

## JOURNAL OF THE SENATE

## Sixty-second Legislative Assembly

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Bismarck, February 9, 2011

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

The prayer was offered by Reverend Lester Wolfram, Shepherd of the Valley Lutheran Church, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

**COMMUNICATION FROM GOVERNOR JACK DALRYMPLE**

January 18, 2011

Pursuant to North Dakota Century Code 53-06.1-01.1, I am hereby nominating Blake Krabseth and Lois Altenburg for reappointments to the North Dakota Gaming Commission. Their terms would be from July 1, 2010 through June 30, 2013.

Pursuant to Article V, Section 8 of the North Dakota Constitution, I ask the Senate to confirm Mr. Krabseth and Ms. Altenburg for these positions during the 2011 Legislative Session.

Thank you for your consideration.

**COMMUNICATION FROM GOVERNOR JACK DALRYMPLE**

January 19, 2011

Pursuant to North Dakota Century Code 6-01-08, I am hereby nominating Robert Entringer of Bismarck as Commissioner to the North Dakota Department of Financial Institutions.

Pursuant to Article V, Section 8 of the North Dakota Constitution, I ask the Senate to confirm Mr. Entringer for this position during the 2011 Legislative Session.

Thank you for your consideration.

**COMMUNICATION FROM GOVERNOR JACK DALRYMPLE**

January 19, 2011

Pursuant to North Dakota Century Code 54-57-01, I am hereby nominating Allen Hoberg, Director of the North Dakota Office of Administrative Hearings.

Pursuant to Article V, Section 8 of the North Dakota Constitution, I ask the Senate to confirm Mr. Hoberg for this position during the 2011 Legislative Session.

Thank you for your consideration.

**REPORT OF PROCEDURAL COMMITTEE**

**MR. PRESIDENT:** Your procedural **Committee** on **Committees** (**Sen. Stenehjem, Chairman**) respectfully submits the following names for your **Select Committee** to approve nominee Blake Krabseth to the North Dakota Gaming Commission: Sens. G. Lee, Flakoll, Laffen, and Nelson.

**SEN. STENEHJEM MOVED** that the report be adopted, which motion prevailed on a voice vote.

**REPORT OF PROCEDURAL COMMITTEE**

**MR. PRESIDENT:** Your procedural **Committee** on **Committees** (**Sen. Stenehjem, Chairman**) respectfully submits the following names for your **Select Committee** to approve nominee Lois Altenburg to the North Dakota Gaming Commission: Sens. Wardner, Burckhard, Lyson, and Warner.

**SEN. STENEHJEM MOVED** that the report be adopted, which motion prevailed on a voice

vote.

#### REPORT OF PROCEDURAL COMMITTEE

**MR. PRESIDENT:** Your procedural **Committee on Committees (Sen. Stenehjem, Chairman)** respectfully submits the following names for your **Select Committee** to approve nominee Robert Entringer as Commissioner to the North Dakota Department of Financial Institutions: Sens. Cook, Freborg, Schaible, and Dotzenrod.

**SEN. STENEHJEM MOVED** that the report be adopted, which motion prevailed on a voice vote.

#### REPORT OF PROCEDURAL COMMITTEE

**MR. PRESIDENT:** Your procedural **Committee on Committees (Sen. Stenehjem, Chairman)** respectfully submits the following names for your **Select Committee** to approve nominee Allen Hoberg as Director of the North Dakota Office of Administrative Hearings: Sens. Nething, Grindberg, Sorvaag, and Triplett.

**SEN. STENEHJEM MOVED** that the report be adopted, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2334: SEN. MATHERN (Human Services Committee) MOVED** that the amendments on SJ pages 300-301 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2242: SEN. OEHLKE (Finance and Taxation Committee) MOVED** that the amendments on SJ pages 299-300 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2034: SEN. HOGUE (Finance and Taxation Committee) MOVED** that the amendments on SJ pages 298-299 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2368: SEN. MILLER (Finance and Taxation Committee) MOVED** that the amendments on SJ page 301 be adopted and then be placed on the Eleventh order with **DO NOT PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2184: SEN. HOGUE (Finance and Taxation Committee) MOVED** that the amendments on SJ page 299 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### MOTION

**SEN. CHRISTMANN MOVED** that Engrossed SB 2237 be rereferred to the **Industry, Business and Labor Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, Engrossed SB 2237 was rereferred.

#### MOTION

**SEN. OLAFSON MOVED** that the Senate reconsider its action whereby SB 2224 failed to pass.

#### REQUEST

**SEN. LYSON REQUESTED** a verification vote, which request was granted.

The question being on the motion to reconsider the action whereby SB 2224 failed to pass, the motion failed on a verification vote.

#### SECOND READING OF SENATE BILL

**SB 2358:** A BILL for an Act to create and enact a new subsection to section 54-52-04, five new sections to chapter 54-52.1, and a new subsection to section 54-52.1-01 of the North Dakota Century Code, relating to the expansion of the uniform group insurance program to allow participation by permanent and temporary employees of

private sector employers and by certain other individuals who are otherwise without health insurance coverage; to amend and reenact section 54-52.1-02 of the North Dakota Century Code, relating to subgroups under the uniform group insurance program; to provide an appropriation; to provide a continuing appropriation; and to provide an effective date.

#### 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 12 YEAS, 35 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Dotzenrod; Heckaman; Marcellais; Mathern; Murphy; Nelson; O'Connell; Robinson; Schneider; Taylor; Triplett; Warner

**NAYS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Miller; Nething; Nodland; Oehlke; Olafson; Schaible; Sitte; Sorvaag; Stenehjem; Uglem; Wanzek; Wardner

SB 2358 lost.

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#### SECOND READING OF SENATE BILL

**SB 2290:** A BILL for an Act to create and enact a new section to chapter 38-08 of the North Dakota Century Code, relating to enforcement of laws, rules, and regulations concerning the conservation of oil and gas; 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 13 YEAS, 34 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Dotzenrod; Heckaman; Hogue; Marcellais; Mathern; Murphy; Nelson; Nodland; O'Connell; Robinson; Taylor; Warner

**NAYS:** Berry; Bowman; Burckhard; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Miller; Nething; Oehlke; Olafson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Triplett; Uglem; Wanzek; Wardner

SB 2290 lost.

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#### SECOND READING OF SENATE BILL

**SB 2341:** A BILL for an Act to amend and reenact sections 43-29.1-01, 43-29.1-02, 43-29.1-03, 43-29.1-07, and 43-29.1-08 of the North Dakota Century Code, relating to the veterinarian loan repayment program; 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:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

Engrossed SB 2341 passed.

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**SECOND READING OF SENATE BILL**

**SB 2174:** A BILL for an Act to create and enact subsection 6 to section 10-01.1-06, sections 10-15-51.1 and 10-15-52.7, subsection 12 to section 10-15-54, and sections 10-15-57.1, 10-15-57.2, and 45-21-04.3 of the North Dakota Century Code, relating to listing of commercial registered agents, cooperative associations, corporations, limited liability companies, nonprofit corporations, limited partnerships, and general partnerships; and to amend and reenact sections 10-06.1-17 and 10-15-08.1, subsection 37 of section 10-19.1-01, subsection 4 of section 10-19.1-10, sections 10-19.1-13 and 10-19.1-31, subsection 2 of section 10-19.1-51, section 10-19.1-52, subsection 2 of section 10-19.1-58, subsection 1 of section 10-19.1-68, subsection 2 of section 10-19.1-70, subsection 1 of section 10-19.1-73, subsection 2 of section 10-19.1-84, subsection 1 of section 10-19.1-104, section 10-19.1-141, subsection 2 of section 10-19.1-146, sections 10-19.1-147 and 10-19.1-149, subsection 39 of section 10-32-02, sections 10-32-07, 10-32-09, and 10-32-10, subsection 1 of section 10-32-40, subsection 2 of section 10-32-51, section 10-32-68, subsection 2 of section 10-32-87, section 10-32-88, subsection 2 of section 10-32-94, subsection 1 of section 10-32-108, sections 10-32-144 and 10-32-150, subsection 5 of section 10-32-152, section 10-32-153, subsection 27 of section 10-33-01, subsections 3 and 4 of section 10-33-06, section 10-33-10, subsections 1, 2, and 3 of section 10-33-15, sections 10-33-26 and 10-33-28, subsection 2 of section 10-33-38, sections 10-33-39 and 10-33-43, subsection 2 of section 10-33-44, subsection 2 of section 10-33-46, sections 10-33-49, 10-33-51, and 10-33-52, subsection 2 of section 10-33-54, subsection 11 of section 10-33-84, subsection 2 of section 10-33-87, section 10-33-94, subsection 3 of section 10-33-98, section 10-33-134, subsection 1 of section 10-33-140, sections 10-33-142, 10-35-33, 45-10.2-10, 45-10.2-85, and 45-10.2-87, subsection 15 of section 45-10.2-109, section 45-10.2-112, subsection 3 of section 45-22-03, and sections 45-22-04, 45-22-16, 45-22-24, and 45-23-03 of the North Dakota Century Code, relating to annual reports of corporate limited liability company farms, cooperative associations, business corporations, limited liability companies, nonprofit corporations, publicly traded corporations, limited partnerships, limited liability partnerships, and limited liability limited partnerships.

**MOTION**

**SEN. NELSON MOVED** that Engrossed SB 2174 be amended as follows, which motion prevailed on a voice vote.

Page 9, line 7, remove "prima facie"

Page 9, line 12, remove "prima facie"

ReNUMBER accordingly

**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:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

Reengrossed SB 2174 passed.

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**SECOND READING OF SENATE BILL**

**SB 2161:** A BILL for an Act to create and enact subsection 7 to section 32-12.1-03 of the North Dakota Century Code, relating to political subdivision liability; and to amend and reenact section 24-06-31 of the North Dakota Century Code, relating to obstructions in highways.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 43 YEAS, 4 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Olafson; Robinson; Schaible; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**NAYS:** Dotzenrod; Mathern; Oehlke; Schneider

Engrossed SB 2161 passed.

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**SECOND READING OF SENATE BILL**

**SB 2296:** A BILL for an Act to create and enact a new section to chapter 54-44.5 of the North Dakota Century Code, relating to an energy usage database for public buildings.

**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:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

Engrossed SB 2296 passed.

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**SECOND READING OF SENATE BILL**

**SB 2335:** A BILL for an Act to provide for an appropriation to the department of human services for expanding child care assistance to eligible caretakers in pursuit of a postsecondary degree or certificate.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 14 YEAS, 33 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Berry; Dotzenrod; Heckaman; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Robinson; Schneider; Taylor; Triplett; Warner

**NAYS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Nething; Nodland; Oehlke; Olafson; Schaible; Sitte; Sorvaag; Stenehjem; Uglem; Wanzek; Wardner

SB 2335 lost.

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**MOTION**

**SEN. CHRISTMANN MOVED** that Senate rule 329 be amended, replacing "twenty-fifth legislative day" with "twenty-sixth legislative day", which motion prevailed.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has passed, and your favorable consideration is requested on:

SB 2244, SCR 4013.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2207.

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

**MR. PRESIDENT:** The House has passed, and your favorable consideration is requested on: HB 1041, HB 1160, HB 1176, HB 1195, HB 1254, HB 1352.

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

**MR. PRESIDENT:** The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1319, HB 1384.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Thursday, February 10, 2011, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2043: 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, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2043 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "service providers payment"

Page 1, line 2, replace "pilot" with "reimbursement"

Page 1, line 4, remove "**SERVICE PROVIDERS PAYMENT**"

Page 1, line 5, replace "**PILOT**" with "**REIMBURSEMENT**"

Page 1, line 5, after "services" insert ", in conjunction with developmental disabilities service providers,"

Page 1, line 5, replace "implement" with "develop"

Page 1, replace lines 6 and 7 with "or related payment with an independent rate model utilizing the support intensity scale.

1. The department shall establish a steering committee consisting of representatives from all interested providers and department representatives. The steering committee shall guide the development of the new payment system including assisting a consultant to conceptualize, develop, design, implement, and evaluate a new payment system.
2. The department shall contract with a consultant by September 1, 2011, to develop, in collaboration with the steering committee, the payment system and the resource allocation model tying funding to support intensity scale assessed needs of clients.
3. After the prospective or related payment system rates are developed, the new rates must be tested on a sampling of clients and providers, the sample to be determined by the steering committee, allowing sufficient time to capture provider cost, client realized need, and service provision data. The consultant shall provide the appropriate sampling number to sufficiently test the rates, types of services, and needs of clients with the intent to include as many providers as fiscally feasible.
4. The department, shall contract with a team of support intensity scale assessors by September 1, 2011. The team shall begin assessing immediately the identified client pilot group identified by the consultant contracted in subsection 2.

5. Once testing is complete, the data must be analyzed by the consultant and the consultant shall make any needed rate adjustments, resource allocation modifications, or process assumptions.
6. Beginning in June 2012, the department and the steering committee shall report development activities and status information to an interim legislative committee.
7. Implementation of any system developed under this Act may not occur before the implementation of the department's new medicaid management information system."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2062: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2062 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "evidence" with "a statement"

Page 1, line 23, after the underscored period insert "The commissioner may designate as meeting the requirements of this section and not requiring further approval a standard certificate of insurance form, which may include a form promulgated and filed by a national insurance advisory organization, such as the association for cooperative research and development, the American association of insurance services, and the insurance services office."

Page 2, remove lines 1 through 5

Page 2, line 12, after the underscored period insert "A certificate of insurance may not contain a reference to a construction contract, service contract, or insurance requirement for the purpose of amending coverage afforded by the policy to which the certificate makes reference."

Page 2, remove lines 13 through 17

Page 2, line 19, replace "A" with "The only circumstance under which a"

Page 2, line 19, after "to" insert "the legal right to"

Page 2, line 20, replace "and to" with "or"

Page 2, line 20, after "insurance" insert "is"

Page 2, line 20, remove "is named"

Page 2, remove line 21

Page 2, line 22, replace "requires notice to be provided" with "has such notice rights under the terms of the policy or under any endorsement to the policy"

Page 2, line 22, after the second "notice" insert ", including the required timing of the notice."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2122: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2122 was placed on the Sixth order on the calendar.

Page 1, line 10, after ""brand" insert "medically"

Page 1, line 14, after "brand" insert "medically"

Page 1, line 15, remove "as set forth in this subsection"

Page 1, line 15, remove "For example, the practitioner or the"

Page 1, line 16, remove "practitioner's agent must type out "brand necessary" letter by letter."

Page 1, line 21, remove "or type letter by letter"

Page 1, line 22, after "brand" insert "medically"

Page 2, line 22, after "brand" insert "medically"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2135: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2135 was placed on the Sixth order on the calendar.

Page 1, line 3, after "program" insert "; and to provide an effective date"

Page 1, after line 8, insert:

**"SECTION 2. EFFECTIVE DATE.** The change to the net income eligibility limit for the children's health insurance program identified in section 1 of this Act becomes effective the first day of the month following the department of human services receiving written notice from the centers for medicare and medicaid services of approval of an increase to the federal allotment to cover that increase to the net income eligibility limit of the children's health insurance program."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2150: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2150 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 15.1-09.1, a new section to chapter 15.1-18.2, and two new sections to chapter 15.1-21 of the North Dakota Century Code, relating to regional education associations, the professional development advisory committee, and North Dakota scholarships; to amend and reenact sections 15.1-07-33, 15.1-09-58, 15.1-09.1-02, 15.1-20-01, 15.1-21-02.1, 15.1-21-02.4, 15.1-21-02.5, 15.1-21-02.6, 15.1-21-08, 15.1-21-18, 15.1-21-19, 15.1-22-01, 15.1-27-03.1, 15.1-27-04, 15.1-27-07.2, 15.1-27-11, 15.1-27-35.3, and 15.1-37-01 of the North Dakota Century Code, relating to technology, regional education associations, curriculum requirements, assessments, scholarships, student consultations, compulsory attendance, age of admission, and state aid; to repeal section 15.1-27-15 of the North Dakota Century Code, relating to isolated schools; to provide an appropriation; to provide a continuing appropriation; to provide for compensation increases, transition payments, contingent payments, the use of federal education jobs fund program grants, and the distribution of transportation grants and regional education association grants; to provide for a legislative management study and reports; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 15.1-07-33 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-07-33. Student information system - Statewide coordination -  
Financial support - Exemption.**

1. Notwithstanding any other technology requirements imposed by the superintendent of public instruction, the information technology department, or the North Dakota educational technology council, each school district shall acquire PowerSchool through the information technology department and use it as its principal student information system.
2. The superintendent of public instruction shall forward that portion of a school district's state aid which is payable by the superintendent under subdivision n of subsection 1 of section 15.1-27-03.1 directly to the information technology department to reimburse the department for the cost of the school district's acquisition, implementation, or utilization of PowerSchool and any related technology support services. 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.
3. If the portion of a school district's state aid forwarded to the information technology department under subsection 2 exceeds the cost incurred by the information technology department in providing for the school district's acquisition, implementation, or utilization of PowerSchool and any related technology support services, the information technology department shall return the excess moneys to the superintendent of public instruction for redistribution to the school district as per student payments.
4. The superintendent of public instruction may exempt a school district from having to acquire and utilize PowerSchool if the school district demonstrates that, in accordance with requirements of the bureau of Indian education, the district has acquired and is utilizing a student information system that is determined to be comparable by the superintendent.

**SECTION 2. AMENDMENT.** Section 15.1-09-58 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-58. ~~Prekindergarten program~~Early childhood education -  
Authorization - Support.**

1. The board of a school district may establish a ~~prekindergarten~~an early childhood education program and may receive and expend any ~~state~~support that program with:
 
  - a. Local tax revenues, other than those necessary to support the district's kindergarten program and the provision of elementary and high school educational services;
  - b. State moneys specifically appropriated for the program, ~~any federal;~~
  - c. Federal funds specifically appropriated or approved for the program, ~~and any gifts;~~ and
  - d. Gifts, grants, and donations specifically given for the program.
2. For purposes of this section, state moneys specifically appropriated for an early childhood program are separate and distinct from those appropriated for special education early childhood programs, school readiness and parent education programs, and state aid for elementary and secondary education.

**SECTION 3. AMENDMENT.** Section 15.1-09.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09.1-02. Regional education association - Joint powers agreement - Review by superintendent of public instruction - Criteria.**

~~Before~~In order for a group of school districts ~~may~~to be designated as a regional education association, the superintendent of public instruction shall review the joint powers agreement that the districts have entered and verify that: the requirements of this section have been met.

1. The school districts must:
  - a. Have a combined total land mass of at least five thousand eight hundred square miles [1502193 hectares];
  - b. (1) Have a combined total land mass of at least four thousand five hundred square miles [1165494 hectares]; and  
(2) Number at least twelve;
  - c. (1) Have a combined total land mass of at least four thousand square miles [1035995 hectares]; and  
(2) Have at least three thousand students in average daily membership; or
  - d. (1) Have a combined total land mass of at least one thousand five hundred square miles [388498 hectares]; and  
(2) Have at least seven thousand five hundred students in average daily membership.
2. The school districts ~~are~~must be contiguous to each other or, if the districts are not contiguous to each other, the superintendent of public instruction shall verify that the participating districts can provide sound educational opportunities to their students in a fiscally responsible manner without injuring other school districts or regional education associations and without negatively impacting the ability of other school districts or regional education associations to provide sound educational opportunities to their students in a fiscally responsible manner. A decision by the superintendent of public instruction under this subsection may be appealed to the state board of public school education. A decision by the state board is final.
3. The joint powers agreement ~~requires~~must require that the participating school districts maintain a joint operating fund ~~and share various administrative functions and student services in accordance with subsection 4.~~
4. ~~a.—During the first two school years in which a regional education association is operational, each participating school district shall share in at least two administrative functions and two student services, selected by the district.~~  
~~b.—During the third and fourth school years in which a regional education association is operational, each participating school district shall share in at least three administrative functions and three student services, selected by the district.~~  
~~c.—During the fifth school year in which a regional education association is operational, and each year thereafter, each participating school district shall share at least five administrative functions and five student services, selected by the district.~~  
~~d.—For purposes of this subsection:~~
  - (1) "Administrative functions" means:

- (a) ~~Business management;~~
- (b) ~~Career and technical education services management;~~
- (c) ~~Curriculum mapping or development;~~
- (d) ~~Data analysis;~~
- (e) ~~Federal program support;~~
- (f) ~~Federal title program management;~~
- (g) ~~Grant writing;~~
- (h) ~~School improvement;~~
- (i) ~~School safety and environment management;~~
- (j) ~~Special education services management;~~
- (k) ~~Staff development;~~
- (l) ~~Staff retention and recruitment;~~
- (m) ~~Staff sharing;~~
- (n) ~~Technology support; and~~
- (o) ~~Any other functions approved by the superintendent of public instruction.~~

(2) ~~"Student services" means:~~

- (a) ~~Advanced placement classes;~~
- (b) ~~Alternative high schools or alternative high school programs;~~
- (c) ~~Career and technical education classes;~~
- (d) ~~Counseling services;~~
- (e) ~~Common elementary curricula;~~
- (f) ~~Distance learning classes;~~
- (g) ~~Dual credit classes;~~
- (h) ~~Foreign language classes;~~
- (i) ~~Library and media services;~~
- (j) ~~Summer programs;~~
- (k) ~~Supplemental instruction programs; and~~
- (l) ~~Any other services approved by the superintendent of public instruction.~~

e. ~~For purposes of this subsection, if a regional education association became operational before July 1, 2005, the 2005-06 school year must be considered the provider's first year of operation.~~

5. ~~The joint powers agreement provides~~ must provide:

- a. Criteria for the future participation of school districts that were not parties to the original joint powers agreement;
  - b. An application process by which school districts that were not parties to the original joint powers agreement can become participating districts; and
  - c. A process by which school districts that were not parties to the original joint powers agreement and whose application to participate in the agreement was denied can appeal the decision to the superintendent of public instruction.
- 6-5. The joint powers agreement ~~provides~~must provide for the employment and compensation of staff.
- 7-6. The joint powers agreement must:
- a. ~~Establishes~~Establish the number of members on the governing board;
  - b. ~~Establishes~~Establish the manner in which members of the governing board are determined;
  - c. ~~Requires all members~~Require that each member of the governing board ~~or their designees to be individuals~~be an individual currently serving on the board of a participating school district ~~or the designee of a participating school district's board~~; and
  - d. ~~Allows~~Allow for the inclusion of ex officio nonvoting members on the governing board.
- 8-7. The joint powers agreement ~~provides~~must provide that the board of the regional education association shall meet at least quarterly.
- 9-8. The joint powers agreement ~~does~~may not permit the regional education association to compensate members of the regional education association board for attending meetings of the board and does not permit the regional education association to reimburse members of the board for any expenses incurred in attending meetings of the board.

**SECTION 4.** A new section to chapter 15.1-09.1 of the North Dakota Century Code is created and enacted as follows:

**Regional education association - Services to be offered.**

1. In order to be eligible for state funding, a regional education association must offer the following services to its member districts:
  - a. Coordination and facilitation of professional development activities for teachers and administrators employed by its member districts;
  - b. Supplementation of technology support services;
  - c. Assistance with achieving school improvement goals identified by the superintendent of public instruction;
  - d. Assistance with the collection, analysis, and interpretation of student achievement data; and
  - e. Assistance with the expansion and enrichment of curricular offerings.
2. Subsection 1 does not preclude a regional education association from offering additional services to its member districts.

**SECTION 5.** A new section to chapter 15.1-18.2 of the North Dakota Century Code is created and enacted as follows:

**Professional development advisory committee - Compensation of members.**

Each member of the professional development advisory committee, 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 committee.

**SECTION 6. AMENDMENT.** Section 15.1-20-01 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-20-01. Compulsory attendance.**

A student's formal schooling must begin with a kindergarten program that meets the requirements of section 15.1-22-02 and must include all other grades from one through twelve.

1. a. Any person having responsibility for a child between the ages of seven~~six~~ and sixteen years shall ensure that the child is in attendance at a public school for the duration of each school year.
  - b. Beginning July 1, 2015, any person having responsibility for a child between the ages of six and seventeen years shall ensure that the child is in attendance at a public school for the duration of each school year.
2. If a person enrolls a child of age ~~six~~five in a public school, the person shall ensure that the child is in attendance at the public school for the duration of each school year. The person may withdraw a child of age ~~six~~five from the public school. However, once the child is withdrawn, the person may not reenroll the child until the following school year. This subsection does not apply if the reason for the withdrawal is the child's relocation to another school district.
3. This section does not apply if a child is exempted under the provisions of section 15.1-20-02.

**SECTION 7. 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~~diploma - Minimum requirements.**

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 ~~the following~~ ~~twenty-two units of high school coursework:~~

- ~~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:
  1. The twenty-two units of high school coursework set forth in section 8 of this Act; and
  2. Any additional units of high school coursework required by the issuing entity.

**SECTION 8.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**High school graduation - Minimum requirements.**

Except as provided in section 15.1-21-02.3, the following twenty-two units of high school coursework constitute the minimum requirement for high school graduation:

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 9. AMENDMENT.** Section 15.1-21-02.4 of the North Dakota Century Code is amended and reenacted 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. Completed four units of English language arts from a sequence that includes literature, composition, and speech;
- 2. Completed three units of mathematics, including:
  - a. ~~Completes one~~One unit of algebra II, as defined by the superintendent of public instruction, ~~in fulfillment of the mathematics requirement set forth in subsection 2 of section 15.1-21-02.1; and~~
  - b. ~~Completes two~~Two units of any other mathematics;
- 3. Completed 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. Completed 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. Completed one unit of physical education; or  
b. One-half unit of physical education and one-half unit of health;
6. Completed:
- a. One unit selected from:
- (1) Foreign languages;  
(2) Native American languages;  
(3) American sign language;  
(4) Fine arts; or  
(5) Career and technical education courses; and
- b. 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
- ~~e.7. Completes three~~Completed any five 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;~~
- ~~3-8. a. (1) Obtains~~Obtained a cumulative grade point average of at least "B"3.0 on a 4.0 grading scale, as determined by the superintendent of public instruction, based on all high school units in which the student was enrolled; and
- (2) Obtained a grade of at least "C" in each unit or one-half unit; or
- b. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading scale, as determined by the superintendent of public instruction, based only on the units required by subsections 1 through 7 of this section; and
- (2) Obtained a grade of at least "C" in each unit or one-half unit; and
- ~~4-9. Receives~~Received:
- a. A composite score of at least twenty-four on an ACT; or
- b. 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 10. AMENDMENT.** Section 15.1-21-02.5 of the North Dakota Century Code is amended and reenacted 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. Completed four units of English language arts from a sequence that includes literature, composition, and speech;
2. Completed three units of mathematics, including:

- a. ~~Completes one~~One unit of algebra II, as defined by the superintendent of public instruction, ~~in fulfillment of the mathematics requirement set forth in subsection 2 of section 15.1-21-02.1; and~~
  - b. ~~Completes one~~One additional unit of mathematics for which algebra II, as defined by the superintendent of public instruction, is a prerequisite; ~~and~~
- e.3. ~~Completes~~Completed 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. Completed 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. Completed one unit of physical education; or  
b. One-half unit of physical education and one-half unit of health;
6. a. Completed:
- (1) Two units of the same foreign or native American language;
  - (2) ~~One unit of fine arts or career and technical education~~American sign language; and
- (~~3~~)b. One unit of a foreign or native~~selected from:~~
- (1) Foreign languages;
  - (2) Native American language, ~~fine~~languages;
  - (3) American sign language;
  - (4) Fine arts, ~~or career;~~ or
  - (5) Career and technical education;
2. ~~Obtains a grade of at least "C" in each unit or one-half unit required for the diploma;~~
- 3.7. ~~Obtains~~Completed any five additional units, one of which must be in the area of fine arts or career and technical education;
8. a. (1) Obtained a cumulative grade point average of at least "B"<sup>3.0</sup> on a 4.0 grading scale, as determined by the superintendent of public instruction, based on all high school units in which the student was enrolled; and

- (2) Obtained a grade of at least "C" in each unit or one-half unit; or
- b. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading scale, as determined by the superintendent of public instruction, based only on the units required by subsections 1 through 7 of this section; and
- (2) Obtained a grade of at least "C" in each unit or one-half unit;
- 4-9. ~~Receives~~Received a composite score of at least twenty-four on an ACT; and
- 5-10. a. ~~Completes~~Fulfilled any one unit requirement set forth in subsections 1 through 7 of this section by means of an advanced placement course and examination; or
- b. Fullfilled any one-half unit requirement set forth in subsections 1 through 7 of this section by means of a dual-credit course.

**SECTION 11. AMENDMENT.** Section 15.1-21-02.6 of the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~The state board of higher education shall provide to any student certified as being eligible by the superintendent of public instruction either a North Dakota academic scholarship or a North Dakota career and technical education 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 cumulative grade point average of 2.75. If a student is determined by the superintendent of public instruction to have met the requirements for a North Dakota career and technical education scholarship or a North Dakota academic scholarship, the student is eligible to receive:~~
  - a. At the beginning of the student's first year of higher education, a scholarship in the amount of one thousand five hundred dollars, provided the student is enrolled full time at an accredited institution of higher education in this state; and
  - b. At the beginning of the semester marking the student's second year of higher education and each semester thereafter, a scholarship in the amount of seven hundred fifty dollars, provided that during the immediately preceding semester the student:
    - (1) Maintained a cumulative grade point average of 2.75; and
    - (2) Maintained enrollment, throughout the semester, in a minimum of fifteen units.
2. If at the conclusion of the first semester of the student's first year the state board of higher education determines that the student was unable to maintain a grade point average of 2.75, the board shall forward a letter of warning to the student and articulate the consequences with respect to the student's continued eligibility for a scholarship.
3. If at the conclusion of the student's first year, or any semester thereafter, a student has failed to meet the requirements for a scholarship, as set forth in subdivision b of subsection 1, the student, at the conclusion of the ensuing semester, may apply to the state board of higher education for reinstatement of the scholarship, provided the student can demonstrate compliance with the requirements of subdivision b of subsection 1. However, if a student fails to meet the requirements of subdivision b of subsection 1 for a second time, that student may not receive any additional scholarships under this section.

- 2.4. A student is not entitled to receive more than six thousand dollars in scholarships under this section.
- 3.5. The state board of higher education shall forward ~~the scholarship~~ all scholarships under this section directly to the institution ~~in~~ at which the student is enrolled.
- 4.6. 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.
- 5.7. 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.
8. The state board of higher education shall monitor each scholarship recipient to ensure that the student meets the academic and other requirements of this section. Upon determining that a recipient student has failed to meet the requirements of this section, the board shall provide notification to the student within five days.

**SECTION 12.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**North Dakota scholarship fund - Biannual transfer - Continuing appropriation.**

1. Once each semester, the state board of higher education shall certify to the state treasurer the amount necessary to provide the North Dakota academic scholarships and the North Dakota career and technical education scholarships, as set forth in sections 15.1-21-02.4 and 15.1-21-02.5.
2. Upon receiving the certification, the state treasurer shall transfer the certified amount from the interest and other income of the lands and minerals trust fund to the North Dakota scholarship fund.
3. All moneys in the North Dakota scholarship fund are appropriated on a continuing basis to the state board of higher education for the exclusive purpose of providing North Dakota academic scholarships and North Dakota career and technical education scholarships.

**SECTION 13. AMENDMENT.** Section 15.1-21-08 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-21-08. Reading, mathematics, and science - Administration of test.**

1. The superintendent of public instruction shall administer to public school students a test that is aligned to the state content and achievement standards in reading and mathematics. This test must be administered to ~~all public school students in at least one grade level selected within each of the following grade spans: grades three through five; grades six through nine; and grades ten through twelve. Beginning no later than the 2005-06 school year and annually thereafter, the superintendent of public instruction shall administer the reading and mathematics test~~ annually to all public school students in grades three, four, five, six, seven, eight, and eleven.
2. Beginning no later than the 2007-08 school year and annually thereafter, ~~the~~ The superintendent of public instruction shall administer a test that is aligned to the state content and achievement standards in science. This test must be administered to all public school students in at least one grade level selected from three through five; in at least one grade level selected from six through nine; and in grade eleven. The superintendent of public

instruction may not administer the grade eleven test after December first of each school year.

**SECTION 14. AMENDMENT.** Section 15.1-21-18 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-21-18. Career interest inventory - Educational and career planning - Consultation.**

1. 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.
2. At least once during the seventh or eighth grade, each school district shall arrange for students to participate in either an individual consultative process or a nine-week course, for the purpose of discussing the results of their career interest inventory, selecting high school courses appropriate to their educational pursuits and career interests, and developing individual high school education plans.
3. Each school district shall notify its high school students that, upon request, a student is entitled to receive a consultative review of the student's individual high school education plan at least once during each high school grade. Upon the request of a student, the school district shall provide the consultative review.
4. Each school district shall verify compliance with the requirements of this section at the time and in the manner required by the superintendent of public instruction.

**SECTION 15. AMENDMENT.** Section 15.1-21-19 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-21-19. Summative assessment - Selection - Cost - Exemptions.**

1. Except as otherwise provided, each public and nonpublic school student in grade eleven shall take the ACT, including the writing test, 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 of residence superintendent of public instruction is responsible for the cost of procuring and administering 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 or a school administrator in the case of a nonpublic school student 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 other special circumstances exist.
4. If the superintendent of public instruction determines that the cost of the summative assessment and its administration can be reduced through use of a state procurement process, the superintendent shall work with the school districts to procure and arrange for the administration of the assessment and shall withhold each district's share of the total cost from any state aid otherwise payable to the district. At the time and in the manner determined by the superintendent of public instruction, each school district superintendent and each school administrator in the case of a nonpublic school shall report the number of eleventh grade students who:
  - a. Took the ACT, including the writing test;

- b. Took the three WorkKeys assessments; and
- c. Were exempted from the requirements of this section, together with the reason for each exemption.

**SECTION 16. AMENDMENT.** Section 15.1-22-01 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-22-01. Kindergarten - Establishment by board - Request by parent - Levy.**

1. ~~Upon its own motion, the~~The board of a school district ~~may~~shall establish a free public kindergarten.
2. ~~If the board receives a written request to provide kindergarten from the parent of a student who will be enrolled in the kindergarten, the~~The board shall either provide at least a half-day kindergarten program for the ~~student~~student enrolled in the district or pay the tuition required for the student to attend at least a half-day kindergarten program in another school district.
3. The board of a school district that establishes a kindergarten under this section may levy a tax pursuant to subdivision p of subsection 1 of section 57-15-14.2.

**SECTION 17. AMENDMENT.** Section 15.1-27-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-03.1. ~~(Effective through June 30, 2011) 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. ~~0.30 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and are enrolled in a program of instruction for English language learners;~~
  - f. ~~0.25 the number of full-time equivalent students enrolled in an alternative high school;~~
  - g. ~~0.25 the number of full-time equivalent students enrolled in an isolated elementary school;~~
  - h. ~~0.25 the number of full-time equivalent students enrolled in an isolated high school;~~
  - i. ~~0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-01;~~

- ~~j. 0.20 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be not proficient and are enrolled in a program of instruction for English language learners;~~
  - ~~k. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;~~
  - ~~i. 0.07 the number of students enrolled in average daily membership, in order to support the provision of special education services;~~
  - ~~m. 0.07 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be somewhat proficient and are enrolled in a program of instruction for English language learners;~~
  - ~~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; and~~
  - ~~o. 0.002 the number of students enrolled in average daily membership, in order to support technology.~~
- ~~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.~~

~~—(Effective after June 30, 2014) 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. 0.30 the number of full-time equivalent students who ~~on~~:
    - (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and placed in the first of six categories of proficiency; and are
    - (2) Are enrolled in a program of instruction for English language learners;
  - f. 0.25 the number of full-time equivalent students enrolled in an alternative high school;
  - g. ~~0.25 the number of full-time equivalent students enrolled in an isolated elementary school;~~
  - h. ~~0.25 the number of full-time equivalent students enrolled in an isolated high school;~~

- i. ~~0.20~~ the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-01;
- j. ~~h.~~ 0.20 the number of full-time equivalent students who ~~are~~:
- (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be ~~not~~more proficient than students placed in the first of six categories of proficiency and therefore placed in the second of six categories of proficiency; and are
  - (2) Are enrolled in a program of instruction for English language learners;
- k. ~~i.~~ 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;
- h. ~~j.~~ ~~0.07~~ 0.10 the number of students enrolled in average daily membership, if the district has fewer than one hundred students enrolled in average daily membership and the district consists of an area greater than two hundred seventy-five square miles [19424.9 hectares], provided that any school district consisting of an area greater than six hundred square miles [155399 hectares] and enrolling fewer than fifty students in average daily membership must be deemed to have an enrollment equal to fifty students in average daily membership;
- k. 0.073 the number of students enrolled in average daily membership, in order to support the provision of special education services;
- m. ~~i.~~ 0.07 the number of full-time equivalent students who ~~are~~:
- (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be somewhatmore proficient and arethan students placed in the second of six categories of proficiency and therefore placed in the third of six categories of proficiency;
  - (2) Are enrolled in a program of instruction for English language learners; and
  - (3) Have not been in the third of six categories of proficiency for more than three years;
- n. ~~m.~~ 0.025 the number of 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.];
- n. 0.006 the number of students enrolled in average daily membership in each public school in the district that:
- (1) Has acquired and is utilizing the PowerSchool student information system;
  - (2) Has acquired and is in the process of implementing the PowerSchool student information system; or
  - (3) Will acquire the PowerSchool student information system during the current school year, provided the acquisition is contractually demonstrated; and
- o. 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; ~~and~~

- p. ~~0.002 the number of students enrolled in average daily membership, in order to support technology.~~
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 18. AMENDMENT.** Section 15.1-27-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-03.1. (~~Effective through June 30, 2011~~) 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. ~~0.30 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and are enrolled in a program of instruction for English language learners;~~
- f. ~~0.25 the number of full-time equivalent students enrolled in an alternative high school;~~
- g. ~~0.25 the number of full-time equivalent students enrolled in an isolated elementary school;~~
- h. ~~0.25 the number of full-time equivalent students enrolled in an isolated high school;~~
- i. ~~0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-01;~~
- j. ~~0.20 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be not proficient and are enrolled in a program of instruction for English language learners;~~
- k. ~~0.17 the number of full-time equivalent students enrolled in an early childhood special education program;~~
- l. ~~0.07 the number of students enrolled in average daily membership, in order to support the provision of special education services;~~
- m. ~~0.07 the number of full-time equivalent students who on a test of English language proficiency approved by the superintendent of public instruction are determined to be somewhat proficient and are enrolled in a program of instruction for English language learners;~~
- 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; and~~

~~e. 0.002 the number of students enrolled in average daily membership, in order to support technology.~~

~~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.~~

~~—(Effective after June 30, 2011)-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. 0.30 the number of full-time equivalent students who ~~are~~:
    - (1) ~~On a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and placed in the first of six categories of proficiency; and are~~
    - (2) ~~Are~~ enrolled in a program of instruction for English language learners;
  - f. 0.25 the number of full-time equivalent students enrolled in an alternative high school;
  - g. ~~0.25 the number of full-time equivalent students enrolled in an isolated elementary school;~~
  - ~~h. 0.25 the number of full-time equivalent students enrolled in an isolated high school;~~
  - ~~i. 0.20 the number of full-time equivalent students in grades six through eight enrolled in an alternative education program for at least an average of fifteen hours per week;~~
  - ~~h. 0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-01;~~
  - ~~j. 0.20 the number of full-time equivalent students who ~~are~~:~~
    - (1) ~~On a test of English language proficiency approved by the superintendent of public instruction are determined to be ~~not~~more proficient than students placed in the first of six categories of proficiency and therefore placed in the second of six categories of proficiency; and ~~are~~~~
    - (2) ~~Are~~ enrolled in a program of instruction for English language learners;
  - ~~k. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;~~

- ~~h.k.~~ 0.070.10 the number of students enrolled in average daily membership, if the district has fewer than one hundred students enrolled in average daily membership and the district consists of an area greater than two hundred seventy-five square miles [19424.9 hectares], provided that any school district consisting of an area greater than six hundred square miles [155399 hectares] and enrolling fewer than fifty students in average daily membership must be deemed to have an enrollment equal to fifty students in average daily membership;
- l. 0.073 the number of students enrolled in average daily membership, in order to support the provision of special education services;
- m. 0.07 the number of full-time equivalent students who—~~en~~:
- (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be somewhat more proficient and are than students placed in the second of six categories of proficiency;
  - (2) Are enrolled in a program of instruction for English language learners; and
  - (3) Have not been in the third of six categories of proficiency for more than three years;
- n. 0.025 the number of 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.];
- o. 0.006 the number of students enrolled in average daily membership in each public school in the district that:
- (1) Has acquired and is utilizing the PowerSchool student information system;
  - (2) Has acquired and is in the process of implementing the PowerSchool student information system; or
  - (3) Will acquire the PowerSchool student information system during the current school year, provided the acquisition is contractually demonstrated; and
- p. 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; ~~and~~
- ~~p.~~ ~~0.002~~ the number of students enrolled in average daily membership, in order to support technology.

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 19. 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~~nine hundred ~~sixty-~~one dollars.

- b. The per student payment rate to which each school district is entitled for the second year of the biennium is three thousand ~~seventy-nine~~ seventy-ninesixty-one hundred 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 20. 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 2009-10 school year, is at least equal to one hundred 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 2009-10 school year, is at least equal to one hundred 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 ~~2009-10~~2011-12 school year, one hundred ~~twentyfour~~two 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, 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 21. 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. 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:
- 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
  - 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 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 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 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. In determining the statewide average imputed taxable valuation per student for purposes of this section, the superintendent of public instruction may not include:
- a. Any school district, which if included in the calculation would have an imputed taxable valuation per student that is three times greater than the statewide average imputed taxable valuation per student; and
  - b. Any school district, which if included in the calculation would have an imputed taxable valuation per student that is less than one-fifth of the statewide average imputed taxable valuation per student.

7. 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:
  - (1) An amount determined by dividing seventy percent of the district's mineral and tuition revenue, revenue from payments in lieu of property taxes on distribution and transmission of electric power, revenue from payments in lieu of taxes from electricity generated from sources other than coal, and revenue received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 by the district's general fund mill levy for the taxable year 2008; and
  - (2) An amount determined by dividing the district's revenue from mobile home taxes and telecommunications taxes by the district's general fund mill levy for the taxable year 2008.
- 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 22. AMENDMENT.** Section 15.1-27-35.3 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-35.3. (Effective through June 30, 2011) Payments to school districts -- Unobligated general fund balance -- Report to legislative council.**

- ~~1. The superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of fifty percent of its actual expenditures, plus twenty thousand dollars. Beginning July 1, 2008, the superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of forty-five percent of its actual expenditures, plus twenty thousand dollars.~~
2. In making the determination required by subsection 1, the superintendent of public instruction may not include in a district's unobligated general fund balance any moneys that:
  - a. (1) Were received by the district during the school year ending June 30, 2009, on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3; and
  - (2) Exceeded the amount received by the district during the school year ending June 30, 2008, for the purpose stated in paragraph 1;

- b. ~~Were received directly by the district from the United States government in accordance with the American Recovery and Reinvestment Act of 2009; or~~
  - c. ~~Were received by the district as supplemental one-time grants under section 52 of S.L. 2009, ch. 175.~~
3. ~~Any district having more than fifty thousand dollars excluded in the determination of its ending fund balance, as required by subsection 2, shall provide a report to the legislative council. The report, which must be presented at the time and in the manner directed by the legislative council, must address how the money was expended, including the number of mills by which the district was able to decrease its property taxes, if such was a permitted use.~~

~~—(Effective after June 30, 2011) Payments to school districts - Unobligated general fund balance.~~

- 1. ~~The superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of fifty percent of its actual expenditures, plus twenty thousand dollars. Beginning July 1, 2008, the superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of forty-five percent of its actual expenditures, plus twenty thousand dollars.~~
- 2. In making the determination required by subsection 1, the superintendent of public instruction may not include in a district's unobligated general fund balance any moneys that were received by the district from the federal education jobs fund program.

**SECTION 23. AMENDMENT.** Section 15.1-37-01 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-37-01. Early childhood education program - Approval.**

- 1. Any person or school district operating an early childhood education program may request approval of the program from the superintendent of public instruction. The superintendent shall approve an early childhood education program if the program:
  - ~~1.a.~~ Is taught by individuals who are licensed to teach in early childhood education by the education standards and practices board;
  - ~~2.b.~~ Follows a developmentally appropriate curriculum; and
  - ~~3.c.~~ Is in compliance with all municipal and state health, fire, and safety requirements; and
  - Limits its enrollment to children who have reached the age of four before August first of the year of enrollment.
- 2. Per student funding will not be provided to individuals or school districts offering a prekindergarten an early childhood education program.

**SECTION 24. ISOLATED SCHOOLS - TRANSITION PAYMENTS.**

- 1. If during the 2010-11 school year a school district received payments as a result of section 15.1-27-15, as the section existed on June 30, 2011, and if that district is not eligible for the factor established under subdivision j of subsection 1 of section 15.1-27-03.1, the district is entitled to the following transition payments:

- a. For the 2011-12 school year, an amount equal to that which the district would have received under section 15.1-27-15, as the section existed on June 30, 2011;
  - b. For the 2012-13 school year, an amount equal to seventy-five percent of that which the district would have received under section 15.1-27-15, as the section existed on June 30, 2011;
  - c. For the 2013-14 school year, an amount equal to fifty percent of that which the district would have received under section 15.1-27-15, as the section existed on June 30, 2011; and
  - d. For the 2014-15 school year, an amount equal to twenty-five percent of that which the district would have received under section 15.1-27-15, as the section existed on June 30, 2011.
2. Upon the closure of a school that met the definition of isolated under section 15.1-27-15, as it existed on June 30, 2011, the superintendent of public instruction shall cease to provide to the district the transition payments established under subsection 1.

#### **SECTION 25. TRANSPORTATION GRANTS - DISTRIBUTION.**

1. During each year of the 2011-13 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. One dollar and three cents per mile for schoolbuses having a capacity of ten or more passengers;
  - b. Forty-six cents per mile for vehicles having a capacity of nine or fewer passengers;
  - c. Forty-six cents per mile, one way, provided:
    - (1) The student being transported resides more than two miles from the public school that the student attends;
    - (2) The student is transported by an adult member of the student's family;
    - (3) The student is transported in a vehicle furnished by the student's parents; and
    - (4) The student's transportation is paid for by the student's parents; and
  - d. Twenty-six cents per student for each one-way trip.
2. The superintendent of public instruction shall use the latest available student enrollment count in each school district in applying the provisions of subsection 1.
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-second 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 26. FEDERAL EDUCATION JOBS FUND PROGRAM GRANTS - ALLOWABLE USES.**

1. Federal education jobs fund program grants distributed to school districts may be used only for:
  - a. The improvement, renovation, repair, or modernization of school buildings and facilities, including deferred maintenance; weatherization; heating, ventilation, and cooling projects; asbestos removal and abatement; security improvements; and laboratory improvements provided that the projects meet the approval requirements of section 15.1-36-01;
  - b. Building additions, provided the additions do not exceed twenty-five percent of the square footage of the building to which they are to be attached and further provided that the additions meet the approval requirements of section 15.1-36-01;
  - c. Equipment, including technological equipment, career and technical education equipment, vehicles for instructional purposes, and vehicles for student transportation;
  - d. Textbooks, instructional materials, and library media materials;
  - e. Title I expenditures; and
  - f. Professional development for teachers and administrators.
2. Each school district expending federal education jobs fund program grants shall file a report with the superintendent of public instruction, at the time and in the manner directed by the superintendent. The report must include a description of all expenditures, obligations, or other commitments made as a result of receiving a federal education jobs fund program grant. The superintendent shall compile the information and present it to the legislative council.

**SECTION 27. USE OF NEW MONEY - TEACHER COMPENSATION INCREASES - REPORTS TO THE LEGISLATIVE MANAGEMENT.**

1. During the 2011-13 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, 2011.
2. For purposes of this section, the superintendent of public instruction shall calculate the amount of new money received by a district during the 2011-13 biennium by:
  - a. Determining the total amount of state dollars received by each district during the 2009-11 biennium as per student payments, provided that equity payments, transportation payments, contingency distributions, mill levy reduction payments, and technology support payments are not to be included in the total;
  - b. Determining the total amount of state dollars received by each district during the 2011-13 biennium as per student payments, provided that the following are not to be included in the total:
    - (1) Contingent distributions;

- (2) Cross-border attendance moneys;
  - (3) Deferred maintenance and physical plant improvements grants;
  - (4) Equity payments;
  - (5) Federal education jobs funds program moneys;
  - (6) Home-based education program monitoring moneys;
  - (7) Mill levy reduction payments;
  - (8) PowerSchool acquisition, implementation, and utilization moneys;
  - (9) Regional education association moneys and grants; and
  - (10) Transportation payments; and
- c. Subtracting the amount arrived at under subdivision a from the amount arrived at under subdivision b.
3. School districts providing educational services under a cooperative agreement approved by the superintendent of public instruction must, for purposes of this section, be treated as a single district.
  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 management.

**SECTION 28. REGIONAL EDUCATION ASSOCIATIONS - GRANTS.** During the 2011-13 biennium, the superintendent of public instruction shall expend up to \$800,000 from the grants - state school aid line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-second legislative assembly, for the purpose of providing an annual grant to each eligible regional education association in order to assist each association with the cost of compensating a coordinator.

1. In order to receive a grant under this section, each regional education association must:
  - a. Enter a contract with an individual to serve as a coordinator, on a full-time or a part-time basis, for a duration of at least twelve months; and
  - b. Provide from other revenue sources at least thirty percent of the total compensation payable to the coordinator.
2. The maximum grant payable to a regional education association under this section during each year of the biennium is the lesser of \$50,000 or seventy percent of the total compensation payable to the coordinator.

**SECTION 29. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the department of

commerce for the purpose of providing grants in the amount of \$1,200 on behalf of individuals seeking a child development associate credential, for the biennium beginning July 1, 2011, and ending June 30, 2013.

**SECTION 30. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$460,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing payments to eligible school districts that offer alternative education programs to students in grades six through eight, for the biennium beginning July 1, 2011, and ending June 30, 2013. In order to determine the payment per student, the superintendent of public instruction shall multiply the number of full-time equivalent students in grades six through eight who are enrolled during the 2012-13 school year in an average of at least fifteen hours per week of alternative education programming by a weighting factor that may not exceed 0.20.

**SECTION 31. APPROPRIATION - SCHOOL DISTRICT 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 \$7,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of awarding to eligible school districts deferred maintenance and physical plant improvement grants, in accordance with the provisions of this section, for the biennium beginning July 1, 2011, and ending June 30, 2013.
2. If the office of management and budget determines by April 30, 2012, that the June 30, 2012, 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 2011 legislative session, the superintendent of public instruction shall forward to each eligible school district:
  - a. Ten 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, 2013, that the June 30, 2013, 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 2011 legislative session, the superintendent of public instruction shall forward to each eligible school district:
  - a. Ten 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. Each school district accepting funds under this section shall apply those funds toward deferred maintenance and physical plant improvements and shall, by June 30, 2014:
  - a. Submit to the superintendent of public instruction documentation indicating the appropriate expenditure of the funds; or
  - b. Return the funds to the superintendent of public instruction for deposit in the general fund.
5. For purposes of this section, an "eligible school district" is a school district that:

- a. Has a general fund levy equal to at least one hundred fifty mills, before any reduction for property tax allocations under chapter 57-64;
- b. Is not precluded from receiving state aid by the provisions of section 15.1-27-35.3; and
- c. Provides an equal monetary match for any amount received under this section.

**SECTION 32. CONTINGENT MONEY.** If any money appropriated to the superintendent of public instruction for state aid payments to school districts remains after the superintendent complies with all statutory payment obligations imposed for the biennium beginning July 1, 2011, and ending June 30, 2013, the superintendent shall use the remaining moneys to provide additional per student payments on a prorated basis according to the latest available average daily membership of each school district.

**SECTION 33. CONTINGENT TRANSFER BY BANK OF NORTH DAKOTA FOR SPECIAL EDUCATION.** If during the biennium beginning July 1, 2011, and ending June 30, 2013, 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-third legislative assembly return any amount transferred under this section to the Bank of North Dakota.

**SECTION 34. ALL-DAY KINDERGARTEN - IMPACT REPORT.** Before December 31, 2011, and December 31, 2012, each school district that provided full-day kindergarten during the previous school year shall file a report with the superintendent of public instruction indicating the nature and extent of any measurable academic growth experienced by the students who were enrolled in the program.

**SECTION 35. LEGISLATIVE MANAGEMENT STUDY - TEACHER COMPENSATION REFORM.** During the 2011-12 interim, the legislative management shall consider studying ways to reform the manner in which teacher compensation is determined, with a view to recruiting, developing, and retaining a high-quality teaching workforce capable of significantly improving student performance. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

**SECTION 36. REPEAL.** Section 15.1-27-15 of the North Dakota Century Code is repealed.

**SECTION 37. EFFECTIVE DATE.** Section 18 of this Act becomes effective on July 1, 2013."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2178: 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** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2178 was placed on the Sixth order on the calendar.

Page 2, line 11, replace "\$373,150" with "\$379,150"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2227: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2227 was placed on the Sixth order on the calendar.

Page 1, line 1, after "enact" insert "two new subsections to section 20.1-01-02 and"

Page 1, line 2, after the first "to" insert "definitions and"

Page 1, after line 6, insert:

**"SECTION 1.** Two new subsections to section 20.1-01-02 of the North Dakota Century Code are created and enacted as follows:

"Crops" means any plant that has been harvested, collected, or stored as food, livestock feed or fodder, fuel, or for any other economic purpose.

"Depredation" means damage to or destruction of private property."

Page 1, line 19, remove the overstrike over "and"

Page 1, line 19, remove the first underscored comma

Page 1, line 19, remove ".and"

Page 1, line 20, remove "construction cost-share assistance"

Page 1, line 20, after "cost" insert "and construction cost-share assistance"

Page 1, line 21, after "protect" insert "crops."

Page 1, line 21, after the second "hay" insert an underscored comma

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2240: 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, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2240 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "and the development of a plan"

Page 1, line 2, replace "for restructuring" with "of"

Page 1, line 5, remove "and develop a plan for restructuring"

Page 1, line 6, remove "The plan must provide for the creation of"

Page 1, remove lines 7 through 10

Page 1, line 11, replace "the state and must be locally administered." with "The study must consider the requirements imposed on the department of human services by federal agencies under federal law, federal regulations, program state plans, and program waivers for the administration of and receipt of payment under federal programs."

Page 1, line 12, remove ", the proposed plan, and any legislative changes necessary to implement that plan"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2264: 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, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2264 was placed on the Sixth order on the calendar.

Page 1, line 2, after "program" insert "; and to provide an effective date"

Page 2, after line 3, insert:

**"SECTION 2. EFFECTIVE DATE.** The change to the net income eligibility limit for the children's health insurance program identified in section 1 of this Act becomes effective the first day of the month following the month the department of human services receives written notice from the centers for medicare and medicaid services of approval of an increase to the federal allotment to cover that increase to the net income eligibility limit of the children's health insurance program."

Renumber accordingly

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

**SB 2268: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2268 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 a regional autism spectrum disorder centers of achievement pilot program; to provide for a department of human services report to the legislative management; to provide for a legislative management study; and to provide an appropriation.

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

##### **SECTION 1. REGIONAL AUTISM SPECTRUM DISORDER CENTERS OF ACHIEVEMENT PILOT PROGRAM - DEPARTMENT OF HUMAN SERVICES STUDY - REPORT TO THE LEGISLATIVE MANAGEMENT.**

1. During the 2011-13 biennium, the department of human services shall establish and operate a regional autism spectrum disorder centers of achievement pilot program.
  - a. The pilot program must provide a matching grant to a qualified applicant that is a nonprofit intermediate care facility for the mentally retarded which is licensed by the department of human services.
  - b. A qualified applicant shall establish the availability of one dollar of nonstate, cash matching funds for each grant dollar awarded under this section. The source of the matching funds may not be a gift or grant, but must be funds of the applicant.
  - c. A qualified applicant shall submit a plan for the funding, development, and delivery of skilled services to individuals with autism spectrum disorder who reside within the applicant's service region. The plan must provide for the establishment of a regional autism spectrum disorder center of achievement in a city with a population of more than ten thousand.
  - d. As a condition of award of a grant under this program, a qualified applicant shall agree to collaborate with the department of human services in developing and implementing the plan as well as postaward monitoring by the department of human services.
2. During the 2011-13 biennium, the department of human services shall work with public and private stakeholders to study the feasibility of establishing a network of regional autism spectrum disorder centers of achievement. The study must include:

- a. Consideration of funding needs and sources for startup as well as ongoing financial sustainability of a network of regional autism spectrum disorder centers of achievement;
  - b. Evaluation of the unmet needs in the state related to the regional delivery of skilled services to individuals with autism spectrum disorder, consideration of the most effective and efficient delivery system for these skilled services, and evaluation of whether the skilled services provided by the qualified applicant under subsection 1 is part of a viable plan to increase availability of these services; and
  - c. Evaluation of the funding, development, and delivery of the skilled services provided by a qualified applicant under subsection 1, including recommendations regarding the feasibility and desirability of implementing the pilot program on a broader scale.
3. During the 2011-13 biennium, the department of human services shall provide regular status reports to and work in cooperation with the legislative management as the legislative management conducts the study provided for under section 2 of this Act.
  4. Before September 1, 2012, the department of human services shall report to the legislative management on the preliminary findings and recommendations of the regional autism spectrum disorder centers of achievement pilot program and study. During the 2013 legislative session, the department of human services shall introduce any legislation that may be necessary to implement the study recommendations.

**SECTION 2. AUTISM STUDY - LEGISLATIVE MANAGEMENT.** During the 2011-12 interim, the legislative management shall conduct a comprehensive study of the current system for the diagnosis of, treatment of, care for, and education of individuals with autism spectrum disorder and shall make recommendations regarding how this system can be improved to better meet the needs of individuals with autism spectrum disorder. The study must consider the recommendations of the autism spectrum disorder task force and must seek input from stakeholders in the private and public sectors, including families impacted by autism spectrum disorder, insurers, educators, treatment providers, early childhood service providers, caretakers, and nonprofit intermediate care facilities for the mentally retarded. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

**SECTION 3. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$600,000, or so much of the sum as may be necessary, to the department of human services for the purpose of implementing the regional autism spectrum disorder centers of achievement pilot program and study provided for under section 1 of this Act, for the biennium beginning July 1, 2011, and ending June 30, 2013."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2298: 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, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2298 was placed on the Sixth order on the calendar.

Page 1, line 2, after "of" insert "early childhood services inclusion support services and"

Page 1, line 3, after the semicolon insert "to provide a continuing appropriation;"

Page 1, line 7, after "**services**" insert "**inclusion support services and**"

Page 1, line 8, remove "establish an early childhood services inclusion grant program for"

Page 1, replace lines 9 through 15 with "fund early childhood services specialists to make available technical assistance to early childhood services providers that care for children with special needs or developmental delays. The technical assistance program must be designed to:

- a. Assist early childhood services providers that request support and information regarding caring for children with special needs or developmental delays;
- b. Assist early childhood services providers in adapting the program environment and care practices to meet the individual child's needs and to build the early childhood services providers' capacity to serve children with special needs or developmental delays;
- c. In partnership with the child's parents and health care provider, assist the early childhood services provider in the development or coordination of care plans for children with special needs or special health care needs relevant to the care setting;
- d. In partnership with the child's parents, foster communication with the team of specialists serving the child to ensure consistency in therapy practices and appropriate approaches;
- e. Provide classroom training to early childhood services providers to assist the providers in the integration of children with special needs; and
- f. As requested by the early childhood services providers, conduct one-on-one training at the provider's business to assist the provider in the integration of children with special needs."

Page 2, after line 20, insert:

- "6. The department may accept gifts, grants, and donations from any source to assist the department in the establishment and implementation of the early childhood services inclusion support services and grant program. Any gifts, grants, and donations received are appropriated to the department on a continuing basis for the purpose of funding the early childhood services inclusion support services and grant program under this section."

Page 2, line 21, remove "There is appropriated out of any moneys in the general"

Page 2, replace lines 22 through 27 with "The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the lands and minerals trust fund in the state treasury, not otherwise appropriated, to the department of human services for the purpose of funding the early childhood services inclusion support services and for establishing an early childhood services provider inclusion grant program as provided for in section 1 of this Act, for the biennium beginning July 1, 2011, and ending June 30, 2013, as follows:

Early childhood services inclusion support	\$450,000
Early childhood services grant program	<u>300,000</u>
Total lands and minerals trust fund appropriation	\$750,000"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2321: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2321 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 a legislative management study relating to the feasibility and desirability of extending tax relief for assistance to mobilized soldiers."

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX RELIEF FOR MOBILIZED SOLDIERS.** During the 2010-11 interim, the legislative management shall consider studying the feasibility and desirability of extending tax relief to mobilized soldiers and whether allowances for military service for mobilized soldiers is adequate. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2354: 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, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2354 was placed on the Sixth order on the calendar.

Page 1, line 15, remove "**NORTH DAKOTA MENTAL HEALTH PLANNING COUNCIL**"

Page 1, line 17, replace "department of human services' North Dakota mental health planning council" with "neuropsychiatric research institute"

Page 2, line 3, after the semicolon insert "and"

Page 2, line 6, remove "; and consideration of how the"

Page 2, remove line 7

Page 2, line 8, remove "entities may identify other issues related to the objectives of this study"

Page 2, line 8, remove "North Dakota"

Page 2, line 9, replace "mental health planning council" with "neuropsychiatric research institute"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2360: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2360 was placed on the Sixth order on the calendar.

Page 1, line 10, after "schoolbus" insert ", as defined in chapter 39-01."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2363: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2363 was placed on the Eleventh order on the calendar.

**FIRST READING OF HOUSE BILLS**

**HB 1037:** A BILL for an Act to amend and reenact section 65-06.2-09 of the North Dakota Century Code, relating to the safety and performance audit of work programs of roughrider industries.

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

**HB 1050:** A BILL for an Act to amend and reenact section 65-05.1-08 of the North Dakota Century Code, relating to a workers' compensation grant program for vocational rehabilitation; and to provide a continuing appropriation.

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

**HB 1051:** A BILL for an Act to amend and reenact section 65-05-09.3 of the North Dakota Century Code, relating to workers' compensation benefits upon attaining retirement age; and to provide for application.

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

**HB 1056:** A BILL for an Act to amend and reenact section 65-02-30 of the North Dakota Century Code, relating to the independent performance evaluation of workforce safety and insurance; and to provide for application.

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

**HB 1064:** A BILL for an Act to amend and reenact subsection 2 of section 29-26-22 of the North Dakota Century Code, relating to court administration fees.

Was read the first time and referred to the **Judiciary Committee**.

**HB 1065:** A BILL for an Act to amend and reenact subsection 1 of section 29-07-01.1 of the North Dakota Century Code, relating to payment of and reimbursement for indigent defense attorney's fees and expenses.

Was read the first time and referred to the **Judiciary Committee**.

**HB 1078:** A BILL for an Act to amend and reenact section 27-20-48 of the North Dakota Century Code, relating to the immunity of a guardian ad litem.

Was read the first time and referred to the **Judiciary Committee**.

**HB 1080:** A BILL for an Act to create and enact sections 13-05-04.1, 13-05-04.2, 13-05-05.1, and 13-05-06.3 of the North Dakota Century Code, relating to surety bonds, minimum net worth, notice regarding change of name and address, and prohibited acts and practices of licensed collection agencies; to amend and reenact subsection 2 of section 6-08-16 and sections 13-05-01.1, 13-05-02.1, 13-05-02.3, 13-05-03, 13-05-04, 13-05-06, 13-05-06.1, 13-05-06.2, 13-05-07, and 13-05-08 of the North Dakota Century Code, relating to the definitions of creditor and insolvent, branch offices, entities exempt from licensing, forms for application for licensing, powers of the department of financial institutions, suspension and removal of agency officers and employees, investigations and subpoenas, agency recordkeeping, and revocation of licenses for collection agencies.

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

**HB 1121:** A BILL for an Act to create and enact subsection 3 to section 26.1-03-11.1 of the North Dakota Century Code, relating to the confidentiality of actuarial opinion support documents.

Was read the first time and referred to the **Judiciary Committee**.

**HB 1135:** A BILL for an Act to create and enact section 59-09-13 of the North Dakota Century Code, relating to the insurable interest of a trustee.

Was read the first time and referred to the **Judiciary Committee**.

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

**William R. Horton, Secretary**

