tax commissioner may prescribe tax tables, to be used in computing the tax according to subsection 1, if the amounts of the tax tables are based on the tax rates set forth in subsection 1. If prescribed by the tax commissioner, the tables must be followed by every individual, estate, or trust determining a tax under this section.

**SECTION 27. AMENDMENT.** Section 57-38-30.5 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-30.5. Income tax credit for research and experimental expenditures.**

A taxpayer is allowed a credit against the tax imposed under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 for conducting qualified research in this state.

1. The amount of the credit for taxpayers that earned or claimed a credit under this section in taxable years beginning before January 1, 2007, is calculated as follows:
  - a. For the first taxable year beginning after December 31, 2006, the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to seven and one-half percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
  - b. For the second taxable year beginning after December 31, 2006, the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to eleven percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.

- c. For the third taxable year beginning after December 31, 2006, the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to fourteen and one-half percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
  - d. For the fourth through the tenth taxable years beginning after December 31, 2006, the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to eighteen percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
  - e. For the eleventh taxable year beginning after December 31, 2006, and for each subsequent taxable year in which the taxpayer conducts qualified research in this state, the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to eight percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
  - f. The maximum annual credit a taxpayer may obtain under this section is two million dollars. Any credit amount earned in the taxable year in excess of two million dollars may not be carried back or forward as provided in subsection 7.
- 2. For taxpayers that have not earned or claimed a credit under this section in taxable years beginning before January 1, 2007, and which begin conducting qualified research in North Dakota in any of the first four taxable years beginning after December 31, 2006, the amount of the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to twenty percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
  - a. This rate applies through the tenth taxable year beginning after December 31, 2006.
  - b. For the eleventh taxable year beginning after December 31, 2006, and for each subsequent taxable year in which the taxpayer conducts qualified research in this state, the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to eight percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
- 3. For taxpayers that have not earned or claimed a credit under this section in taxable years beginning before January 1, 2007, and which begin conducting qualified research in North Dakota in any taxable year following the fourth taxable year beginning after December 31, 2006, the amount of the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to eight percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
- 4. For purposes of this section:
  - a. "Base period research expenses" means base period research expenses as defined in section 41(c) of the Internal Revenue Code [26 U.S.C. 41(c)], except it does not include research conducted outside the state of North Dakota.

- b. "Director" means the director of the department of commerce division of economic development and finance.
  - c. "Primary sector business" means a qualified business that through the employment of knowledge or labor adds value to a product, process, or service.
  - d. "Qualified research" means qualified research as defined in section 41(d) of the Internal Revenue Code [26 U.S.C. 41(d)], except it does not include research conducted outside the state of North Dakota.
  - e. "Qualified research and development company" means a taxpayer that is a primary sector business with annual gross revenues of less than seven hundred fifty thousand dollars and which has not conducted new research and development in North Dakota.
  - f. "Qualified research expenses" means qualified research expenses as defined in section 41(b) of the Internal Revenue Code [26 U.S.C. 41(b)], except it does not include expenses incurred for basic research conducted outside the state of North Dakota.
5. The credit allowed under this section for the taxable year may not exceed the liability for tax under this chapter.
6. In the case of a taxpayer that is a partner in a partnership or a member in a limited liability company, the credit allowed for the taxable year may not exceed an amount separately computed with respect to the taxpayer's interest in the trade, business, or entity equal to the amount of tax attributable to that portion of the taxpayer's taxable income which is allocable or apportionable to the taxpayer's interest in the trade, business, or entity.
7. Except as provided in subsection 1, if the amount of the credit determined under this section for any taxable year exceeds the limitation under subsection 5, the excess may be used as a research credit carryback to each of the three preceding taxable years and a research credit carryover to each of the fifteen succeeding taxable years. The entire amount of the excess unused credit for the taxable year must be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried and the amount of the unused credit which may be added under this subsection may not exceed the taxpayer's liability for tax less the research credit for the taxable year.
8. A taxpayer that is certified as a qualified research and development company by the director may elect to sell, transfer, or assign all or part of the unused tax credit earned under this section. The director shall certify whether a taxpayer that has requested to become a qualified research and development company meets the requirements of subsection 4. The director shall establish the necessary forms and procedures for certifying qualifying research and development companies. The director shall issue a certification letter to the taxpayer and the tax commissioner. A tax credit can be sold, transferred, or assigned subject to the following:
- a. A taxpayer's total credit assignment under this section may not exceed one hundred thousand dollars over any combination of taxable years.
  - b. If the taxpayer elects to assign or transfer an excess credit under this subsection, the tax credit transferor and the tax credit purchaser jointly shall file with the tax commissioner a copy of the purchase agreement and a statement containing the names, addresses, and taxpayer identification numbers of the parties to the transfer, the amount of the credit being transferred, the gross proceeds received by the transferor, and the taxable year or years for which the credit may be claimed. The taxpayer and the purchaser also shall file a document allowing the tax commissioner to disclose tax information to either party for the purpose of verifying the correctness of the transferred tax credit. The purchase agreement, supporting statement, and waiver

must be filed within thirty days after the date the purchase agreement is fully executed.

- c. The purchaser of the tax credit shall claim the credit beginning with the taxable year in which the credit purchase agreement was fully executed by the parties. A purchaser of a tax credit under this section has only such rights to claim and use the credit under the terms that would have applied to the tax credit transferor, except the credit purchaser may not carry back the credit as otherwise provided in this section. This subsection does not limit the ability of the tax credit purchaser to reduce the tax liability of the purchaser, regardless of the actual tax liability of the tax credit transferor.
  - d. The original purchaser of the tax credit may not sell, assign, or otherwise transfer the credit purchased under this section.
  - e. If the amount of the credit available under this section is changed as a result of an amended return filed by the transferor, or as the result of an audit conducted by the internal revenue service or the tax commissioner, the transferor shall report to the purchaser the adjusted credit amount within thirty days of the amended return or within thirty days of the final determination made by the internal revenue service or the tax commissioner. The tax credit purchaser shall file amended returns reporting the additional tax due or claiming a refund as provided in section 57-38-38 or 57-38-40, and the tax commissioner may audit these returns and assess or issue refunds, even though other time periods prescribed in these sections may have expired for the purchaser.
  - f. Gross proceeds received by the tax credit transferor must be assigned to North Dakota. The amount assigned under this subsection cannot be reduced by the taxpayer's income apportioned to North Dakota or any North Dakota net operating loss of the taxpayer.
  - g. The tax commissioner has four years after the date of the credit assignment to audit the returns of the credit transferor and the purchaser to verify the correctness of the amount of the transferred credit and if necessary assess the credit purchaser if additional tax is found due. This subdivision does not limit or restrict any other time period prescribed in this chapter for the assessment of tax.
  - h. The tax commissioner may adopt rules to permit verification of the validity and timeliness of the transferred tax credit.
9. If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base period must be adjusted in the manner provided by section 41(f)(3) of the Internal Revenue Code [26 U.S.C. 41(f)(3)].
10. If a taxpayer entitled to the credit provided by this section is a member of a group of corporations filing a North Dakota consolidated tax return using the combined reporting method, the credit may be claimed against the aggregate North Dakota tax liability of all the corporations included in the North Dakota consolidated return. This section does not apply to tax credits received or purchased under subsection 8.
11. An individual, estate, or trust that purchases a credit under this section is entitled to claim the credit against state income tax liability under section ~~57-38-29~~ or 57-38-30.3.
12. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. The total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity. An individual taxpayer may take the credit passed through under this

subsection against the individual's state income tax liability under ~~sections 57-38-29 and 57-38-30~~ section 57-38-30.3.

**SECTION 28. AMENDMENT.** Subdivision b of subsection 1 of section 57-38-40 of the North Dakota Century Code is amended and reenacted as follows:

- b. An individual who filed a return of income as a resident of this state and is assessed tax by another state or territory of the United States or the District of Columbia on that income after the time for filing a claim has expired under this section is entitled to a credit or refund for the amount of tax paid to the other jurisdiction, not including penalty or interest, as provided under subsection ~~2 or 6 of section 57-38-04 1~~ or ~~subsection 4 of section 57-38-30.3~~, notwithstanding the time limitations of this section. The claim for the credit or refund under this subdivision must be submitted to the commissioner within one year from the date the taxes were paid to the other jurisdiction. The taxpayer must submit sufficient proof to show entitlement to a credit or refund under this subdivision.

**SECTION 29. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability under section ~~57-38-29~~, 57-38-30, or 57-38-30.3.

1. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified businesses during the taxable year.
2. The maximum annual credit a taxpayer may claim under this section is not more than one hundred twelve thousand five hundred dollars. This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.
3. Any amount of credit under subsection 1 not allowed because of the limitation in subsection 2 may be carried forward for up to four taxable years after the taxable year in which the investment was made.
4. A passthrough entity that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and the amount of the credit allowed with respect to a passthrough entity's investment in a qualified business must be determined at the passthrough entity level. The amount of the total credit determined at the passthrough entity level must be allowed to the members in proportion to their respective interests in the passthrough entity.
5. An investment made in a qualified business from the assets of a retirement plan is deemed to be the retirement plan participant's investment for the purpose of this chapter if a separate account is maintained for the plan participant and the participant directly controls where the account assets are invested.
6. The investment must be made on or after the certification effective date and must be at risk in the business to be eligible for the tax credit under this section. An investment for which a credit is received under this section must remain in the business for at least three years. Investments placed in escrow do not qualify for the credit.
7. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business.
8. A taxpayer who owns a controlling interest in the qualified business or who receives more than fifty percent of the taxpayer's gross annual income from the qualified business is not entitled to a credit under this section. A member of the immediate family of a taxpayer disqualified by this subsection is not entitled to the credit under this section. For purposes of



this subsection, "immediate family" means the taxpayer's spouse, parent, sibling, or child or the spouse of any such person.

9. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The commissioner has four years after the due date of the return or after the return was filed, whichever period expires later, to audit the credit and assess additional tax that may be found due to failure to comply with the provisions of this chapter. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all applicable tax years, plus penalty and interest as provided under section 57-38-45, must be paid by the taxpayer.
10. An angel fund that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section. The amount of the credit allowed with respect to an angel fund's investment in a qualified business must be determined at the angel fund level. The amount of the total credit determined at the angel fund level must be allowed to the investors in the angel fund in proportion to the investor's respective interests in the fund. An angel fund that is subject to the tax imposed under chapter 57-38 is not eligible for the investment tax credit under this chapter.

**SECTION 30. AMENDMENT.** Section 57-38.6-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.6-03. Agricultural business investment tax credit.** If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability as determined under section ~~57-38-29~~, 57-38-30, or 57-38-30.3.

1. The amount of the credit to which a taxpayer is entitled is thirty percent of the amount invested by the taxpayer in qualified businesses during the taxable year.
2. The maximum annual credit a taxpayer may obtain under this section is fifty thousand dollars and no taxpayer may obtain more than two hundred fifty thousand dollars in credits under this section over any combination of taxable years. This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.
3. The credit under this section may not exceed the liability for tax under chapter 57-38. If the amount of credit under this section exceeds the liability for tax, the excess may be carried forward for up to ten taxable years after the taxable year in which the investment was made.
4. A partnership, subchapter S corporation, limited liability company that for tax purposes is treated like a partnership, or any other passthrough entity that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and, except for the tax liability limitation under subsection 2, the amount of the credit allowed with respect to the passthrough entity's investment in a qualified business must be determined at the passthrough entity level. The amount of the total credit determined at the passthrough entity level must be allowed to the passthrough entity's owners, in proportion to their respective ownership interests in the passthrough entity.
5. An investment made in a qualified business from the assets of a retirement plan is deemed to be the retirement plan participant's investment for the purposes of this chapter if a separate account is maintained for the plan participant and the participant directly controls where the account assets are invested.
6. The investment must be made on or after the certification effective date and must be at risk in the business to be eligible for the tax credit under this section. A qualified investment must be in the form of a purchase of

ownership interests or the right to receive payment of dividends from the business. An investment for which a credit is received under this section must remain in the business for at least three years. An investment placed in escrow does not qualify for the credit.

7. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business. Real property that qualifies as an investment must be used in, and be an integral part of, the qualified business's North Dakota business operations.
8. If the investment is a contribution of real property:
  - a. The value of the contribution may not exceed the appraised value as established by a licensed or certified appraiser licensed or certified under the requirements of sections 43-23.3-04, 43-23.3-04.1, 43-23.3-05, 43-23.3-06, 43-23.3-07, 43-23.3-08, 43-23.3-09, 43-23.3-10, 43-23.3-11, and 43-23.3-12.
  - b. The value of the contribution must be approved by the governing body of the qualified business applying the valuation standards set forth in subsection 3 of section 10-19.1-63.
  - c. The qualified business receiving the contribution of real property shall provide to the tax commissioner a copy of the appraised valuation, a copy of the governing body's resolution approving the value of the contribution, and a copy of the statement of full consideration within thirty days after the instrument transferring title to the real property is recorded with the register of deeds as provided in chapter 47-19.
  - d. A taxpayer making a contribution of real property is entitled to the tax credit in the taxable year in which the instrument transferring title to the real property is recorded with the register of deeds as provided in chapter 47-19.
9. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all applicable tax years, plus penalty and interest provided under section 57-38-45, must be paid by the taxpayer.

**SECTION 31. REPEAL.** Sections 57-38-01.2, 57-38-01.18, 57-38-02, 57-38-06.1, 57-38-29, 57-38-29.2, 57-38-30.4, 57-38-67, 57-38-68, 57-38-69, and 57-38-70 of the North Dakota Century Code are repealed.

**SECTION 32. EFFECTIVE DATE - APPLICATION.** This Act is effective for taxable years beginning after December 31, 2009. The income amounts shown in the tax brackets in the amendment to section 57-38-30.3 in this Act are the income amounts as indexed for taxable year 2009. The tax commissioner shall apply appropriate indexing factors, as determined under subdivision g of subsection 1 of section 57-38-30.3, to the dollar amounts of the brackets to update those amounts for taxable years after 2009."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1327, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1327 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for the remodeling of a nursing facility to meet the requirements of assisted living and basic

care and a pilot project on assisted living rent subsidies; and to provide an appropriation.

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

**SECTION 1. REMODELING OF A NURSING FACILITY TO MEET THE REQUIREMENTS OF ASSISTED LIVING AND BASIC CARE - PILOT PROJECT ON ASSISTED LIVING RENT SUBSIDIES.** Before March 1, 2010, the department of human services shall grant \$350,000 to a facility under section 23-16-01.1 which incurs a transfer of the location of all the facility's beds and a change of operator before June 1, 2009, for costs associated with the remodeling of the facility. In order to receive a grant, a facility shall agree to:

1. Meet the requirements of both an assisted living facility and a basic care facility;
2. Use at least \$50,000 of the grant to conduct a rent subsidy pilot project for at least four assisted living residents; and
3. Report to the department of human services on the success of the rent subsidy pilot project compared to the basic care assistance program.

**SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the health care trust fund, not otherwise appropriated, the sum of \$350,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing a grant as provided for in section 1 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011. The department of human services may not spend this funding prior to January 1, 2010."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1399, as engrossed: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1399 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-21 of the North Dakota Century Code, relating to the teaching and preservation of American Indian languages; and to provide an appropriation.

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

**SECTION 1.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**American Indian languages - Teaching and preservation committee - Duties - Report.**

1. The superintendent of public instruction shall appoint an American Indian language teaching and preservation committee.
2. The committee must include:
  - a. A representative of the Indian affairs commission;
  - b. A representative of the tribal colleges;
  - c. A school board member;
  - d. A school district superintendent; and
  - e. A teacher of American Indian languages.

3. The committee shall assist the superintendent of public instruction in:
  - a. Developing research-based and standardized methods to be used in the teaching and preservation of American Indian languages within elementary and high schools in this state;
  - b. Developing and disseminating instructional materials;
  - c. Training school district personnel in the teaching and preservation of American Indian languages;
  - d. Ensuring coordination with other state and federally funded education programs; and
  - e. Data collection.
4. Before September 2010, the superintendent of public instruction shall provide a report to the legislative council regarding the teaching and preservation of American Indian languages in this state.

**SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing technical assistance to school districts engaged in the teaching and preservation of American Indian languages, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Renumber accordingly

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

**HB 1400, as engrossed: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1400 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new sections to chapter 15-20.1, two new sections to chapter 15.1-02, two new sections to chapter 15.1-06, a new section to chapter 15.1-07, a new section to chapter 15.1-13, chapter 15.1-18.2, six new sections to chapter 15.1-21, sections 15.1-21-02.3, 15.1-21-02.4, 15.1-21-02.5, and 15.1-21-02.6, two new sections to chapter 15.1-27, and three new sections to chapter 15.1-37 of the North Dakota Century Code, relating to career development facilitation, student health insurance, the use of federal stimulus dollars, school personnel, national board certification, program and course requirements, assessments, state aid payments, and an early childhood education council; to amend and reenact sections 15.1-06-04, 15.1-09.1-10, 15.1-21-02, 15.1-21-02.1, 15.1-27-03.1, 15.1-27-04, 15.1-27-07.2, 15.1-27-11, 15.1-27-19, 15.1-27-35, 15.1-27-41, and 15.1-32-18 of the North Dakota Century Code and section 55 of chapter 163 of the 2007 Session Laws, relating to school calendars, course requirements, state aid payments, and special education; to provide an appropriation; to provide a continuing appropriation; to provide for teacher compensation increases; to provide for the distribution of teacher support system grants, transportation grants, reorganization planning grants, regional education association grants, baseline recalculation grants, deferred maintenance grants, and contingency payments; to provide for a contingent transfer; to provide for reports to the legislative council; to repeal sections 15.1-21-02.2, 15.1-27-20.1, 15.1-27-41, and 15.1-38-01.2 of the North Dakota Century Code, relating to high school graduation requirements, the minimum mill levy offset, the commission on education improvement, and new immigrant English language learners; to provide an effective date; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 15-20.1 of the North Dakota Century Code is created and enacted as follows:

#### **Career development facilitation - Certificate - Qualifications.**

1. The department shall develop a program leading to a certificate in career development facilitation. The department shall award the certificate to any individual who:
  - a. Holds a baccalaureate degree from an accredited institution of higher education;
  - b. Has at least a five-year employment history; and
  - c. Successfully completes the department's programmatic requirements.
2. An individual holding a certificate awarded under this section is a career advisor.

**SECTION 2.** A new section to chapter 15-20.1 of the North Dakota Century Code is created and enacted as follows:

**Career development facilitation - Provisional approval.**

1. The department may provisionally approve an individual to serve as a career advisor if the individual:
  - a. Holds a baccalaureate degree from an accredited institution of higher education;
  - b. Has at least a five-year employment history; and
  - c. Provides the department with a plan for completing the department's programmatic requirements within a two-year period.
2. Provisional approval under subsection 1 is valid for a period of two years and may not be extended by the department.

**SECTION 3.** A new section to chapter 15.1-02 of the North Dakota Century Code is created and enacted as follows:

**Health insurance programs - Joint enrollment program.** The superintendent of public instruction and the department of human services jointly shall develop a system under which families of children enrolling in the public school system are provided with information regarding state and federally funded health insurance programs and encouraged to apply for such coverage if determined to be eligible.

**SECTION 4.** A new section to chapter 15.1-02 of the North Dakota Century Code is created and enacted as follows:

**Federal stimulus dollars - Notification of nonreplacement - Publication of notice.**

1. The superintendent of public instruction shall notify the superintendent and board of each school district in the state, by registered mail, that any federal stimulus dollars received by the district as a result of the American Recovery and Reinvestment Act of 2009 should be used only for one-time, nonrecurring expenditures because this state is not responsible for replacing that level of funding or otherwise sustaining that level of funding during the 2011-13 biennium.
2. During the thirty-day period following receipt of the notification, the superintendent of each school district shall arrange to publish the notice at least twice in the official newspaper of the district.

**SECTION 5. AMENDMENT.** Section 15.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-06-04. School calendar - Length.**

1. ~~a.~~ During each the 2009-10 school year, a school district shall provide for a school calendar of at least one hundred eighty days, apportioned as follows:
  - ~~a.~~ (1) One hundred seventy-three full days of instruction;

- b- (2) Three holidays listed in subdivisions b through j of subsection 1 of section 15.1-06-02 and selected by the school board in consultation with district teachers;
- e- (3) Up to two full days during which parent-teacher conferences are held or which are deemed by the school board to be compensatory time for parent-teacher conferences held outside regular school hours; and
- e- (4) Two days for professional development activities.
- b. Beginning with the 2010-11 school year, a school district shall provide for a school calendar of at least one hundred eighty-two days, apportioned as follows:
  - (1) One hundred seventy-four full days of instruction;
  - (2) Three holidays listed in subdivisions b through j of subsection 1 of section 15.1-06-02 and selected by the school board in consultation with district teachers;
  - (3) Up to two full days during which parent-teacher conferences are held or which are deemed by the school board to be compensatory time for parent-teacher conferences held outside regular school hours; and
  - (4) Three days for professional development activities.
- 2. a. In meeting the requirements for two days of professional development activities under subsection 1, a school district may require that its teachers attend the North Dakota education association instructional conference and may pay teachers for attending the conference, provided attendance is verified.
- b. In meeting the requirements for two days of professional development activities under subsection 1, a school district may consider attendance at the North Dakota education association instructional conference to be optional, elect not to pay teachers for attending the instructional conference, and instead direct any resulting savings toward providing alternate professional development opportunities.
- c. For purposes of this section, a "day for professional development activities" means:
  - (1) Six hours of professional development activities, exclusive of meals and other breaks, conducted within a single day; or
  - (2) Two four-hour periods of professional development activities, exclusive of meals and other breaks, conducted over two days.
- 3. If a school district offers a four-hour period of professional development activities, as permitted in subdivision c of subsection 2, the school district may schedule instruction during other available hours on that same day and be credited with providing one-half day of instruction to students. The provisions of this subsection do not apply unless the one-half day of instruction equals at least one-half of the time required for a full day of instruction, as defined in this section.
- 4. A school district may not require the attendance of teachers in school or at any school-sponsored, school-directed, school-sanctioned, or school-related activities and may not schedule classroom instruction time nor alternate professional development activities on any day that conflicts with the North Dakota education association instructional conference.
- 5. a- ~~During the 2007-08 school year, a full day of instruction consists of:~~
  - (1) ~~At least five and one-half hours for elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and~~

- (2) ~~At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.~~
- b. ~~Beginning with the 2008-09 school year, a~~ A full day of instruction consists of:
- (4) a. At least five and one-half hours for kindergarten and elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
- (2) b. At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.
6. If a school's calendar provides for an extension of each schoolday beyond the statutorily required minimum number of hours, and if the extensions when aggregated over an entire school year amount to more than eighty-four hours of additional classroom instruction during the school year, the school is exempt from having to make up six hours of instruction time lost as a result of weather-related closure. In order to make up lost classroom instruction time beyond the six hours, the school must extend its normal school calendar day by at least thirty minutes.
7. A school that does not qualify under ~~the provisions of~~ subsection 6 must extend its normal schoolday by at least thirty minutes to make up classroom instruction time lost as a result of weather-related closure.
8. If because of weather a school must dismiss before completing a full day of instruction, the school is responsible for making up only those hours and portions of an hour between the time of early dismissal and the conclusion of a full day of classroom instruction.

**SECTION 6.** A new section to chapter 15.1-06 of the North Dakota Century Code is created and enacted as follows:

**Counselor positions - Requirement.**

1. Each school district must have available one full-time equivalent counselor for every three hundred students in grades seven through twelve.
2. Up to one-third of the full-time equivalency requirement established in subsection 1 may be met by career advisors.
3. For purposes of this section, a "career advisor" means an individual who holds a certificate in career development facilitation issued by the department of career and technical education under section 1 of this Act or an individual who is provisionally approved by the department of career and technical education under section 2 of this Act to serve as a career advisor.

**SECTION 7.** A new section to chapter 15.1-06 of the North Dakota Century Code is created and enacted as follows:

**Career advisor - Duties.** A career advisor shall provide sequential career development activities, current career information, and related career exploration opportunities to students in grades seven through twelve. A career advisor shall use computer-assisted career guidance systems and work at the direction and under the supervision of the school district counseling staff.

**SECTION 8.** A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

**Student performance strategist - Verification - Qualifications.** Beginning with the 2010-11 school year, each school district must have available one full-time equivalent student performance strategist for every four hundred students in average daily membership in kindergarten through grade three. Each school district shall submit documentation to the superintendent of public instruction, at the time and in the manner directed by the superintendent, verifying the amount of time that each student

performance strategist expended in tutoring students on a one-to-one basis or in groups ranging from two to five, or in providing instructional coaching to teachers. For purposes of this section, a "student performance strategist" must meet the qualifications of an elementary school teacher as set forth in section 15.1-18-07 and serve as a tutor or an instructional coach.

**SECTION 9. AMENDMENT.** Section 15.1-09.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09.1-10. State aid - Payable to a regional education association - Obligation of district.**

1. The superintendent of public instruction shall forward the portion of a school district's state aid ~~that~~ which is payable by the superintendent under subdivision o of subsection 1 of section 15.1-27-03.1 as a result of the district's participation in a regional education association directly to the association in which the district participates. The superintendent shall forward the amount payable under this subsection at the same time and in the same manner as provided for other state aid payments under section 15.1-27-01.
2. If the superintendent of public instruction determines that a school district failed to meet any contractual or statutory obligation imposed upon it as a result of the district's participation in a regional education association, the superintendent shall subtract the amount for which the district was not eligible from any future distribution of state aid to the district under section 15.1-27-01.

**SECTION 10.** A new section to chapter 15.1-13 of the North Dakota Century Code is created and enacted as follows:

**National board certification fund - Creation - Continuing appropriation.**

1. The national board certification fund is a special fund in the state treasury. The state investment board shall invest the fund in accordance with chapter 21-10. All interest and income received on investments are appropriated on a continuing basis to the education standards and practices board for the purpose of awarding grants to teachers pursuing national board certification.
2. The education standards and practices board shall make grants available to applicants in an amount equal to the cost of obtaining national board certification, but not exceeding two thousand five hundred dollars per applicant. The board shall make the grants available to applicants in chronological order, based on the date the board receives an applicant's completed application.
3. As a condition of the grant, the education standards and practices board may require recipients who achieve national board certification to mentor other individuals who are licensed to teach by the board.

**SECTION 11.** Chapter 15.1-18.2 of the North Dakota Century Code is created and enacted as follows:

**15.1-18.2-01. Professional development plan - Adoption - Review by school district.**

1. Each school district shall adopt a professional development plan. The plan must include a description of the professional development activities that the district offers or makes available, the district's requirements for participation by teachers, and the manner in which participation is documented.
2. Each school district shall review and if necessary modify its plan at least once every five years.
3. Each school district shall file a copy of its most recent professional development plan with the superintendent of public instruction.



**15.1-18.2-02. Professional development plan - Review by superintendent of public instruction.** The superintendent of public instruction shall review each school district's professional development plan to ensure that the plan meets the requirements of section 15.1-18.2-01, is designed to improve the quality of teaching and learning in the district, and is implemented in an efficient and effective manner.

**15.1-18.2-03. Professional development advisory committee - Duties - Staff support.**

1. The superintendent of public instruction shall appoint a professional development advisory committee to:
  - a. Examine the delivery of professional development in this state;
  - b. Review professional development needs from the perspective of teachers, school administrators, school board members, and parents;
  - c. Review the professional development plans filed by school districts and propose changes to improve the opportunities for professional development; and
  - d. Advise the superintendent regarding regulatory and statutory measures that could be pursued to improve the quality and availability of professional development opportunities.
2. The superintendent shall provide staff support to the professional development advisory committee.

**SECTION 12. AMENDMENT.** Section 15.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-21-02. High schools - Required units.**

1. In order to be approved by the superintendent of public instruction, each public and nonpublic high school shall make available to each student:
  - a. Four units of English language arts;
  - b. Four units of mathematics;
  - c. Four units of science;
  - d. Four units of social studies, including one of world history and one of United States history;
  - e. One-half unit of health;
  - f. One-half unit of physical education during each school year, provided that once every four years the unit must be a concept-based fitness class that includes instruction in the assessment, improvement, and maintenance of personal fitness;
  - g. Two units of fine arts, at least one of which must be music;
  - h. Two units of the same foreign or native American language; and
  - i. Two units of career and technical education.
2. In addition to the requirements of subsection 1, each public and nonpublic high school shall make available to each student, at least once every two years, one-half unit of North Dakota studies, with an emphasis on the geography, history, and agriculture of this state.
3. Each unit which must be made available under this section must meet or exceed the state content standards.
4. For purposes of this section, unless the context otherwise requires, "make available" means that:

- a. Each public high school and nonpublic high school shall allow students to select units over the course of a high school career from a list that includes at least those required by this section;
  - b. If a student selects a unit from the list required by this section, the public high school or the nonpublic high school shall provide the unit to the student; and
  - c. The unit may be provided to the student through any delivery method not contrary to state law and may include classroom or individual instruction and distance learning options, including interactive video, computer instruction, correspondence courses, and postsecondary enrollment under chapter 15.1-25.
5. The board of a school district may not impose any fees or charges upon a student for the provision of or participation in units as provided in this section, other than the fees permitted by section 15.1-09-36.
  6. If in order to meet the minimum requirements of this section a school district includes academic courses offered by a postsecondary institution under chapter 15.1-25, the school district shall:
    - a. Pay all costs of the student's attendance, except those fees that are permissible under section 15.1-09-36; and
    - b. Transport the student to and from the location at which the course is offered or provide mileage reimbursement to the student if transportation is provided by the student or the student's family.
  7. The requirements of this section do not apply to alternative high schools or alternative high school education programs.
  8. The requirements of subdivisions g and h of subsection 1 do not apply to the North Dakota youth correctional center.

**SECTION 13. AMENDMENT.** Section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-21-02.1. High school graduation - Diploma requirements.** ~~Before~~ Except as provided in section 15.1-21-02.3, ~~before~~ a school district, a nonpublic high school, or the center for distance education issues a high school diploma to a student, the student must have successfully completed ~~at least twenty-one~~ the following twenty-two units of high school coursework ~~from the minimum required curriculum offerings established by section 15.1-21-02.~~ ~~Beginning with the 2009-10 school year, the number of units required by this section increases to twenty-two and beginning with the 2011-12 school year, the number of units required by this section increases to twenty-four.~~

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Three units of mathematics;
3. Three units of science, including:
  - a. One unit of physical science;
  - b. One unit of biology; and
  - c. (1) One unit of any other science; or  
(2) Two one-half units of any other science;
4. Three units of social studies, including:
  - a. One unit of United States history;
  - b. (1) One-half unit of United States government and one-half unit of economics; or

- (2) One unit of problems of democracy; and
- c. One unit or two one-half units of any other social studies, which may include civics, civilization, geography and history, multicultural studies, North Dakota studies, psychology, sociology, and world history;
- 5. a. One unit of physical education; or  
b. One-half unit of physical education and one-half unit of health;
- 6. Three units of:
  - a. Foreign languages;
  - b. Native American languages;
  - c. Fine arts; or
  - d. Career and technical education courses; and
- 7. Any five additional units.

**SECTION 14.** Section 15.1-21-02.3 of the North Dakota Century Code is created and enacted as follows:

**15.1-21-02.3. Optional high school curriculum - Requirements.** If after completing at least two years of high school a student has failed to pass at least one-half unit from three subsections in section 15.1-21-02.1 or has a grade point average at or below the twenty-fifth percentile of other students in the district who are enrolled in the same grade, the student may request that the student's career advisor, guidance counselor, or principal meet with the student and the student's parent to determine if the student should be permitted to pursue an optional high school curriculum, in place of the requirements set forth in section 15.1-21-02.1. If a student's parent consents in writing to the student pursuing the optional high school curriculum, the student is eligible to receive a high school diploma upon completing the following requirements:

- 1. Four units of English language arts from a sequence that includes literature, composition, and speech;
- 2. Two units of mathematics;
- 3. Two units of science;
- 4. Three units of social studies, which may include up to one-half unit of North Dakota studies and one-half unit of multicultural studies;
- 5. a. One unit of physical education; or  
b. One-half unit of physical education and one-half unit of health;
- 6. Two units of:
  - a. Foreign languages;
  - b. Native American languages;
  - c. Fine arts; or
  - d. Career and technical education courses; and
- 7. Any seven additional units.

**SECTION 15.** Section 15.1-21-02.4 of the North Dakota Century Code is created and enacted as follows:

**15.1-21-02.4. North Dakota career and technical education scholarship.** Any resident student who graduates from a high school during or after the 2010-11 school year is eligible to receive a North Dakota career and technical education

scholarship provided the student completes all requirements set forth in subsections 1 through 5 and subsection 7 of section 15.1-21-02.1 for a high school diploma and:

1.
  - a. Completes one unit of algebra II in fulfillment of the mathematics requirement set forth in subsection 2 of section 15.1-21-02.1;
  - b. Completes two units of a coordinated plan of study recommended by the department of career and technical education and approved by the superintendent of public instruction; and
  - c. Completes three additional units, two of which must be in the area of career and technical education;
2. Obtains a grade of at least "C" in each unit or one-half unit required for the diploma;
3. Obtains a cumulative grade point of at least "B"; and
4. Receives:
  - a. A composite score of at least twenty-four on an ACT;
  - b. A score of at least one thousand one hundred on the critical reading and mathematics portions of the SAT; or
  - c. A score of at least five on each of three WorkKeys assessments recommended by the department of career and technical education and approved by the superintendent of public instruction.

**SECTION 16.** Section 15.1-21-02.5 of the North Dakota Century Code is created and enacted as follows:

**15.1-21-02.5. North Dakota academic scholarship.** Any resident student who graduates from a high school during or after the 2010-11 school year is eligible to receive a North Dakota academic scholarship provided the student completes all requirements set forth in subsections 1 through 5 and subsection 7 of section 15.1-21-02.1 for a high school diploma and:

1.
  - a. Completes one unit of algebra II in fulfillment of the mathematics requirement set forth in subsection 2 of section 15.1-21-02.1;
  - b. Completes one additional unit of mathematics for which algebra II is a prerequisite; and
  - c. Completes:
    - (1) Two units of the same foreign or native American language;
    - (2) One unit of fine arts or career and technical education; and
    - (3) One unit of a foreign or native American language, fine arts, or career and technical education;
2. Obtains a grade of at least "C" in each unit or one-half unit required for the diploma;
3. Obtains a cumulative grade point of at least "B";
4. Receives a composite score of at least twenty-four on an ACT or a score of at least one thousand one hundred on the critical reading and mathematics portions of the SAT; and
5. Completes one unit of an advanced placement course and examination or a dual-credit course.

**SECTION 17.** Section 15.1-21-02.6 of the North Dakota Century Code is created and enacted as follows:

**15.1-21-02.6. North Dakota scholarship - Amount - Applicability.**

1. The state board of higher education shall provide to any eligible student a North Dakota scholarship in the amount of seven hundred fifty dollars for each semester during which the student is enrolled full time at an accredited institution of higher education in this state and maintains a grade point average of 2.75.
2. A student is not entitled to receive more than six thousand dollars under this section.
3. The state board of higher education shall forward the scholarship directly to the institution in which the student is enrolled.
4. This section does not require a student to be enrolled in consecutive semesters. However, a scholarship under this section is valid only for six academic years after the student's graduation from high school and may not be applied to graduate programs.
5. A scholarship under this section is available to any eligible student who graduates from a high school in this state or from a high school in a bordering state under chapter 15.1-29.

**SECTION 18.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Summer school courses and programs - Eligibility for payment.** The summer school courses and programs for which a school district may receive payment as provided in section 15.1-27-19 are:

1.
  - a. Remedial mathematics provided to students enrolled in any grade from kindergarten through eight;
  - b. Remedial reading provided to students enrolled in any grade from kindergarten through eight;
  - c. Mathematics provided to students enrolled in any grade from five through nine;
  - d. Reading provided to students enrolled in any grade from five through nine;
  - e. Science provided to students enrolled in any grade from five through nine; and
  - f. Social studies provided to students enrolled in any grade from five through nine; and
2. Any other high school summer courses that satisfy requirements for graduation, comprise at least as many clock-hours as courses offered during the regular school term, and comply with rules adopted by the superintendent of public instruction.

**SECTION 19.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Interim assessment.** Each school district shall administer annually to students in grades two through ten the measures of academic progress test or any other interim assessment approved by the superintendent of public instruction.

**SECTION 20.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Career interest inventory.** A school district shall administer to students, once during their enrollment in grade seven or eight and once during their enrollment in grade nine or ten, a career interest inventory recommended by the department of career and technical education and approved by the superintendent of public instruction.

**SECTION 21.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Summative assessment - Selection - Cost - Exemptions.**

1. Except as otherwise provided, each student in grade eleven shall take the ACT, the SAT, or three WorkKeys assessments recommended by the department of career and technical education and approved by the superintendent of public instruction. The student shall determine which summative assessment to take. The student's school district is responsible for the cost of one summative assessment and its administration per student.
2. The student's career advisor or guidance counselor shall meet with the student to review the student's assessment results.
3. A school district superintendent may exempt a student from the requirements of this section if taking the test is not required by the student's individualized education program plan or if the superintendent determines that other special circumstances exist.

**SECTION 22.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Summative assessment - General educational development diploma - Selection - Cost.**

1. Except as otherwise provided, each student pursuing a general educational development diploma may take the ACT, the SAT, or three WorkKeys assessments recommended by the department of career and technical education and approved by the superintendent of public instruction. The student shall determine which summative assessment to take. The student's school district is responsible for the cost of one summative assessment and its administration per student.
2. The student's career advisor or guidance counselor shall meet with the student to review the student's assessment results.

**SECTION 23. AMENDMENT.** Section 15.1-27-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-03.1. Weighted average daily membership - Determination.**

1. For each school district, the superintendent of public instruction shall multiply by:
  - a. 1.00 the number of full-time equivalent students enrolled in a migrant summer program;
  - b. 1.00 the number of full-time equivalent students enrolled in an extended educational program in accordance with section 15.1-32-17;
  - c. 0.60 the number of full-time equivalent students enrolled in a summer education program;
  - d. 0.50 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;
  - e. 0.25 the number of full-time equivalent students enrolled in an alternative high school;
  - f. 0.25 the number of full-time equivalent students enrolled in an isolated elementary school;
  - g. 0.25 the number of full-time equivalent students enrolled in an isolated high school;
  - h. 0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-01;
  - i. 0.20 the number of full-time equivalent students enrolled in a new immigrant English language learner program;

- j. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;
  - ~~j.~~ k. ~~0.14~~ 0.10 the number of full-time equivalent students, other than those provided for in subdivision i, who are enrolled in a new immigrant an English language learner program;
  - ~~k.~~ l. ~~0.067~~ 0.07 the number of students enrolled in average daily membership, in order to support the provision of special education services; ~~and~~
  - ~~l.~~ m. ~~0.02~~ 0.05 the number of ~~full-time equivalent students, other than those provided for in subdivision j, who are enrolled in an English language learner program~~ students representing that percentage of the total number of students in average daily membership, which is equivalent to the three-year average percentage of students in grades three through eight who are eligible for free or reduced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.]; and
  - n. 0.004 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1.
2. The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.

**SECTION 24. AMENDMENT.** Section 15.1-27-04 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-04. Per student payment rate.**

- 1.
  - a. The per student payment rate to which each school district is entitled for the first year of the biennium is three thousand ~~two~~ four hundred ~~fifty~~ twenty dollars.
  - b. The per student payment rate to which each school district is entitled for the second year of the biennium is three thousand ~~three~~ seven hundred ~~twenty-five~~ seventy-nine dollars.
- 2. In order to determine the state aid payment to which each district is entitled, the superintendent of public instruction shall multiply each district's weighted student units by the per student payment rate set forth in subsection 1.

**SECTION 25. AMENDMENT.** Section 15.1-27-07.2 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-07.2. Baseline funding - Determination - Minimum and maximum allowable increases.**

- 1. The superintendent of public instruction shall determine each school district's baseline funding per weighted student unit by:
  - a. Adding together all state aid received by the district during the 2006-07 school year;
  - b. Subtracting the amount received by the district during the 2006-07 school year for transportation aid, special education excess cost reimbursements, special education contracts, prior year funding adjustments, and per student payments for participation in educational associations governed by joint powers agreements; and
  - c. Dividing the amount determined under subdivision b by the district's 2007-08 weighted student units.
- 2.
  - a. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, for the ~~2007-08~~ 2009-10 school year, is at least equal to one hundred

~~three and one-half~~ eight percent of the baseline funding per weighted student unit, as established in subsection 1.

- b. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, for each school year after the ~~2007-08~~ 2009-10 school year, is at least equal to one hundred ~~six~~ twelve and one-half percent of the baseline funding per weighted student unit, as established in subsection 1.
3. a. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, less any amount received as equity payments under section 15.1-27-11 per weighted student unit, does not exceed, for the ~~2007-08~~ 2009-10 school year, one hundred ~~seven~~ twenty percent of the baseline funding per weighted student unit, as established in subsection 1.
- b. ~~Beginning with the 2008-09 school year, the maximum percentage of allowable growth in the baseline funding per weighted student unit provided in subdivision a must be annually increased by three percentage points, plus the district's share of any increased state aid for that year. Payments received by districts for the provision of full day kindergarten do not constitute increases in state aid for purposes of this subdivision. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, less any amount received as equity payments under section 15.1-27-11 per weighted student unit, does not exceed, for each school year after the 2009-10 school year, one hundred thirty-four percent of the baseline funding per weighted student unit, as established in subsection 1.~~

**SECTION 26. AMENDMENT.** Section 15.1-27-11 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-11. Equity payments.**

1. The superintendent of public instruction shall:
  - a. Divide the imputed taxable valuation of the state by the total average daily membership of all school districts in the state in order to determine the state average imputed taxable valuation per student.
  - b. Divide the imputed taxable valuation of each school district by the district's total average daily membership in order to determine each district's average imputed taxable valuation per student.
2. a. ~~If a school district's imputed taxable valuation per student is less than eighty-eight and one-half percent of the statewide imputed taxable valuation per student, the superintendent of public instruction shall calculate the valuation deficiency by:~~
  - (1) ~~Determining the difference between eighty-eight and one-half percent of the state average imputed taxable valuation per student and the district's average imputed taxable valuation per student; and~~
  - (2) ~~Multiplying that difference by the district's total average daily membership.~~
- b. ~~Beginning July 1, 2008, if~~ If a school district's imputed taxable valuation per student is less than ninety percent of the statewide imputed taxable valuation per student, the superintendent of public instruction shall calculate the valuation deficiency by:
  - (1) a. Determining the difference between ninety percent of the state average imputed taxable valuation per student and the district's average imputed taxable valuation per student; and
  - (2) b. Multiplying that difference by the district's total average daily membership.



3. Except as provided in subsection 4, the equity payment to which a district is entitled under this section equals the district's valuation deficiency multiplied by the lesser of:
  - a. The district's general fund ~~mill~~ levy for the taxable year 2008; or
  - b. One hundred eighty-five mills.
4.
  - a. The equity payment to which a district is entitled may not exceed the district's taxable valuation multiplied by its general fund ~~mill~~ levy for the taxable year 2008.
  - b. If a district's general fund levy for the taxable year 2008 is less than one hundred eighty-five mills, the superintendent of public instruction shall subtract the district's general fund ~~mill~~ levy for the taxable year 2008 from one hundred eighty-five mills, multiply the result by the district's taxable valuation, and subtract that result from the equity payment to which the district is otherwise entitled.
  - c. If a district's imputed taxable valuation per student is less than fifty percent of the statewide imputed taxable valuation per student, the payment to which the district is entitled under this section may not be less than twenty percent of the statewide imputed taxable valuation per student times the school district's average daily membership, multiplied by one hundred eighty-five mills.
5. In determining the amount to which a school district is entitled under this section, the superintendent of public instruction may not include any payments received by the district as a result of Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236 et seq.] and may not include in the district's average daily membership students who are dependents of members of the armed forces and students who are dependents of civilian employees of the department of defense.
6. For purposes of this section:
  - a. "General fund levy" includes a district's high school transportation levy and its high school tuition levy.
  - b. "Imputed taxable valuation" means the valuation of all taxable real property in the district ~~plus an amount determined by dividing sixty percent of the district's mineral and tuition revenue by the district's general fund mill levy. Beginning July 1, 2008, "imputed taxable valuation" means the valuation of all taxable real property in the district plus an:~~
    - (1) An amount determined by dividing seventy percent of the district's mineral and tuition revenue by the district's general fund mill levy; and
    - (2) An amount determined by dividing the district's revenue from mobile home taxes, telecommunications taxes, and payments in lieu of property taxes on generation, distribution, and transmission of electric power by the district's general fund mill levy.
  - c. "Mineral revenue" includes all revenue from county sources reported under code 2000 of the North Dakota school district financial accounting and reporting manual as developed by the superintendent of public instruction in accordance with section 15.1-02-08.
  - d. "Tuition revenue" includes all revenue reported under code 1300 of the North Dakota school district financial accounting and reporting manual as developed by the superintendent of public instruction in accordance with section 15.1-02-08. "Tuition revenue" does not include tuition income received specifically for the operation of an educational program provided at a residential treatment facility.

**SECTION 27.** A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

**Reorganized district - Continuation of equity payment.** If a school district that received an equity payment under section 15.1-27-11 becomes part of a reorganized district after June 30, 2010, the newly reorganized district is entitled to receive, for a period of two years, an amount equal to the greater of:

1. The equity payment received by each of the school districts during the school year immediately preceding the reorganization; or
2. The equity payment to which the newly reorganized school district is entitled under section 15.1-27-11.

**SECTION 28.** A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

**Dissolved district - Continuation of equity payment.** If a school district that received an equity payment under section 15.1-27-11 dissolves after June 30, 2009, any school district that receives a portion of the dissolved district's land is entitled to receive, for a period of two years, an amount equal to the greatest of:

1. That percentage of the dissolved school district's equity payment from the school year immediately preceding the dissolution which is the same as that percentage of the dissolved district's land which was attached to the receiving district;
2. The same equity payment to which the receiving school district was entitled in the school year immediately preceding the dissolution; or
3. The equity payment to which the receiving school district is entitled under section 15.1-27-11.

**SECTION 29. AMENDMENT.** Section 15.1-27-19 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-19. Summer school courses and programs - Payments to school districts.**

1. Before a weight may be assigned under section 15.1-27-03.1 for a student enrolled in a high school summer course, the superintendent of public instruction shall verify that the course ~~satisfies requirements for graduation, comprises at least as many clock hours as courses offered during the regular school term, and complies with rules adopted by the superintendent of public instruction~~ meets the requirements of section 18 of this Act.
2. Before a weight may be assigned under section 15.1-27-03.1 for a student enrolled in an elementary summer program, the superintendent of public instruction shall verify that the program meets the requirements of section 18 of this Act and complies with rules adopted by the superintendent of public instruction.

**SECTION 30. AMENDMENT.** Section 15.1-27-35 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-35. Average daily membership - Calculation.**

1. ~~a.~~ Average During the 2009-10 school year, average daily membership is calculated at the conclusion of the school year by adding the total number of days that each student in a given grade, school, or school district is in attendance during a school calendar and the total number of days that each student in a given grade, school, or school district is absent during a school calendar, and then dividing the sum by the greater of:
  - ~~a.~~ (1) The school district's calendar; or
  - ~~b.~~ (2) One hundred eighty.

- b. Beginning with the 2010-11 school year, average daily membership is calculated at the conclusion of the school year by adding the total number of days that each student in a given grade, school, or school district is in attendance during a school calendar and the total number of days that each student in a given grade, school, or school district is absent during a school calendar, and then dividing the sum by the greater of:
  - (1) The school district's calendar; or
  - (2) One hundred eighty-two.
- 2. For purposes of calculating average daily membership, all students are deemed to be in attendance on:
  - a. The three holidays listed in subdivisions b through j of subsection 1 of section 15.1-06-02 and selected by the school board in consultation with district teachers;
  - b. The ~~two~~ three days set aside for professional development activities under section 15.1-06-04; and
  - c. The two full days, or portions thereof, during which parent-teacher conferences are held or which are deemed by the board of the district to be compensatory time for parent-teacher conferences held outside regular school hours.
- 3. For purposes of calculating average daily membership:
  - a. A student enrolled full time in any grade from one through twelve may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
  - b. ~~During the 2007-08 school year, a student enrolled full time in an approved regular education kindergarten program may not exceed an average daily membership of 0.50. Beginning with the 2008-09 school year, a~~ A student enrolled full time in an approved regular education kindergarten program may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
  - c. A student enrolled full time, as defined by the superintendent of public instruction, in an approved early childhood special education program may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.

**SECTION 31. AMENDMENT.** Section 15.1-27-41 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-41. North Dakota commission on education improvement - Membership - Duties - Report to legislative council - Reimbursement for expenses.**

- 1. The North Dakota commission on education improvement consists of:
  - a. (1) The governor or an individual designated by the governor, who shall serve as the chairman;
  - (2) One individual, appointed by the ~~governor~~ chairman of the legislative council, who is employed as the superintendent of a high school district having more than one thousand students in average daily membership, and who has not served on the commission for more than one interim;
  - (3) One individual, appointed by the ~~governor~~ chairman of the legislative council, who is employed as the superintendent of a high school district having more than two hundred twenty but fewer than one thousand students in average daily

membership, and who has not served on the commission for more than one interim;

- (4) One individual, appointed by the ~~governor~~ chairman of the legislative council, who is employed as the superintendent of a high school district having fewer than two hundred twenty students in average daily membership, and who has not served on the commission for more than one interim;
- (5) One individual, appointed by the ~~governor~~, who is employed as a school district business manager;
- ~~(6)~~ The chairman of the senate education committee or the chairman's designee;
- ~~(7)~~ (6) The chairman of the house education committee or the chairman's designee;
- ~~(8)~~ (7) The senate minority leader or the leader's designee;
- ~~(9)~~ (8) One legislator appointed by the chairman of the legislative council; ~~and~~
- ~~(10)~~ (9) The superintendent of public instruction or an assistant superintendent designated by the superintendent of public instruction; and
- (10) The director of the department of career and technical education or the director's designee; and

b. The following nonvoting members:

- (1) One ~~nonvoting member~~ individual representing the North Dakota council of educational leaders, ~~one nonvoting member~~;
  - (2) One individual representing the North Dakota education association, ~~and one nonvoting member~~;
  - (3) One individual representing the North Dakota school boards association;
  - (4) One individual who is the owner or manager of a business located in this state, appointed by the chairman of the legislative council from a list of three names forwarded by the North Dakota chamber of commerce; and
  - (5) The commissioner of higher education or the commissioner's designee.
2. The commission shall establish its own duties and rules of operation and procedure, including rules relating to appointments, terms of office, vacancies, quorums, and meetings, provided that the duties and the rules do not conflict with any provisions of this section.
3. a. The members of the commission are entitled to reimbursement for actual and necessary expenses incurred in the same manner as state officials.
- b. In addition, members of the legislative assembly who serve on the commission and the individual who is the owner or manager of a business located in this state are entitled to receive compensation in the amount of one hundred thirty-five dollars per day if they are attending meetings or performing duties directed by the commission. The superintendent of public instruction shall use up to forty thousand dollars from moneys appropriated in the grants - state school aid line item in ~~section 3 of Senate Bill No. 2013~~ the appropriation bill for the superintendent of public instruction, as approved by the ~~sixtieth~~ legislative assembly, to provide the compensation and reimbursements.

4. The commission shall ~~examine~~:
  - a. Examine the current system of delivering and financing public elementary and secondary education and shall develop recommendations addressing educational adequacy, the equitable distribution of state education funds, the allocation of funding responsibility between federal, state, and local sources, and any other matters that could result in the improvement of elementary and secondary education in the state;
  - b. Examine the state's high school graduation requirements, curricular standards, and assessments to ensure that students have the academic skills necessary to move seamlessly and without remediation from high schools to institutions of higher education or to meet the performance levels expected by employers;
  - c. Examine the measures enacted by the most recent legislative assembly to improve student performance, confirm their full implementation, and recommend future measures for continued improvement; and
  - d. Examine the measures enacted by the most recent legislative assembly to improve the quality of instruction, confirm their full implementation, and recommend future measures for continued improvement.
5. The commission shall provide periodic reports to the governor and to the legislative council.

**SECTION 32. AMENDMENT.** Section 15.1-32-18 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-32-18. Cost - Liability of school district for special education.**

1. Each year the superintendent of public instruction shall identify the approximately one percent of special education students statewide who are not eligible for cost reimbursement under section 15.1-29-14 and who require the greatest school district expenditures in order to provide them with special education and related services. This percentage represents the number of students that would qualify for excess cost reimbursement beyond the multiplier that is established in subsection 3.
2. The excess costs of providing special education and related services to these students are the responsibility of the state and the superintendent of public instruction shall reimburse the school districts for any excess costs incurred in the provision of special education and related services to the identified students.
3. "Excess costs" are those that exceed four ~~and one-half~~ times the state average cost of education per student and which are incurred by the special education students identified in subsection 1.
4. All costs of providing special education and related services to those students identified in subsection 1, other than excess costs reimbursed by the state, are the responsibility of the student's school district of residence.
5. In addition to any other reimbursements provided under this section, if a school district expends more than two percent of its annual budget for the provision of special education and related services to one student, the district shall notify the superintendent of public instruction. Upon verification, the superintendent shall reimburse the district for the difference between:
  - a. Two percent of the district's annual budget; and
  - b. The lesser of:
    - (1) The amount actually expended by the district for the provision of special education and related services to that student; or

- (2) The amount representing four ~~and one-half~~ times the state average cost of education per student.

**SECTION 33.** A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

**North Dakota early childhood education council - Membership - Terms.**

1. The North Dakota early childhood education council consists of:
  - a. A chairman appointed by the governor;
  - b. The superintendent of public instruction, or the superintendent's designee;
  - c. The state health officer, or the officer's designee;
  - d. The director of the department of human services, or the director's designee;
  - e. The North Dakota head start - state collaboration administrator, or the administrator's designee;
  - f. The commissioner of higher education, or the commissioner's designee;
  - g. The chairman of the senate education committee, or the chairman's designee;
  - h. The chairman of the house of representatives education committee, or the chairman's designee; and
  - i. The following gubernatorial appointees:
    - (1) The superintendent of a school district having at least one thousand students in average daily membership;
    - (2) The superintendent of a school district having fewer than one thousand students in average daily membership;
    - (3) The superintendent of a school district headquartered on a reservation or including reservation land within its boundaries;
    - (4) The principal of a school district;
    - (5) An individual employed as an elementary school teacher;
    - (6) An individual representing a non-religious-based provider of preschool education;
    - (7) An individual representing a religious-based provider of preschool education;
    - (8) An individual representing a center-based licensed child care provider;
    - (9) An individual representing a home-based licensed child care provider;
    - (10) An individual representing a reservation-based head start program; and
    - (11) An elected member of a school board;
    - (12) The parent of a child not yet enrolled in elementary school; and
    - (13) The parent of a child with special needs not yet enrolled in elementary school.

2.
  - a. The term of each member enumerated in subdivision g of subsection 1 is three years and begins on July first. The terms must be staggered by lot so that four of the terms expire each year.
  - b. If at any time during a member's term the member ceases to possess the qualifications required by this section, the member's seat is deemed vacant and the governor shall appoint another qualified individual to serve for the remainder of the term.
  - c. A member may not serve more than two consecutive terms. If an individual is appointed to complete a vacancy, that service is not counted as a term, for purposes of this section, unless the duration of that service exceeds one year.
3. The council shall meet at least twice each year, at the call of the chairman.

**SECTION 34.** A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

**Council - Duties.** The council shall:

1. Review the delivery of early childhood education in this state;
2. Conduct a needs assessment;
3. Review early childhood education standards and propose revisions to the standards as needed;
4. Review opportunities for public and private sector collaboration in the delivery of early childhood education in this state;
5. Develop a comprehensive plan governing the delivery of early childhood education in this state; and
6. Provide a biennial report regarding its activities to the governor and the legislative council.

**SECTION 35.** A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

**Council members - Reimbursement for expenses.** Each member of the council is entitled to receive reimbursement for expenses as provided by law for state officers if the member is attending meetings or performing duties directed by the council. In addition, each member of the legislative assembly who serves on the council is entitled to receive compensation in the amount provided per day for members of the legislative council under section 54-35-10 for attending meetings or performing duties as directed by the council.

**SECTION 36. APPROPRIATION - TEACHER SUPPORT SYSTEM GRANT PROGRAM.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,300,000, or so much of the sum as may be necessary, to the education standards and practices board for the purpose of funding a teacher support system grant program, for the biennium beginning July 1, 2009, and ending June 30, 2011.

1. The board shall:
  - a. Employ an individual to serve as a teacher support system coordinator;
  - b. Administer and evaluate the program; and
  - c.
    - (1) Select and train experienced teachers who will serve as mentors for first-year teachers and assist the first-year teachers with instructional skills development; or
    - (2) If a district is not in need of mentors for first-year teachers, the board shall select and train experienced teachers who will work with school district administrators to identify the needs of non-first-year teachers and through research-validated

interventions and the use of proven instructional methods help non-first-year teachers address their particular needs.

2. The board may use any moneys provided under this section for staff compensation, training, evaluation, stipends for mentors and experienced teachers who assist first-year and non-first-year teachers participating in the program, and any other administrative expenses resulting from the program; provided, however, that the board may not expend more than five percent of the funds appropriated in this section for administrative expenses.

**SECTION 37. APPROPRIATION - NATIONAL BOARD CERTIFICATION FUND.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the education standards and practices board for the purpose of creating the national board certification fund, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 38. APPROPRIATION - TRANSPORTATION PAYMENTS.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing transportation payments to school districts, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 39. USE OF NEW MONEY - TEACHER COMPENSATION INCREASES - REPORTS TO LEGISLATIVE COUNCIL.**

1. During the 2009-11 biennium, the board of each school district shall use an amount equal to at least seventy percent of all new money received by the district for per student payments to increase the compensation paid to teachers and to provide compensation to teachers who begin employment with the district on or after July 1, 2009.
2. a. For purposes of this section, the superintendent of public instruction shall calculate the amount of new money received by a district during the 2009-11 biennium by:
  - (1) Determining the total amount of state dollars received by each district during the 2007-09 biennium as per student payments, provided that neither equity payments under section 15.1-27-11, transportation payments, mill levy reduction payments, regional education association participation payments, nor contingency distributions are to be included in the total;
  - (2) Determining the total amount of state dollars received by each district during the 2009-11 biennium as per student payments, provided that neither equity payments under section 15.1-27-11, transportation payments, nor contingency distributions are to be included in the total; and
  - (3) Subtracting the amount arrived at under paragraph 1 from the amount arrived at under paragraph 2.
- b. Money made available to the state as a result of federal action to stimulate the national economy or to address state fiscal recovery does not constitute new money, unless it is used on a dollar-for-dollar basis to supplant state funds that would otherwise constitute new money within this section.
3. School districts providing educational services under a cooperative agreement approved by the superintendent of public instruction must be treated as a single district for purposes of this section.
4. a. This section does not apply to a school district if the board of the school district, after a public hearing at which public testimony and documentary evidence are accepted, determines in its discretion and by an affirmative vote of two-thirds of the members of the board that complying with subsection 1 would place the school district in the



position of having insufficient fiscal resources to meet the school district's other obligations.

- b. Within ten days of the vote required by subdivision a, the school board shall notify the superintendent of public instruction of its action and shall file a report detailing the grounds for its determination and action.
- c. The superintendent of public instruction shall report all notices received under this subsection to the legislative council.

#### **SECTION 40. TRANSPORTATION GRANTS - DISTRIBUTION.**

1. During each year of the 2009-11 biennium, the superintendent of public instruction shall calculate the payment to which each school district is entitled based on the state transportation formula as it existed on June 30, 2001, except that the superintendent shall provide reimbursement at the rate of:
  - a. Eighty-six cents per mile for schoolbuses having a capacity of ten or more passengers;
  - b. Forty-two cents per mile for vehicles having a capacity of nine or fewer passengers; and
  - c. Twenty-two cents per student for each one-way trip, provided that a "student" includes a participant in an early childhood education program that is eligible for funding under section 15.1-27-03.1.
2. The superintendent of public instruction shall use the latest available student enrollment count in each school district in applying the provisions of the transportation formula as it existed on June 30, 2001.
3. If any moneys provided for transportation payments in the grants - transportation line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-first legislative assembly, remain after application of the formula provided for in this section, the superintendent of public instruction shall prorate the remaining amounts according to the percentage of the total transportation formula amount to which each school district is entitled.
4. This section does not authorize the reimbursement of any costs incurred in providing transportation for student attendance at extracurricular activities or events.

#### **SECTION 41. SCHOOL DISTRICT REORGANIZATION PLANNING GRANTS.**

The superintendent of public instruction may expend up to \$100,000 from the grants - state school aid line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-first legislative assembly, for the purpose of providing planning grants to school districts participating in reorganizations under chapter 15.1-12, for the biennium beginning July 1, 2009, and ending June 30, 2011. A grant provided under this section may not exceed \$25,000 and may not be awarded unless the student enrollment of the participating districts exceeds three hundred sixty. If a grant is provided and the recipient districts vote not to reorganize, the superintendent of public instruction shall withhold the grant amount that each district received under this section from any state aid payable to the district.

**SECTION 42. REGIONAL EDUCATION ASSOCIATIONS - GRANTS.** During each year of the 2009-11 biennium, the superintendent of public instruction shall expend up to \$200,000 from the grants - state school aid line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-first legislative assembly, for the purpose of providing grants in the amount of \$25,000, to each group of school districts which has been designated as a regional education association under section 15.1-09.1-02. Before September first of each year, the superintendent of public instruction shall divide each grant by the number of school districts in the respective association and forward that portion of each school district's individual grant directly to the association in which the district participates.

#### **SECTION 43. FEDERAL IMPACT AID - BASELINE RECALCULATION - GRANT.**

1. If the amount of federal impact aid received by a school district during the 2006-07 school year resulted in that district losing state aid under section 15.1-27-35.3 during the 2007-09 biennium, the superintendent shall reestablish that district's baseline by:
  - a. Adding together the amount of state aid that the district would have received during the 2006-07 school year if in determining the district's ending fund balance the average amount of federal impact aid received by the district during the 2005-06 and 2006-07 school years had been used, rather than the actual amount received during the 2006-07 school year;
  - b. Subtracting the amount received by the district during the 2006-07 school year for transportation aid, special education excess reimbursements, special education contracts, prior year funding adjustments, and per student payments for participation in regional education associations; and
  - c. Dividing the amount determined under subdivision b by the district's 2007-08 weighted student units.
2. On or before August 1, 2009, the superintendent of public instruction shall use up to \$300,000 from moneys appropriated in the grants - state school aid line item in the appropriation bill for the superintendent of public instruction, as approved by the legislative assembly, to provide to a school district a grant equaling the difference in the 2007-09 biennium state aid payments that resulted from the baseline recalculation required by this section.

**SECTION 44. DEFERRED MAINTENANCE AND PHYSICAL PLANT IMPROVEMENT GRANTS.**

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$10,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of awarding grants to eligible school districts for deferred maintenance and physical plant improvements, for the biennium beginning July 1, 2009, and ending June 30, 2011.
2. If the office of management and budget determines by July 31, 2010, that the June 30, 2011, ending balance of the state general fund will be more than \$30,000,000 in excess of the amount predicted by the office of management and budget at the conclusion of the 2009 legislative session, the superintendent of public instruction shall forward to each eligible school district:
  - a. Twenty thousand dollars; plus
  - b. The school district's pro rata share of the remaining appropriation, calculated by using the latest available average daily membership of each school district.
3. If the general fund balance requirements of subsection 2 are not met and if the office of management and budget determines by April 30, 2011, that the June 30, 2011, ending balance of the state general fund will be more than \$30,000,000 in excess of the amount predicted by the office of management and budget at the conclusion of the 2009 legislative session, the superintendent of public instruction shall forward to each eligible school district:
  - a. Twenty thousand dollars; plus
  - b. The school district's pro rata share of the remaining appropriation, calculated by using the latest available average daily membership of each school district.
4. By June 30, 2012, each school district that receives a deferred maintenance and physical plant improvement grant from the superintendent of public instruction shall:

- a. Submit to the superintendent documentation detailing how the grant funds were expended; and
  - b. Return any unexpended grant funds to the superintendent for deposit in the general fund.
5. The superintendent of public instruction may provide a deferred maintenance and physical plant improvement grant only to a school district that:
- a. Has a general fund levy equal to at least one hundred fifty mills for the taxable year 2008;
  - b. Is not precluded from receiving state aid by the provisions of section 15.1-27-35.3; and
  - c. Provides a monetary match equal to the grant amount.

**SECTION 45. AMENDMENT.** Section 55 of chapter 163 of the 2007 Session Laws is amended and reenacted as follows:

**SECTION 55. CONTINGENT MONEY - 2007-09.**

1. In determining the availability of contingent money under this section, the superintendent of public instruction shall first add to the money in the grants - state school aid line item in Senate Bill No. 2013, as approved by the sixtieth legislative assembly, any money that was appropriated to the superintendent for special education contracts in Senate Bill No. 2013 and which remains after the superintendent complied with all statutory special education contract payment obligations imposed for the biennium beginning July 1, 2007, and ending June 30, 2009.
2. If any money that was appropriated to the superintendent of public instruction for state aid payments to school districts or added to the grants - state school aid line item in accordance with subsection 1 remains after the superintendent complies with all statutory payment obligations imposed for the biennium beginning July 1, 2007, and ending June 30, 2009, the superintendent shall:
  - 4- a. Use the first \$1,000,000, or so much of that amount as may be necessary, to pay any state obligations in excess of the amount appropriated for special education contract charges;
  - 2- b. Use the next \$2,000,000, or so much of that amount as may be necessary, for the purpose of providing additional per student payments to school districts participating in regional education associations under chapter 15.1-09.1;
  - 3- c. Use the next \$550,000, or so much of that amount as may be necessary, for the purpose of providing additional payments to school districts serving English language learners and new immigrant English language learners, in accordance with chapter 15.1-38;
  - 4- d. Use the next \$200,000, or so much of that amount as may be necessary, for the purpose of providing additional payments to school districts offering an adult education program during the 2007-09 biennium; and
  - 5- e. Use the remainder of the moneys to provide additional per student payments on a prorated basis according to the latest available average daily membership of each school district.

**SECTION 46. CONTINGENT MONEY - 2009-11.**

1. In determining the availability of contingent money under this section, the superintendent of public instruction shall first add to the money in the grants - state school aid line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-first legislative assembly, any money that was appropriated to the superintendent for special education contracts and which remains after the

superintendent complied with all statutory special education contract payment obligations imposed for the biennium beginning July 1, 2009, and ending June 30, 2011.

2. If any money that was appropriated to the superintendent of public instruction for grants - state aid payments to school districts or added to the grants - state school aid line item in accordance with subsection 1 remains after the superintendent complies with all statutory payment obligations imposed for the biennium beginning July 1, 2009, and ending June 30, 2011, the superintendent shall use the money to provide additional per student payments on a prorated basis according to the latest available average daily membership of each school district.

**SECTION 47. CONTINGENT TRANSFER BY BANK OF NORTH DAKOTA FOR SPECIAL EDUCATION.** If during the biennium beginning July 1, 2009, and ending June 30, 2011, the superintendent of public instruction determines that, using all available sources, there are insufficient funds with which to fully reimburse school districts for the excess costs of serving the one percent of special education students statewide who require the greatest school district expenditures in order to be provided with special education and related services, the industrial commission shall transfer from the earnings and accumulated and undivided profits of the Bank of North Dakota the amount the superintendent of public instruction certifies is necessary to provide the statutorily required level of reimbursement. The superintendent of public instruction shall file for introduction legislation requesting that the sixty-second legislative assembly return any amount transferred under this section to the Bank of North Dakota.

**SECTION 48. REPEAL.** Sections 15.1-21-02.2, 15.1-27-20.1, and 15.1-38-01.2 of the North Dakota Century Code are repealed.

**SECTION 49. REPEAL.** Section 15.1-27-41 of the North Dakota Century Code is repealed.

**SECTION 50. EFFECTIVE DATE.**

1. Sections 13 and 14 of this Act become effective on July 1, 2010.
2. Section 49 of this Act becomes effective on December 31, 2010.

**SECTION 51. EMERGENCY.** Section 45 of this Act is declared to be an emergency measure."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1418, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1418 was placed on the Sixth order on the calendar.

Page 1, line 3, after "facilities" insert "; and to provide an appropriation"

Page 2, after line 7, insert:

- "4. The department shall coordinate with other state agencies as necessary to implement the provisions of this section.

**SECTION 2. APPROPRIATION.** There is appropriated out of any moneys from federal funds made available to the state from federal action to provide funding to the states to stimulate the national economy or to address state fiscal recovery and other income, the sum of \$3,644,000, or so much of the sum as may be necessary, to the department of human services for the purpose of implementing programs associated with early childhood care services under section 1 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 3. ADDITIONAL FUNDS.** Subject to approval by the emergency commission and budget section, the department of human services may accept and spend federal or other funds in excess of those funds appropriated in section 2 of this Act for early childhood care programs, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1472, as reengrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1472 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1505: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1505 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1540, as reengrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1540 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 3 of section 50-01.2-03.2 of the North Dakota Century Code, relating to the funding of economic assistance programs in counties with federally recognized Indian reservation land; and to provide an appropriation.

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

**SECTION 1. AMENDMENT.** Subsection 3 of section 50-01.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

3. Notwithstanding any other provisions of law, the department shall reimburse county social service boards for expenses of locally administered economic assistance programs in counties ~~in which more than twenty percent of the caseload for these programs consists of people who reside on a that contain~~ federally recognized Indian reservation ~~or property tax exempt tribal trust lands~~. The reimbursement must be such that:
  - a. An affected county's ~~expenses~~ actual direct costs and indirect costs allocated based on a percentage of each county's direct economic assistance and social services costs for locally administered economic assistance programs ~~in excess of the statewide average of such costs, expressed in mills, for all other counties will be reimbursed at one hundred percent the percentage of that county's average total supplemental nutrition assistance program caseload for the previous state fiscal year which reside on federally recognized Indian reservation land;~~
  - b. ~~Each calendar year the~~ The affected counties will receive quarterly ~~allocations payments~~ payments based on the actual county ~~expenses~~ direct and indirect costs, as provided in subdivision a, for the state fiscal year ending the previous June thirtieth and the most recent taxable valuations published pursuant to section 57-13-07 available on that date state fiscal year; and
  - c. At the end of each fiscal year the actual quarterly payments paid must be reconciled to the current year of calculation of actual direct and indirect costs as provided in subdivision a and supplemental nutrition assistance program caseload and counties must be compensated accordingly in the first quarter of the new fiscal year; and
  - d. The reimbursement will be calculated for each county and reported to the county social service board prior to ~~August~~ September first ~~of the year preceding the allocation.~~

#### SECTION 2. APPROPRIATION.

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,215,650, or so much of the sum as may be necessary, to the department of human services for the purpose of reimbursing the expenses of locally administered economic assistance programs in counties that contain federally recognized Indian reservation land, for the biennium beginning July 1, 2009, and ending June 30, 2011.
2. Each affected county shall reduce that county's human services budget by the amount saved by the implementation of section 1 of this Act and shall publish the property tax savings in that county's official newspaper."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HCR 3020: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3020 was placed on the Fourteenth order on the calendar.

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

**Fran A. Gronberg, Secretary**