

## JOURNAL OF THE HOUSE

## Sixty-third Legislative Assembly

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Bismarck, April 22, 2013

The House convened at 8:00 a.m., with Speaker Devlin presiding.

The prayer was offered by Reverend Paul Gibson, First Baptist Church, Bismarck.

The roll was called and all members were present except Representatives Boe, Owens, Sanford, and Wall.

A quorum was declared by the Speaker.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1233.

**SENATE AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1233**

Page 1, line 6, remove "to provide for a legislative"

Page 1, line 7, replace "management study;" with "to provide for the development of a plan for the administration and funding of state and county social services programs; to provide an appropriation;"

Page 4, replace lines 12 through 19 with:

**"SECTION 10. DEVELOPMENT OF PLAN FOR ADMINISTRATION AND FUNDING OF STATE AND COUNTY SOCIAL SERVICES PROGRAMS.** During the 2013-14 interim, the department of human services and county representatives shall develop a plan for the phased restructuring of the administration and funding of all state and county social services programs. The plan must provide for the phased unification of all state and county social services programs into state-administered and state-funded social services programs. The plan must provide for the continuation of local access to social services and local input into the service delivery system. Before September 1, 2014, the department shall present its findings, the proposed plan, and any legislative changes necessary to implement that plan, to the legislative management.

**SECTION 11. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$21,180,735, or so much of the sum as may be necessary, to the department of human services for the purpose of providing additional state financial support for county social services programs and defraying the expenses associated with developing a plan pursuant to section 10 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Renumber accordingly

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

**MR. SPEAKER:** The Senate has adopted the conference committee report on: HB 1170, HCR 3034.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1138, HB 1171.

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

**MR. SPEAKER:** The President has signed: HB 1281, HCR 3017.

**THE HOUSE RECOGNIZED THE PRESENCE OF:**

Former Representative and House Majority Leader Earl Strinden.

#### **APPOINTMENT OF CONFERENCE COMMITTEE**

**REP. PORTER MOVED** that the Speaker appoint a committee of three to act with a like committee from the Senate as a Conference Committee on SB 2233, which motion prevailed.

**THE SPEAKER APPOINTED** as a Conference Committee on:

**SB 2233:** Reps. Hofstad, Keiser, Hunskor

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. KEMPENICH MOVED** that the conference committee report on Engrossed HB 1099 as printed on HJ page 1723 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1099, as amended, was placed on the Eleventh order of business.

#### **SECOND READING OF HOUSE BILL**

**HB 1099:** A BILL for an Act to amend and reenact sections 54-44.1-04 and 54-44.1-06 of the North Dakota Century Code, relating to agency budget requests and the preparation of budget data.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 78 YEAS, 12 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Beadle; Becker; Bellew; Belter; Boehning; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Drovda; Fehr; Frantsvog; Froseth; Glassheim; Grande; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hunskor; Johnson, D.; Johnson, N.; Karls; Keiser; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looysen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Oversen; Paur; Pollert; Porter; Rohr; Ruby; Rust; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Sukut; Thoreson; Toman; Trottier; Vigasaa; Weisz; Wieland; Williams; Zaiser; Speaker Devlin

**NAYS:** Amerman; Boschee; Gruchalla; Guggisberg; Hogan; Holman; Kasper; Kelsh, J.; Kelsh, S.; Nelson, M.; Onstad; Strinden

**ABSENT AND NOT VOTING:** Boe; Owens; Sanford; Wall

Reengrossed HB 1099 passed.

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#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. KLEMIN MOVED** that the conference committee report on HB 1136 as printed on HJ pages 1723-1749 be adopted, which motion prevailed on a voice vote.

HB 1136, as amended, was placed on the Eleventh order of business.

#### **SECOND READING OF HOUSE BILL**

**HB 1136:** A BILL for an Act to amend and reenact sections 11-18-01, 11-18-05, 35-13-02, 35-17-04, 35-17-07, 35-17-08, 35-20-15.1, 35-20-16, 35-29-02, 35-29-04, 35-29-05, 35-30-02, 35-30-05, 35-30-06, 35-31-02, 35-31-05, 35-31-06, 35-34-04, 35-34-06, 35-35-03, 35-37-04, 41-09-72, 41-09-73, and 41-09-84, subsection 2 of section 41-09-87, sections 41-09-94 and 41-09-96, subsection 3 of section 41-09-135, sections 41-10-01, 41-10-05, 47-16-03, 54-09-08, 54-09-09, 54-09-10, and 54-09-11, subsection 5 of section 57-34-10, subsection 4 of section 57-36-09.5, section 57-38-49, subsection 4 of section 57-39.2-13, subsection 4 of section 57-40.2-16, subsection 3 of section 57-40.3-07.1, subsection 4 of section 57-43.1-17.4, subsection 4 of section 57-43.2-16.3, subsection 4 of section 57-43.3-22, subsection 2 of section 57-51-11, and subsection 4 of section 57-63-10

of the North Dakota Century Code, relating to filing liens and security interests electronically; to repeal section 57-28-29 of the North Dakota Century Code, relating to filing tax liens; to provide for application; to provide for a report to the legislative assembly; and to provide a contingent effective date.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 85 YEAS, 5 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Belter; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Dockter; Dosch; Drovdal; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looysen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Onstad; Oversen; Paur; Pollert; Porter; Ruby; Rust; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Weisz; Wieland; Williams; Zaiser; Speaker Devlin

**NAYS:** Becker; Bellew; Delzer; Nelson, M.; Rohr

**ABSENT AND NOT VOTING:** Boe; Owens; Sanford; Wall

Engrossed HB 1136 passed.

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#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**REP. MARAGOS MOVED** that the conference committee report on Engrossed HCR 3006 as printed on HJ page 1749 be adopted, which motion prevailed on a voice vote.

Engrossed HCR 3006, as amended, was placed on the Eleventh order of business.

#### SECOND READING OF HOUSE CONCURRENT RESOLUTION

**HCR 3006:** A concurrent resolution to create and enact a new section to article X of the Constitution of North Dakota, relating to prohibition of the imposition of mortgage taxes or any sales or transfer taxes on the mortgage or transfer of real property.

#### ROLL CALL

The question being on the final adoption of the amended resolution, which has been read. The roll was called and there were 89 YEAS, 1 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Becker; Bellew; Belter; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Drovdal; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kreun; Laning; Larson; Looysen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Paur; Pollert; Porter; Rohr; Ruby; Rust; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Weisz; Wieland; Williams; Zaiser; Speaker Devlin

**NAYS:** Kretschmar

**ABSENT AND NOT VOTING:** Boe; Owens; Sanford; Wall

Reengrossed HCR 3006 was declared adopted on a recorded roll call vote.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. HEADLAND MOVED** that the conference committee report on SB 2072 as printed on HJ pages 1749-1751 be adopted.

**REQUEST**

**REP. RUBY REQUESTED** a verification vote, which request was granted.

The question being on the motion to adopt the conference committee report on SB 2072, the conference committee report on SB 2072 was rejected on a verification vote.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1015.

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1015**

In lieu of the amendments adopted by the Senate as printed on pages \_\_\_\_\_ of the Senate Journal, Engrossed House Bill No. 1015 is amended as follows:

Page 1, line 2, remove "to create and"

Page 1, remove line 3

Page 1, line 4, remove "political subdivisions submitting budget information to the state budget database website;"

Page 1, line 5, replace "section" with "sections"

Page 1, line 5, after "15.1-27-25" insert "and 48-10-02"

Page 1, line 6, after "royalties" insert "and the capitol building fund"

Page 1, line 7, after the semicolon insert "to provide for a budget section report; and"

Page 1, line 7, after "for" insert "a"

Page 1, line 7, remove "studies; and to provide an effective"

Page 1, line 8, replace "date" with "study"

Page 1, remove lines 18 through 24

Page 2 replace lines 1 through 5 with:

"Salaries and wages	\$18,477,763	\$1,475,552	\$19,953,315
Operating expenses	13,755,254	991,534	14,746,788
Emergency commission	700,000	0	700,000
contingency fund			
Capital assets	5,190,143	4,760,922	9,951,065
Grants	430,000	0	430,000
Prairie public broadcasting	1,000,000	1,037,138	2,037,138
State student internship program	200,000	0	200,000
Health insurance pool - temporary	0	2,000,000	2,000,000
employees			
Accrued leave payments	0	570,412	570,412
Total all funds	\$39,753,160	\$10,835,558	\$50,588,718
Less estimated income	10,514,461	(783,831)	9,730,630
Total general fund	\$29,238,699	\$11,619,389	\$40,858,088"

Page 2, replace line 13 with:

"Capitol complex parking lot repairs	800,000	4,000,000"
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Page 2, replace lines 19 through 21 with:

"Prairie public broadcasting	0	700,000
Health insurance pool	0	2,000,000
Land use study	0	50,000
Repair and cleaning capitol and j-wing	0	1,200,000
Total all funds	\$478,354,000	\$10,640,000
Less estimated income	0	1,000,000
Total general fund	\$478,354,000	\$9,640,000"

Page 2, after line 31, insert:

**"SECTION 4. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET - STATE AGENCY ENERGY DEVELOPMENT IMPACT FUNDING POOL - TRANSFER AUTHORITY - EMERGENCY COMMISSION APPROVAL.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$4,000,000, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$4,500,000, or so much of the sum as may be necessary, to the office of management and budget for a state agency energy development impact funding pool, for the biennium beginning July 1, 2013, and ending June 30, 2015. The funds provided under this section are considered a one-time funding item.

A state agency may submit an application to the office of management and budget for a transfer of appropriation authority from the state agency energy development impact funding pool for employee housing rental assistance and temporary salary increases for employees affected by energy development. The office of management and budget, subject to emergency commission approval, shall transfer appropriation authority from the state agency energy development impact funding pool to eligible agencies for approved applications.

1. A state agency may submit an application to the office of management and budget for up to six months of rental assistance for employees in affected areas of the state.
  - a. As part of the application for rental assistance, the agency must attach the employee's rental agreement from the rental property company. The rental agreement must include the following information:
    - (1) Rental company name.
    - (2) Rental company address.
    - (3) Amount of rent.
    - (4) Effective date of lease.
  - b. The office of management and budget shall review the application for rental assistance and make a recommendation to the emergency commission to approve or reject the request. The emergency commission shall make the final determination on the application. The applications must be reviewed on an individual basis based on documented need and affordability.
  - c. Rental assistance payments must be based on a housing survey conducted by the agency submitting an application to determine statewide and local housing averages, subject to review and recommendation by the office of management and budget and approval by the emergency commission. Employees eligible to receive rental assistance include employees currently renting in designated areas of the state and new employees or existing employees transferring into affected areas of the state. The rental assistance payment must be a flat dollar amount based on the difference between the state rental rate average and the rental rates for similar housing in the location where the employee resides. When determining the difference in rental rates, consideration must be

given to the appropriate amount of housing space needed for an employee based on the number of immediate family members living with the employee. The rental rate difference calculation may not include costs for garage space for an employee's personal vehicle.

- d. A state agency that has an employee or employees receiving rental assistance must submit documentation to the office of management and budget upon request that verifies the employee's proof of payment.
  - e. A state agency must report any changes to the office of management and budget of the housing status of employees for whom an application has been approved.
2. A state agency may submit an application for up to six months of salary differential payments for employees living in or temporarily assigned to areas of the state affected by energy development. The application must document the salary level of each affected employee compared to statewide and local averages for similar types of employee positions. The office of management and budget shall review the application for salary differential payments and make a recommendation to the emergency commission to approve or reject the request. The emergency commission shall make the final determination on the application. Any salary differential payment provided to an employee does not become part of the employee's permanent base salary.

**SECTION 5. COMMUNITY SERVICE SUPERVISION GRANTS - FUNDING ALLOCATIONS - ADDITIONAL INCOME APPROPRIATION.** The grants line item in section 1 of this Act includes the sum of \$375,000 from the general fund for the purpose of providing community service supervision grants. The office of management and budget shall distribute the grant funds on or before August first during each year of the biennium beginning July 1, 2013, and ending June 30, 2015, to North Dakota community corrections association regions as follows:

Barnes County	\$9,091
Bismarck (urban)	20,293
Bismarck (rural)	10,667
Devils Lake	10,747
Dickinson	12,683
Fargo	24,127
Grand Forks	19,803
Jamestown	13,883
Minot	16,194
Richland County	9,931
Rugby	11,657
Sargent County	8,086
Wells County	8,189
Williston	12,149
Total	\$187,500

Any moneys in the community service supervision fund are appropriated to the office of management and budget for distribution to community corrections association regions on or before August first of each year during the biennium beginning July 1, 2013, and ending June 30, 2015.

**SECTION 6. MISSOURI RIVER CORRECTIONAL CENTER STUDY - BUDGET SECTION REPORT.** The operating expenses line item in section 1 of this Act includes the sum of \$50,000 from the general fund which must be used by the office of management and budget to contract for a land use study of the Missouri River correctional center site. The study must review options to relocate the center to another site, options to develop all or a portion of the current site into a day park, and options to continue agriculture activities on the current site. The study may not include a review of options to develop the land for residential, commercial, or industrial purposes. During the 2013-14 interim, the office of management and budget shall provide a report to the budget section regarding the results of the study.

**SECTION 7. OFFICE OF MANAGEMENT AND BUDGET - TEMPORARY EMPLOYEE HEALTH INSURANCE POOL - TRANSFER AUTHORITY.** The office of management and budget may transfer to each eligible agency appropriation authority from the health insurance pool - temporary employees line item contained in section 1 of this Act. Transfers may be made for the purpose of providing temporary employee health insurance adjustments for state employees, including institutions of higher education, determined to be full time based on guidelines developed by the office of management and budget in accordance with the shared responsibility provisions of the Affordable Care Act for the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 3, line 18, replace "8" with "12"

Page 3, line 22, remove "- **LEGISLATIVE**"

Page 3, line 23, remove "**INTENT**"

Page 3, line 23, after "**GUIDELINES**" insert "- **BUDGET SECTION APPROVAL**"

Page 3, line 24, after "of" insert "3 to 5 percent for the first year of the biennium and in a range of"

Page 3, line 25, replace "each" with "the second"

Page 3, line 27, after "increases" insert "for the first year of the biennium"

Page 3, line 28, after "and" insert "for the second year of the biennium are to be given"

Page 3, line 29, after "adjustment" insert "for each year of the biennium"

Page 3, line 29, remove "for the first year of the biennium may be"

Page 3, line 30, remove "provided"

Page 4, line 1, after "range" insert "and up to 1 percent for a classified state employee whose salary is in the second quartile of the employee's assigned salary range may be provided"

Page 4, line 1, remove "The market equity increases are to be given"

Page 4, remove line 2

Page 4, line 6, after "budget" insert ", subject to budget section approval"

Page 4, line 6, remove "not"

Page 4, line 11, after "of" insert "3 to 5 percent for the first year of the biennium and in a range of"

Page 4, line 12, replace "each" with "the second"

Page 4, line 14, after "2013" insert "for the first year of the biennium"

Page 4, line 15, after the first "2014" insert "for the second year of the biennium"

Page 4, remove lines 16 through 18

Page 4, after line 22, insert:

"Each agency appropriation is increased to provide additional funding of \$95 per month for each eligible employee to maintain existing health insurance benefits. As a percentage of the average state employee monthly salary, this amount represents a 2.35 percent increase."

Page 4, line 23, after the first "**ITEM**" insert "- **PILOT PROJECT**"

Page 4, line 26, after the first "for" insert "a pilot project for the biennium beginning July 1, 2013, and ending June 30, 2015, for"

Page 4, line 31, after the period insert "For the purpose of determining salaries and wages amounts under section 54-27-10, the office of management and budget shall consider the amounts included in the accrued leave payments line item as part of the appropriation for salaries and wages."

Page 6, remove lines 9 through 31

Page 7 replace lines 1 through 13 with:

**"SECTION 15. AMENDMENT.** Section 48-10-02 of the North Dakota Century Code is amended and reenacted as follows:

**48-10-02. Capitol building fund to be administered by the capitol grounds planning commission - Continuing appropriation - Procedure for expenditure of certain funds.**

The capitol grounds planning commission shall have general powers to superintend the administration of the capitol building fund, its interest and income fund, and its investments and properties. It may cause any lands now held in such funds to be sold at market value, direct the conversion of any securities now held by such funds to cash, approve expenditures from such funds subject to law and legislative appropriations, and to do all other things necessary to carry out the intent and purposes of this section. The board of university and school lands or its designee, on the commission's behalf, shall see to the investment and management of the capitol building fund and its interest and income fund and shall account to the commission concerning these funds at the commission's request.

Provided further, all moneys and other property in the capitol building fund, except as otherwise appropriated, are hereby dedicated and reserved to the exclusive purpose of the construction of an addition to the legislative wing of the state capitol building, and the capitol grounds planning commission shall take necessary steps to accumulate and conserve the money and property in the capitol building fund for such purpose.

The commission may, during any biennium, expend from the interest and income fund of the capitol building fund a sum not to exceed fifty percent of the unencumbered balance on the first day of any biennium, and such amount is hereby appropriated to the capitol grounds planning commission. The expenditure may be made, after consideration of the capitol grounds master plan, for projects or planning but ~~shall may~~ not exceed ~~one hundred two hundred fifty~~ thousand dollars per biennium. The expenditure may only be made upon approval by two-thirds of the total membership of the commission. The expenditure must be made upon a voucher, or vouchers, prepared by the office of management and budget at the direction of the commission."

Page 7 remove lines 20 and 21

ReNUMBER accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1015 - Office of Management and Budget - Senate Action**

	Executive Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$20,904,344	\$19,719,302	\$234,013	\$19,953,315
Operating expenses	14,696,788	14,226,788	520,000	14,746,788
Capital assets	9,796,065	5,796,065	4,155,000	9,951,065
Grants	430,000	430,000		430,000
Emergency Commission contingency fund	700,000	1,000,000	(300,000)	700,000
Prairie Public Broadcasting	2,037,138	1,537,138	500,000	2,037,138
State student internship program	200,000	200,000		200,000
Health insurance pool - temp	2,000,000		2,000,000	2,000,000



employees				
Accrued leave payments		570,412		570,412
Transfer to property tax fund		373,210,000		373,210,000
State agency energy impact pool			8,500,000	8,500,000
Total all funds	\$50,764,335	\$416,689,705	\$15,609,013	\$432,298,718
Less estimated income	9,589,395	8,669,598	5,561,032	14,230,630
General fund	\$41,174,940	\$408,020,107	\$10,047,981	\$418,068,088
FTE	131.50	130.50	0.00	130.50

### Department No. 110 - Office of Management and Budget - Detail of Senate Changes

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Adjusts Line Item Funding for Central Services Operations <sup>3</sup>	Restores Funding to Contract with Auditors <sup>4</sup>	Adds Funding for Land Use Study <sup>5</sup>	Removes Funding for State Database Website <sup>6</sup>
Salaries and wages	\$654,359	(\$295,346)	(\$125,000)			
Operating expenses			(30,000)	600,000	50,000	(100,000)
Capital assets			155,000			
Grants						
Emergency Commission contingency fund						
Prairie Public Broadcasting						
State student internship program						
Health insurance pool - temp employees						
Accrued leave payments						
Transfer to property tax fund						
State agency energy impact pool						
Total all funds	\$654,359	(\$295,346)	\$0	\$600,000	\$50,000	(\$100,000)
Less estimated income	110,701	(49,669)	0	0	0	0
General fund	\$543,658	(\$245,677)	\$0	\$600,000	\$50,000	(\$100,000)
FTE	0.00	0.00	0.00	0.00	0.00	0.00

	Restores Funding for Parking Lot Project <sup>7</sup>	Reduces Funding for State Contingencies <sup>8</sup>	Restores One-Time Funding for Prairie Public Broadcasting <sup>9</sup>	Restores Health Insurance Pool for Temporary Employees <sup>10</sup>	Adds State Agency Energy Development Impact Pool <sup>11</sup>	Total Senate Changes
Salaries and wages						\$234,013
Operating expenses						520,000
Capital assets	4,000,000					4,155,000
Grants						
Emergency Commission contingency fund		(300,000)				(300,000)
Prairie Public Broadcasting			500,000			500,000
State student internship program						
Health insurance pool - temp employees				2,000,000		2,000,000
Accrued leave payments						
Transfer to property tax fund						
State agency energy impact pool					8,500,000	8,500,000
Total all funds	\$4,000,000	(\$300,000)	\$500,000	\$2,000,000	\$8,500,000	\$15,609,013
Less estimated income	0	0	0	1,000,000	4,500,000	5,561,032
General fund	\$4,000,000	(\$300,000)	\$500,000	\$1,000,000	\$4,000,000	\$10,047,981
FTE	0.00	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> Changes made by the House to the executive compensation package are removed.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per

year for employees below the midpoint of their salary range.

- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

<sup>3</sup> Special funds authority added by the House for Central Services operations is adjusted among line items to reflect anticipated expenses.

<sup>4</sup> Funding removed by the House to allow the Office of Management and Budget to contract with external auditors for certain audits is restored.

<sup>5</sup> One-time funding is added for the Office of Management and Budget to contract for a land use study of the Missouri River Correctional Center site. A section is also added to the bill to provide guidelines for the study and to provide for a report to the Budget Section on the study.

<sup>6</sup> Funding added by the House for costs associated with the implementation of a political subdivision-reporting component for the state database website is removed.

<sup>7</sup> One-time funding from the general fund removed by the House for Capitol grounds parking lot projects is restored.

<sup>8</sup> Funding for the state contingency fund is reduced from \$1,000,000 to \$700,000, the same amount as provided in the executive budget recommendation.

<sup>9</sup> One-time funding of \$500,000 removed by the House for Prairie Public Broadcasting equipment upgrades is restored to provide total one-time funding of \$700,000.

<sup>10</sup> Funding removed by the House for a health insurance pool for temporary employees is restored. A section is added to allow the Office of Management and Budget to transfer funds from the pool to other state agencies.

<sup>11</sup> A section is added to provide funding and guidelines for a state agency energy impact funding pool. The pool is to be used to address housing and salary needs of state agency employees living in areas affected by energy development.

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This amendment also:

- Adds a section to provide guidelines regarding the allocation of community service supervision grants and provides that any funding available in the community service supervision fund is appropriated to the Office of Management and Budget for distribution to community corrections association regions.
- Amends Section 48-10-02 to increase the continuing appropriation provided from the Capitol building fund to the Capitol Grounds Planning Commission from \$100,000 per biennium to \$250,000 per biennium.
- Adjusts Sections 8 and 9 regarding state employee compensation guidelines and agency accrued leave payments line items.
- Removes Section 11 of the bill which enacts a new statutory section for a political subdivision-reporting component to the state database website. Section 15 of the bill, which provided an effective date for the new statutory section, is also removed.
- Removes Sections 12 and 13 of the bill, which provided for studies of state agency facility needs and state employee compensation.

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

**MR. SPEAKER:** The Senate has appointed as a conference committee to act with a like committee from the House on:

**HB 1038:** Sens. J. Lee; Dever; Mathern

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

**MR. PRESIDENT:** The House has appointed as a conference committee to act with a like committee from the Senate on:

**SB 2233:** Reps. Hofstad; Keiser; Hunskor

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1099, HB 1136, HCR 3006.

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

**MR. PRESIDENT:** The House has not adopted the conference committee report on: SB 2072.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2163.

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

**MR. SPEAKER:** The Senate has not adopted the conference committee report on: SB 2369.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1061, HB 1063, HB 1163, HB 1166, HB 1338, HCR 3016.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1080, HB 1102, HB 1139, HB 1157, HB 1205, HB 1251, HB 1440.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2131, SB 2353.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2244.

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

**MR. SPEAKER:** The President has signed: SB 2115, SB 2144, SB 2152, SB 2175, SB 2225, SB 2227, SB 2299, SB 2330, SB 2361.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Secretary of State for filing on April 22, 2013: HB 1156, HB 1209.

**ANNOUNCEMENT**

**SPEAKER DEVLIN ANNOUNCED** that the House would stand in recess until 1:00 p.m.

**THE HOUSE RECONVENED** pursuant to recess taken, with Speaker Devlin presiding.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. VIGESAA MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1001 as printed on HJ pages 1038-1039 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1001: Reps. Thoreson, Brandenburg, Glassheim.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. VIGESAA MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1007 as printed on HJ pages 1084-1085 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1007: Reps. Kempenich, Hawken, Glassheim.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. VIGESAA MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1011 as printed on HJ pages 1057-1058 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1011: Reps. Kempenich, Hawken, Guggisberg.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. VIGESAA MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1422 as printed on HJ page 1687 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1422: Reps. Weisz, Streyle, Oversen.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**REP. VIGESAA MOVED** that the Speaker appoint a committee of three to act with a like committee from the Senate as a Conference Committee on Engrossed SB 2222, which motion prevailed.

**THE SPEAKER APPOINTED** as a Conference Committee on:

**Engrossed SB 2222:** Reps. Dosch, Skarphol, Williams

**APPOINTMENT OF CONFERENCE COMMITTEE**

**REP. VIGESAA MOVED** that the Speaker appoint a new committee of three to act with a like committee from the Senate as a Conference Committee on SB 2072 and Reengrossed SB 2369, which motion prevailed.

**THE SPEAKER APPOINTED** as a new Conference Committee on:

**SB 2072:** Reps. D. Johnson, Kiefert, Boschee

**Reengrossed SB 2369:** Reps. Kasper, Boehning, Amerman

**REPORT OF CONFERENCE COMMITTEE**

**HB 1033, as reengrossed:** Your conference committee (Sens. Schaible, Dever, Marcellais and Reps. Kempenich, Boe, Ruby) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1666, adopt amendments as follows, and place HB 1033 on the Seventh order:

That the Senate recede from its amendments as printed on page 1666 of the House Journal and page 1262 of the Senate Journal and that Reengrossed House Bill No. 1033 be amended as follows:

Page 1, line 2, replace "sale" with "disposition"

Page 1, line 3, after "approval" insert "; to provide for a report to the sixty-fourth legislative assembly"

Page 1, line 16, replace "Each" with "Unless waived by the department, each"

Page 1, line 17, remove "which must be based upon"

Page 1, line 18, remove "the actual cost of operating the aircraft"

Page 2, line 1, replace "**SALE OR DISPOSAL**" with "**DISPOSITION**"

Page 2, line 2, remove "sell or"

Page 2, line 2, after the third "of" insert ", by sale or trade,"

Page 2, line 4, replace "The" with "If the airplanes are sold, the"

Page 2, line 4, remove "or disposal"

Page 2, replace lines 8 through 16 with:

**"SECTION 4. LEGISLATIVE INTENT - NORTH DAKOTA STATE UNIVERSITY AIRPLANE LEASE - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY.** It is the intent of the sixty-third legislative assembly that before June 30, 2017, North Dakota state university discontinue the lease entered by the university for a KingAir B200 airplane and that North Dakota state university provide a report to the appropriations committees of the sixty-fourth legislative assembly regarding the status of its KingAir B200 airplane lease and efforts to utilize other air transportation services."

Renumber accordingly

Reengrossed HB 1033 was placed on the Seventh order of business on the calendar.

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. KEMPENICH MOVED** that the conference committee report on Reengrossed HB 1033 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1033, as amended, was placed on the Eleventh order of business.

#### **SECOND READING OF HOUSE BILL**

**HB 1033:** A BILL for an Act to require authorization of the purchase or lease of aircraft; to provide for the use of department of transportation airplanes; to provide for the disposition of airplanes; to provide legislative intent; to provide for budget section approval; to provide for a report to the sixty-fourth legislative assembly; and to provide an appropriation.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 68 YEAS, 22 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Beadle; Becker; Belter; Boehning; Brabandt; Brandenburg; Carlson; Damschen; Delzer; Dockter; Dosch; Fehr; Frantsvog; Froseth; Grande; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyen; Louser; Maragos; Martinson; Meier; Monson; Nathe; Nelson, J.; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Sukut; Thoreson; Toman; Trottier; Vigesaa; Weisz; Wieland; Williams

**NAYS:** Amerman; Bellew; Boschee; Delmore; Glassheim; Gruchalla; Guggisberg; Haak; Hogan; Holman; Hunskor; Kelsh, J.; Kelsh, S.; Mock; Mooney; Muscha; Nelson, M.; Onstad; Oversen; Strinden; Zaiser; Speaker Devlin

**ABSENT AND NOT VOTING:** Boe; Drovdal; Owens; Wall

Reengrossed HB 1033 passed.

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#### **REPORT OF CONFERENCE COMMITTEE**

**HB 1289, as reengrossed:** Your conference committee (Sens. Schaible, Luick, Marcellais and Reps. Brandenburg, Grande, Boe) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1150, adopt amendments as follows, and place HB 1289 on the Seventh order:

That the Senate recede from its amendments as printed on page 1150 of the House Journal and page 831 of the Senate Journal and that Reengrossed House Bill No. 1289 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation for veterans' higher education assistance programs.

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

**SECTION 1. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$325,000, or so much of the sum as may be necessary, to the North Dakota university system for the purpose of providing assistance to eligible veterans, for the biennium beginning July 1, 2013, and ending June 30, 2015.

1. An eligible veteran must be:
  - a. Enrolled at or in the process of enrolling at an institution of higher education located in this state; or
  - b. Enrolled at or in the process of enrolling at an institution of higher education located in an adjacent state, provided the institution participates in a course exchange agreement with an institution of higher education located in this state.
2. The department of veterans' affairs may accept and expend gifts, grants, and donations, for the purpose of providing additional assistance to eligible veterans."

Renumber accordingly

Reengrossed HB 1289 was placed on the Seventh order of business on the calendar.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. BRANDENBURG MOVED** that the conference committee report on Reengrossed HB 1289 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1289, as amended, was placed on the Eleventh order of business.

**SECOND READING OF HOUSE BILL**

**HB 1289:** A BILL for an Act to provide an appropriation for veterans' higher education assistance programs.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 90 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Becker; Bellew; Belter; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looysen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigasaa; Weisz; Wieland; Williams; Zaiser; Speaker Devlin

**ABSENT AND NOT VOTING:** Boe; Drovdal; Owens; Wall

Reengrossed HB 1289 passed.

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**REPORT OF CONFERENCE COMMITTEE**

**HB 1291, as engrossed:** Your conference committee (Sens. Schaible, Poolman, Heckaman and Reps. Heller, Heilman, J. Kelsh) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1457-1461, adopt amendments as follows, and place HB 1291 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1457-1461 of the House Journal and pages 1016-1020 of the Senate Journal and that Engrossed House Bill No. 1291 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 15.1-21-02.4, 15.1-21-02.5, and 15.1-21-02.6 of the North Dakota Century Code, relating to the provision of North Dakota scholarships to students who receive home education; and to declare an emergency.

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

**SECTION 1. 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 and any resident student who completes a program of home education supervised in accordance with chapter 15.1-23 during or after the 2012-13 school year is eligible to receive a North Dakota career and technical education scholarship provided the student:

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. One unit of algebra II, as defined by the superintendent of public instruction; and
  - b. 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;
- 7. Completed any five additional units, two of which must be in the area of career and technical education;
- 8. a. (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 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; and
    - (2) Obtained a grade of at least "C" in each unit or one-half unit; and
- 9. 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 2. 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 and any resident student who completes a program of home education supervised in accordance with chapter 15.1-23 during or after the 2012-13 school year is eligible to receive a North Dakota academic scholarship provided the student:

- 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. One unit of algebra II, as defined by the superintendent of public instruction; and



- b. One unit of mathematics for which algebra II, as defined by the superintendent of public instruction, is a prerequisite;
- 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.
  - a. Completed:
    - (1) Two units of the same foreign or native American language; or
    - (2) Two units of American sign language; and
  - b. One unit selected from:
    - (1) Foreign languages;
    - (2) Native American languages;
    - (3) American sign language;
    - (4) Fine arts; or
    - (5) Career and technical education;
- 7. 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 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; and  
(2) Obtained a grade of at least "C" in each unit or one-half unit;

9. Received a composite score of at least twenty-four on an ACT; and
10.
  - a. Fulfilled any one unit requirement set forth in subsections 1 through 7 by means of an advanced placement course and examination; or
  - b. Fulfilled any one-half unit requirement set forth in subsections 1 through 7 by means of a dual-credit course.

**SECTION 3. 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.
  - a. 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.
  - b. 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 five hundred dollars for each quarter 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.
2. The state board 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 ten days.
3. A student is not entitled to receive more than six thousand dollars under this section.
4. The state board of higher education shall forward the scholarship directly to the institution in which the student is enrolled.
5.
  - a.
    - (1) This section does not require a student to be enrolled in consecutive semesters.
    - (2) This section does not require a student to be enrolled in consecutive quarters.
  - b. 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.
6. A scholarship under this section is available to any eligible resident student who fulfills the requirements of section 15.1-21-02.4 or 15.1-21-02.5 and who ~~graduates from~~:
  - a. A Graduates from a high school in this state;
  - b. A Graduates from a high school in a bordering state under chapter 15.1-29; ~~or~~
  - c. A Graduates from a nonpublic high school in a bordering state while residing with a custodial parent in this state; or
  - d. Completes a program of home education supervised in accordance with chapter 15.1-23.

7. For purposes of North Dakota scholarship eligibility under this section, "full-time" means enrollment in at least twelve credits during a student's first two semesters and enrollment in at least fifteen credits during each semester thereafter or enrollment in the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.

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

Renumber accordingly

Engrossed HB 1291 was placed on the Seventh order of business on the calendar.

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. HELLER MOVED** that the conference committee report on Engrossed HB 1291 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1291, as amended, was placed on the Eleventh order of business.

#### **SECOND READING OF HOUSE BILL**

**HB 1291:** A BILL for an Act to amend and reenact sections 15.1-21-02.4, 15.1-21-02.5, and 15.1-21-02.6 of the North Dakota Century Code, relating to the provision of North Dakota scholarships to students who receive home education; and to declare an emergency.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 90 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Becker; Bellew; Belter; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunsakor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemm; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyesen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigasaa; Weisz; Wieland; Williams; Zaiser; Speaker Devlin

**ABSENT AND NOT VOTING:** Boe; Drovdal; Owens; Wall

Reengrossed HB 1291 passed and the emergency clause was declared carried.

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#### **REPORT OF CONFERENCE COMMITTEE**

**HB 1405, as engrossed:** Your conference committee (Sens. Schaible, Dever, Marcellais and Reps. Steiner, Dockter, Paur) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1171, adopt amendments as follows, and place HB 1405 on the Seventh order:

That the Senate recede from its amendments as printed on page 1171 of the House Journal and pages 849 and 850 of the Senate Journal and that Engrossed House Bill No. 1405 be amended as follows:

Page 1, line 2, remove "to authorize collections for deposit into the veterans"

Page 1, line 3, remove "postwar trust fund;"

Page 1, line 6, replace "\$25,000" with "\$50,000"

Page 1, line 10, remove "Grants awarded under this section may be used only"

Page 1, remove lines 11 through 20

Renumber accordingly

Engrossed HB 1405 was placed on the Seventh order of business on the calendar.

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. STEINER MOVED** that the conference committee report on Engrossed HB 1405 be adopted.

#### **CONFLICT OF INTEREST**

**REP. AMERMAN STATED** that he had a conflict of interest on Engrossed HB 1405.

#### **MOTION**

**REP. CARLSON MOVED** that Rep. Amerman be allowed to vote on Engrossed HB 1405, which motion prevailed.

The motion to adopt the conference committee report on Engrossed HB 1405 prevailed on a voice vote.

Engrossed HB 1405, as amended, was placed on the Eleventh order of business.

#### **SECOND READING OF HOUSE BILL**

**HB 1405:** A BILL for an Act to provide an appropriation for the identification of and provision of services to veterans exposed to agent orange; and to provide for a report to the budget section.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 90 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Becker; Bellew; Belter; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunsakor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemm; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyson; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigasaa; Weisz; Wieland; Williams; Zaiser; Speaker Devlin

**ABSENT AND NOT VOTING:** Boe; Drovdal; Owens; Wall

Reengrossed HB 1405 passed.

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#### **REPORT OF CONFERENCE COMMITTEE**

**SB 2163:** Your conference committee (Sens. Oehlke, Burckhard, Triplett and Reps. Froseth, Dockter, Haak) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 917, adopt amendments as follows, and place SB 2163 on the Seventh order:

That the House recede from its amendments as printed on page 917 of the Senate Journal and page 1008 of the House Journal and that Senate Bill No. 2163 be amended as follows:

Page 1, line 10, overstrike "The tax rate"

Page 1, line 10, after "for" insert "For"

Page 1, line 10, remove the overstrike over "a-licensed"

Page 1, remove the overstrike over line 11

Page 1, line 12, remove the overstrike over "a. ~~Not exceeding~~"

Page 1, line 13, remove the overstrike over "one million" and insert immediately thereafter "five hundred thousand"

Page 1, line 13, remove the overstrike over the second "dollars" and insert immediately thereafter "the tax"

Page 1, line 13, remove the overstrike over "is"

Page 1, line 14, remove the overstrike over "one"

Page 1, line 14, remove the overstrike over "percent of gross proceeds"

Page 1, line 15, after "e." insert "b."

Page 1, line 15, remove the overstrike over "Exceeding one million" and insert immediately thereafter "five hundred thousand"

Page 1, line 15, remove the overstrike over "dollars"

Page 1, line 15, after "hundred" insert "the tax is fifteen"

Page 1, line 16, remove the overstrike over "thousand dollars"

Page 1, line 16, after "is" insert "plus"

Page 1, line 16, remove the overstrike over "two" and insert immediately thereafter "and twenty-five hundredths"

Page 1, line 16, remove the overstrike over "percent of gross proceeds" and insert immediately thereafter "exceeding one million five hundred thousand dollars"

Page 1, line 16, remove the overstrike over the overstruck period

Page 1, line 17, remove "is one"

Page 1, overstrike line 18

Page 1, line 23, replace "nine and two-tenths" with "seven"

Renumber accordingly

SB 2163 was placed on the Seventh order of business on the calendar.

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. FROSETH MOVED** that the conference committee report on SB 2163 be adopted, which motion prevailed on a voice vote.

SB 2163, as amended, was placed on the Fourteenth order of business.

#### **SECOND READING OF SENATE BILL**

**SB 2163:** A BILL for an Act to amend and reenact section 53-06.1-12 of the North Dakota Century Code, relating to gaming taxes.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 63 YEAS, 27 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Belter; Boehning; Boschee; Brabandt; Brandenburg; Delmore; Dockter; Dosch; Fehr; Frantsvog; Froseth; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunsakor; Johnson, D.; Johnson, N.; Karls; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Looyesen;

Louser; Maragos; Martinson; Meier; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Pollert; Rust; Sanford; Skarphol; Streyle; Strinden; Sukut; Trottier; Wieland; Williams; Zaiser

**NAYS:** Becker; Bellew; Carlson; Damschen; Delzer; Glassheim; Grande; Gruchalla; Guggisberg; Kasper; Keiser; Kreun; Larson; Mock; Paur; Porter; Rohr; Ruby; Schatz; Schmidt; Silbernagel; Steiner; Thoreson; Toman; Vigesaa; Weisz; Speaker Devlin

**ABSENT AND NOT VOTING:** Boe; Drovdal; Owens; Wall

SB 2163, as amended, passed.

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**MOTION**

**REP. MARAGOS MOVED** that the House reconsider its action whereby Reengrossed HB 1412 failed to pass, which motion failed on a verification vote.

**MOTION**

**REP. KRETSCHMAR MOVED** that the House reconsider its action whereby Reengrossed HB 1048 failed to pass, which motion failed on a verification vote.

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

**MR. PRESIDENT:** The House does not concur in the Senate amendments to HB 1001, HB 1007, HB 1011, and HB 1422, and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**HB 1001:** Reps. Thoreson; Brandenburg; Glassheim

**HB 1007:** Reps. Kempenich; Hawken; Glassheim

**HB 1011:** Reps. Kempenich; Hawken; Guggisberg

**HB 1422:** Reps. Weisz; Streyle; Oversen

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

**MR. PRESIDENT:** The House has appointed as a conference committee to act with a like committee from the Senate on:

**SB 2222:** Reps. Dosch; Skarphol; Williams

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

**MR. PRESIDENT:** The House has appointed as a new conference committee to act with a like committee from the Senate on:

**SB 2072:** Reps. D. Johnson; Kiefert; Boschee

**SB 2369:** Reps. Kasper; Boehning; Amerman

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

**MR. SPEAKER:** The Senate has appointed as a new conference committee to act with a like committee from the House on:

**SB 2072:** Sens. Miller; Larsen; Heckaman

**SB 2369:** Sens. Schaible; Dever; Nelson

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1033, HB 1289, HB 1405.

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

**MR. PRESIDENT:** The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1291.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1134.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2163.

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

**MR. SPEAKER:** The President has signed: HB 1061, HB 1063, HB 1163, HB 1166, HB 1338, HCR 3016.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2131, SB 2244, SB 2353.

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

**MR. SPEAKER:** The President has signed: SB 2131, SB 2244, SB 2353.

**ANNOUNCEMENT**

**SPEAKER DEVLIN ANNOUNCED** that the House would stand in recess until 4:30 p.m.

**THE HOUSE RECONVENED** pursuant to recess taken, with Speaker Devlin presiding.

**CORRECTION AND REVISION OF THE JOURNAL**

**MR. SPEAKER:** Your **Committee on Correction and Revision of the Journal (Rep. Kretschmar, Chairman)** has carefully examined the Journal of the Seventieth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1711, line 12. replace "SB 2094" with "SB 2095"

Page 1711, line 15, remove "SB 2163,"

**REP. KRETSCHMAR MOVED** that the report be adopted, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1128:** Your conference committee (Sens. Hogue, Armstrong, Nelson and Reps. K. Koppelman, Brabandt, Toman) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ page 1249, adopt further amendments as follows, and place HB 1128 on the Seventh order:

That the House accede to the Senate amendments as printed on page 1249 of the House Journal and pages 1099 and 1100 of the Senate Journal and that House Bill No. 1128 be further amended as follows:

Page 1, line 2, remove the second "and"

Page 1, line 4, after "spouse" insert "; and to provide for a legislative management study"

Page 3, line 17, after the second underscored period insert "A marital agreement created pursuant to this chapter must be signed within the first one hundred twenty days of the marriage."

Page 6, after line 12, insert:

**"SECTION 3. MARRIAGE AND MARITAL AGREEMENTS - LEGISLATIVE MANAGEMENT STUDY.** During the 2013-14 interim, the legislative management shall consider studying marriage, including the positive influence of marriage on society, children, and government spending, and the use of and the need for marital agreements in the state. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

HB 1128 was placed on the Seventh order of business on the calendar.

#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**REP. K. KOPPELMAN MOVED** that the conference committee report on HB 1128 be adopted, which motion prevailed on a voice vote.

HB 1128, as amended, was placed on the Eleventh order of business.

#### SECOND READING OF HOUSE BILL

**HB 1128:** A BILL for an Act to create and enact chapter 14-03.2 of the North Dakota Century Code, relating to the Uniform Premarital and Marital Agreements Act and the abrogation of common law regarding premarital and marital agreements; to repeal chapter 14-03.1 and section 30.1-05-07 of the North Dakota Century Code, relating to the Uniform Premarital Agreement Act and the waiver of right to elect of a surviving spouse; and to provide for a legislative management study.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 87 YEAS, 2 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Becker; Bellew; Belter; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Drovda; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Vigesa; Weisz; Wieland; Williams; Speaker Devlin

**NAYS:** Silbernagel; Toman

**ABSENT AND NOT VOTING:** Owens; Strinden; Trottier; Wall; Zaiser

Engrossed HB 1128 passed.

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#### REPORT OF CONFERENCE COMMITTEE

**HB 1302, as reengrossed:** Your conference committee (Sens. Oehlke, Armstrong, Axness and Reps. Ruby, K. Koppelman, Delmore) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1343-1360, adopt amendments as follows, and place HB 1302 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1343-1360 of the House Journal and pages 970-987 of the Senate Journal and that Reengrossed House Bill No. 1302 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to sections 27-20-10, 27-20-31, and 39-06.1-10 and a new section to chapter 39-20 of the North Dakota Century Code, relating to the twenty-four seven sobriety program; to amend and reenact subsection 3 of section 29-06-15, subsection 7 of section 39-06.1-10, sections 39-06.1-11, 39-08-01, 39-08-01.2, 39-08-01.3, 39-08-01.4, 39-20-01, 39-20-01.1, 39-20-03.1, 39-20-04, 39-20-04.1, and 39-20-05, subsections 6, 9, and 10 of section 39-20-07, and sections 39-20-14 and 40-05-06 of the North Dakota Century Code, relating to driving while under the influence and city penalties; to provide for an underage drinking prevention program; to provide for a legislative management study; to provide a penalty; and to provide appropriations.

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

**SECTION 1.** A new subsection to section 27-20-10 of the North Dakota Century Code is created and enacted as follows:



If a child is subject to informal adjustment for a violation of section 39-08-01 or equivalent ordinance, or if a child is found to have an alcohol concentration of at least two one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle, the juvenile court shall require the child to participate in the twenty-four seven sobriety program under chapter 54-12 for up to nine months.

**SECTION 2.** A new subsection to section 27-20-31 of the North Dakota Century Code is created and enacted as follows:

If a child is adjudicated delinquent for a violation of section 39-08-01 or equivalent ordinance, or if a child is found to have an alcohol concentration of at least two one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle, the juvenile court shall require the child to participate in the twenty-four seven sobriety program under chapter 54-12.

**SECTION 3. AMENDMENT.** Subsection 3 of section 29-06-15 of the North Dakota Century Code is amended and reenacted as follows:

3. If a law enforcement officer has reasonable cause to believe an individual has violated a lawful order of a court of this state which requires the individual to participate in the twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31, the law enforcement officer may immediately take the individual into custody without a warrant. An individual taken into custody under this subsection may not be released on bail or on the individual's personal recognizance unless the individual has made a personal appearance before a magistrate.

**SECTION 4. AMENDMENT.** Subsection 7 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

7. The period of suspension imposed for a violation of section 39-08-01, 39-08-01.2, or 39-08-01.4 or equivalent ordinance is:
  - a. Ninety-one days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation.
  - b. One hundred eighty days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within five~~the seven~~ years preceding the last violation and the violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
  - c. Three hundred sixty-five days if the operator's record shows the person has once violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation.
  - d. Two years if the operator's record shows the person has at least once violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation and the violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
  - e. Two years if the operator's record shows the person has at least twice violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation.
  - f. Three years if the operator's record shows the person has at least twice violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation and the violation is for an

alcohol concentration of at least eighteen one-hundredths of one percent by weight.

**SECTION 5.** A new subsection to section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

If an individual has a temporary restricted driver's license with the restriction the individual participates in the twenty-four seven sobriety program under chapter 54-12, the individual may operate a motor vehicle during the suspension periods under this section.

**SECTION 6. AMENDMENT.** Section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-11. Temporary restricted license - Ignition interlock device.**

1. Except as provided under subsection 2, if the director has suspended a license under section 39-06.1-10 or has extended a suspension or revocation under section 39-06-43, upon receiving written application from the offender affected, the director may for good cause issue a temporary restricted operator's license valid for the remainder of the suspension period after seven days of the suspension period have passed.
2. If the director has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, upon written application of the offender the director may issue ~~for good cause~~ a temporary restricted license that takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01 or chapter 39-20, but if the offender is participating in the twenty-four seven sobriety program under chapter 54-12, the director may issue a temporary restricted license that takes effect after fourteen days of the suspension have been served if the driver is not subject to any unrelated suspension or revocation. The director may not issue a temporary restricted license to any offender whose operator's license has been revoked under section 39-20-04 or suspended upon a second or subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary restricted license may be issued ~~for good cause in~~ accordance with subsection 5 if the offender is participating in the twenty-four seven sobriety program under chapter 54-12 or if the offender has not committed an offense for a period of two years before the date of the filing of a written application that must be accompanied by a report from an appropriate licensed addiction treatment program or if the offender is participating in the drug court program and has not committed an offense for a period of three hundred sixty-five days before the date of the filing of a written application that must be accompanied by a recommendation from the district court. The director may conduct a hearing for the purposes of obtaining information, reports, and evaluations from courts, law enforcement, and citizens to determine the offender's conduct and driving behavior during the prerequisite period of time. The director may also require that an ignition interlock device be installed in the offender's vehicle.
3. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection 5 of section 39-06-17 or section 39-06-31. A temporary restricted license may be issued for suspensions ordered under subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.
4. A restricted license issued under this section is solely for the use of a motor vehicle during the licensee's normal working hours, or as provided under subsection 5, and may contain any other restrictions authorized by section 39-06-17. Violation of a restriction imposed according to this section is deemed a violation of section 39-06-17.

5. If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance, or if the offender's license is subject to suspension under chapter 39-20 and the offender's driver's license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted driver's permit to the offender only for the purpose of participation upon the restriction the offender participate in the twenty-four seven sobriety program upon under chapter 54-12. The offender shall submit an application to the director for a temporary restricted license along with submission of proof of financial responsibility and proof of participation in the twenty-four seven sobriety program by the offender to receive a temporary restricted license. If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted driver's permit be revoked and take possession of the temporary restricted driver's permit. The court or the parole board shall send a copy of the order to the director who shall record the revocation of the temporary restricted driver's permit. Revocation of a temporary restricted driver's permit for violation of a condition of the twenty-four seven sobriety program does not preclude the offender's eligibility for a temporary restricted driver's license under any other provisions of this section.

**SECTION 7. AMENDMENT.** Section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-01. Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle - Penalty.**

1. A person may not drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:
  - a. That person has an alcohol concentration of at least eight one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle.
  - b. That person is under the influence of intoxicating liquor.
  - c. That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving.
  - d. That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely driving.
  - e. That individual refuses to submit to any of the following:
    - (1) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-06.2-10.2 if the individual is driving or is in actual physical control of a commercial motor vehicle; or
    - (2) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-20-01; or
    - (3) An onsite screening test, or tests, of the individual's breath for the purpose of estimating the alcohol concentration in the

individual's breath upon the request of a law enforcement officer under section 39-20-14.

The fact that any person charged with violating this section is or has been legally entitled to use alcohol or other drugs or substances is not a defense against any charge for violating this section, unless a drug which predominately caused impairment was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to that person.

2. Unless as otherwise provided in section 39-08-01.2, an individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state who refuses to subject to a chemical test, or tests, required under section 39-06.2-10.2, 39-20-01, or 39-20-14, is guilty of an offense under this section.
3. An individual violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a five-year seven-year period, of a class A misdemeanor for a third offense in a five-year seven-year period, of a class A misdemeanor for the fourth offense in a seven-year period, and of a class C felony for a fifth or subsequent offense in a seven-year periodC felony for any fourth or subsequent offense regardless of the length of time since the previous offense. The minimum penalty for violating this section is as provided in subsection 45. The court shall take judicial notice of the fact that an offense would be a subsequent offense if indicated by the records of the director or may make a subsequent offense finding based on other evidence.
- 3-4. Upon conviction of a second or subsequent offense within five seven years under this section or equivalent ordinance, the court must may order the motor vehicle number plates of all of the motor vehicles owned and operated by the offender at the time of the offense to be impounded for the duration of the period of suspension or revocation of the offender's driving privilege by the licensing authority. The impounded number plates must be sent to the director who must retain them for the period of suspension or revocation, subject to their disposition by the court. The court may make an exception to this subsection, on an individual basis, to avoid undue hardship to an individual who is completely dependent on the motor vehicle for the necessities of life, including a family member of the convicted individual and a coowner of the motor vehicle, but not including or if the offender is participating in the twenty-four seven sobriety program.
- 4-5. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection. For purposes of this subsection, unless the context otherwise requires, "drug court program" means a district court-supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and chemical addiction treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug courts and the drug court program.
  - a. (1) For a first offense, the sentence must include both a fine of at least two hundred fifty five hundred dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
  - (2) In addition, for a first offense when the convicted person has an alcohol concentration of at least sixteen one-hundredths of one percent by weight, the offense is an aggravated first offense and the sentence must include a fine of at least seven hundred fifty dollars and at least two days' imprisonment.

- b. For a second offense within ~~five~~seven years, the sentence must include at least ~~five~~ten days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively; or ~~thirty days' community service~~; a fine of at least ~~five hundred~~one thousand dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program; and at least twelve months' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
- c. For a third offense within ~~five~~seven years, the sentence must include at least ~~sixty one hundred twenty~~ days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively; a fine of ~~one at least two~~ thousand dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program; at least one year's supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
- d. For a fourth or subsequent offense ~~within seven years~~, the sentence must include at least ~~one hundred eighty days' year and one day's~~ imprisonment or placement in a minimum security facility, of which ~~forty-eight hours must be served consecutively~~; a fine of ~~one at least two~~ thousand dollars; and an order for addiction evaluation by an appropriate licensed treatment program; at least two years' supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
- e. ~~The execution or imposition of sentence under this section may not be suspended or deferred under subsection 3 or 4 of section 12.1-32-02 for an offense subject to this section.~~
- f. If the offense is subject to subdivision a or b, a municipal court or district court may not suspend a sentence, but may convert each day of a term of imprisonment to ten hours of community service for an offense subject to paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district court may suspend a sentence, except for sixty days' imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation and upon completion of the twenty-four seven sobriety program. If the offense is subject to subdivision d, the district court may suspend a sentence, except for one year's imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the offense is subject to subdivision e or d, the district court may suspend a sentence, except for ten days' imprisonment, under subsection 3 or 4 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the defendant is found to be in need of alcohol and substance abuse treatment and rehabilitation, the district court may order the defendant placed under the supervision and management of the department of corrections and rehabilitation and is subject to the conditions of probation under section 12.1-32-07. The district court shall may require the defendant to complete alcohol and substance abuse treatment and rehabilitation under the direction of the drug court program as a condition of probation in accordance with rules adopted by the supreme court. If the district court finds that a defendant has failed to undergo an evaluation or complete treatment or has violated any condition of probation, the district court shall revoke the defendant's probation and shall sentence the defendant in accordance with this subsection.

- f.g. If the court sentences an individual to the legal and physical custody of the department of corrections and rehabilitation, the department may place the defendant in an alcohol treatment program designated by the department. Upon the individual's successful completion of the alcohol treatment program, the department shall release the individual from imprisonment to serve the remainder of the sentence of imprisonment on probation, which may include placement in another facility or treatment program. If an individual is placed in another facility or treatment program after the release from imprisonment, the remainder of the individual's sentence of imprisonment must be considered time spent in custody. The court may sentence the individual to treatment under subdivision g of subsection 1 of section 12.1-32-02. A court may not order the department to be responsible for the costs of treatment in a private treatment facility.
- h. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this subsectionsection.
- g-i. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program under subdivision g of subsection 1 of section 12.1-32-02 and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section. A court may not order the department of corrections and rehabilitation to be responsible for the costs of treatment in a private treatment facility.
- j. If the court sentences an individual to the legal and physical custody of the department of corrections and rehabilitation, the department may place the individual in an alcohol treatment program designated by the department. Upon the individual's successful completion of the alcohol treatment program, the department shall release the individual from imprisonment to serve the remainder of the sentence of imprisonment on probation, which may include placement in another facility or treatment program. If an individual is placed in another facility or treatment program after release from imprisonment the remainder of the individual's sentence of imprisonment must be considered time spent in custody.
- ~~5-6.~~ As used in subdivisions b and c of subsection 4, the term "imprisonment" includes house arrest. As a condition of house arrest, a defendant may not consume alcoholic beverages. The house arrest must include a program of electronic home detention in whichand the defendant is tested at least twice daily for the consumption of alcoholshall participate in the twenty-four seven sobriety program. The defendant shall defray all costs associated with the electronic home detention. This subsection does not apply to individuals committed to or under the supervision and management of the department of corrections and rehabilitation. For an offense under subdivision b or c of subsection 5, no more than ninety percent of the sentence may be house arrest.
7. As used in this title, participation in the twenty-four seven sobriety program under chapter 54-12 means compliance with sections 54-12-27 through 54-12-31, and requires sobriety breath testing twice per day seven days per week or electronic alcohol monitoring, urine testing, or drug patch testing. The offender is responsible for all twenty-four seven sobriety program fees and the court may not waive the fees.

8. An individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state who refuses to submit to a chemical test, or tests required under section 39-06.2-10.2, 39-20-01, or 39-20-14, is guilty of an offense under this section.

**SECTION 8. AMENDMENT.** Section 39-08-01.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-01.2. Special punishment for causing injury or death while operating a vehicle while under the influence of alcohol.**

- ~~1. If an individual is convicted of an offense under chapter 12.1-16 and the conviction is based in part on the evidence of the individual's operation of a motor vehicle while under the influence of alcohol or drugs, the sentence imposed must include at least one year's imprisonment if the individual was an adult at the time of the offense.~~
  - ~~2. If an individual is convicted of violating section 39-08-01, or section 39-08-03 based in part on the evidence of the individual's operation of a motor vehicle while under the influence of alcohol or drugs, and the violation caused serious bodily injury, as defined in section 12.1-01-04, to another individual, that individual is guilty of a class A misdemeanor and the sentence must include at least ninety days' imprisonment if the individual was an adult at the time of the offense.~~
  - ~~3. The sentence under this section may not be suspended unless the court finds that manifest injustice would result from imposition of the sentence. Before a sentence under this section applies, a defendant must be notified of the minimum mandatory sentence. If the finding of guilt is by jury verdict, the verdict form must indicate that the jury found the elements that create the minimum sentence.~~
1. An individual is guilty of criminal vehicular homicide if the individual commits an offense under section 39-08-01 or equivalent ordinance and as a result the individual causes a death of another individual to occur, including the death of an unborn child, unless the individual who causes the death of the unborn child is the mother. A violation of this subsection is a class A felony. If an individual commits a violation under this subsection, the court shall impose at least three years' imprisonment. If the individual violates this section after having been previously convicted of a violation of section 39-08-01 or 39-08-03, or equivalent ordinance, the court shall impose at least ten years' imprisonment. An individual may not be prosecuted and found guilty of this and an offense under chapter 12.1-16 if the conduct arises out of the same incident.
  2. An individual is guilty of criminal vehicular injury if the individual violates section 39-08-01 or equivalent ordinance and as a result that individual causes substantial bodily or serious bodily injury to another individual. Violation of this subsection is a class C felony. If an individual violates this subsection, the court shall impose at least one year's imprisonment. If the individual violates this section after having been previously convicted of a violation of section 39-08-01 or 39-08-03 or equivalent ordinance, the court shall impose at least two years' imprisonment.
  3. The sentence under this section may not be suspended unless the court finds that manifest injustice would result from the imposition of the sentence. Before a sentence under this section applies, a defendant must be notified of the minimum mandatory sentence. The elements of an offense under this section are the elements of an offense for a violation of section 39-08-01 and the additional elements that create an offense in each subsection of this section.

**SECTION 9. AMENDMENT.** Section 39-08-01.3 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-01.3. Alcohol-related traffic offenses - ~~Ignition interlock devices and the seizure~~Seizure, forfeiture, and sale of motor vehicles.**

A motor vehicle owned and operated by a ~~person~~an individual upon a highway or upon public or private areas to which the public has a right of access for vehicular use may be seized, forfeited, and sold or otherwise disposed of pursuant to an order of the court at the time of sentencing if the ~~person~~individual is in violation of section 39-08-01, 39-08-01.2, or 39-08-01.4, or an equivalent ordinance and has been convicted of violating section 39-08-01 or an equivalent ordinance at least one other time within the ~~five~~seven years preceding the violation. ~~The court may also require that an ignition interlock device be installed in the person's vehicle for a period of time that the court deems appropriate.~~

**SECTION 10. AMENDMENT.** Section 39-08-01.4 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-01.4. Driving while under the influence of alcohol while being accompanied by a minor - Penalty.**

It is a class A misdemeanor for an individual who is at least twenty-one years of age to violate section 39-08-01 if the violation occurred while a minor was accompanying the individual in a motor vehicle. If an individual has a previous conviction for a violation of section 39-08-01.4, a violation of this section is a class C felony.

**SECTION 11. AMENDMENT.** Section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-01. Implied consent to determine alcohol concentration and presence of drugs.**

1. Any individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine. As used in this chapter, the word "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.
2. The test or tests must be administered at the direction of a law enforcement officer only after placing the individual, except individuals mentioned in section 39-20-03, under arrest and informing that individual that the individual is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking into custody of a child under section 27-20-13 or an individual under twenty-one years of age satisfies the requirement of an arrest.
3. The law enforcement officer shall ~~also~~ inform the individual charged that North Dakota law requires the individual to take the test to determine whether the individual is under the influence of alcohol or drugs; that refusal to take the test directed by the law enforcement officer is a crime punishable in the same manner as driving under the influence; and that refusal of the individual to submit to the test ~~determined appropriate~~will directed by the law enforcement officer may result in a revocation for a minimum of one hundred eighty days and up to four~~three~~ years of the individual's driving privileges. The law enforcement officer shall determine which of the tests is to be used.



4. When an individual under the age of eighteen years is taken into custody for violating section 39-08-01 or an equivalent ordinance, the law enforcement officer shall attempt to contact the individual's parent or legal guardian to explain the cause for the custody. Neither the law enforcement officer's efforts to contact, nor any consultation with, a parent or legal guardian may be permitted to interfere with the administration of chemical testing requirements under this chapter. The law enforcement officer shall mail a notice to the parent or legal guardian of the minor within ten days after the test results are received or within ten days after the minor is taken into custody if the minor refuses to submit to testing. The notice must contain a statement of the test performed and the results of that test; or if the minor refuses to submit to the testing, a statement notifying of that fact. The attempt to contact or the contacting or notification of a parent or legal guardian is not a precondition to the admissibility of chemical test results or the finding of a consent to, or refusal of, chemical testing by the individual in custody.

**SECTION 12. AMENDMENT.** Section 39-20-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-01.1. Chemical test of driver in serious bodily injury or fatal crashes.**

1. ~~Notwithstanding section 39-20-01 or 39-20-04, when~~ If the driver of a vehicle is involved in an accident crash resulting in the death of another ~~person~~ individual, and there is probable cause to believe that the driver is in violation of section 39-08-01 ~~or has committed a moving violation as defined in section 39-06.1-09, the driver must be compelled by a police~~ law enforcement officer shall request the driver to submit to a chemical test or tests of the driver's blood, breath, or urine to determine the alcohol concentration or the presence of other drugs or substances, or both.
2. ~~Notwithstanding section 39-20-01 or 39-20-04, when~~ If the driver of a vehicle is involved in an accident crash resulting in the serious bodily injury, as defined in section 12.1-01-04, of another ~~person~~ individual, and there is probable cause to believe that the driver is in violation of section 39-08-01, a law enforcement officer ~~may compel~~ shall request the driver to submit to a test or tests of the driver's blood, breath, or urine to determine the alcohol concentration or the presence of other drugs or substances, or both. The methods and techniques established by the director of the state crime laboratory must be followed in collecting and preserving a specimen or conducting a test.
3. If the driver refuses to submit to a chemical test or tests of the driver's blood, breath, or urine and exigent circumstances are not present, the law enforcement officer shall request a search warrant to compel the driver to submit to a chemical test or tests of the driver's blood, breath, or urine to determine the alcohol concentration or the presence of other drugs or substances, or both.
4. The approved methods of the director of the state crime laboratory or the director's designee must be followed in collecting and preserving a sample of the driver's blood, breath, or urine and conducting a chemical test or tests to determine the alcohol concentration or the presence of other drugs, or substances, or both.

**SECTION 13. AMENDMENT.** Section 39-20-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-03.1. Action following test result for a resident operator.**

If a person submits to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test shows that person to have an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under

twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle, the following procedures apply:

1. The law enforcement officer shall immediately issue to that person a temporary operator's permit if the person then has valid operating privileges, extending driving privileges for the next twenty-five days, or until earlier terminated by the decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the director's official notification to the person of the director's intent to revoke, suspend, or deny driving privileges in this state.
2. If a test administered under section 39-20-01 or 39-20-03 was by urine sample or by drawing blood as provided in section 39-20-02 and the individual tested is not a resident of an area in which the law enforcement officer has jurisdiction, the law enforcement officer shall, on receiving the analysis of the urine or blood from the director of the state crime laboratory or the director's designee and if the analysis shows that individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, either proceed in accordance with subsection 1 during that individual's reappearance within the officer's jurisdiction, proceed in accordance with subsection 3, or notify a law enforcement agency having jurisdiction where the individual lives. On that notification, that law enforcement agency shall, within twenty-four hours, forward a copy of the temporary operator's permit to the law enforcement agency making the arrest or to the director. The law enforcement agency shall issue to that individual a temporary operator's permit as provided in this section, and shall sign and date the permit as provided in subsection 1.
3. If the test results indicate an alcohol concentration at or above the legal limit, the law enforcement agency making the arrest may mail a temporary operator's permit to the individual who submitted to the blood or urine test, whether or not the individual is a resident of the area in which the law enforcement officer has jurisdiction. The third day after the mailing of the temporary operator's permit is considered the date of issuance. Actual notice of the opportunity for a hearing under this section is deemed to have occurred seventy-two hours after the notice is mailed by regular mail to the address submitted by the individual to the law enforcement officer. The temporary operator's permit serves as the director's official notification to the individual of the director's intent to revoke, suspend, or deny driving privileges in this state.
4. The law enforcement officer, within five days of the issuance of the temporary operator's permit, shall forward to the director a certified written report in the form required by the director. If the individual was issued a temporary operator's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the individual had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the individual was lawfully arrested, that the individual was tested for alcohol concentration under this chapter, and that the results of the test show that the individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight. In addition to the operator's license and report, the law enforcement officer shall forward to the director a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood or urine test for all tests administered at the direction of the officer.

5. An individual charged with a violation of section 39-08-01 or equivalent ordinance may elect to participate in the twenty-four seven sobriety program under chapter 54-12 in lieu of the administrative hearing under this chapter if the individual's driver's license is not subject to an unrelated suspension or revocation. Notwithstanding any other provision of law, an individual may not receive a temporary restricted operator's license until after fourteen days after the administrative hearing on the offense under this chapter has been waived or held, or after fourteen days of the final appeal, whichever is longer. The director shall issue a temporary restricted driver's license with the restriction the individual participate in the twenty-four seven sobriety program upon application by the individual with submission of proof of financial responsibility and proof of participation in the twenty-four seven sobriety program under chapter 54-12.

**SECTION 14. AMENDMENT.** Section 39-20-04 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-04. Revocation of privilege to drive motor vehicle upon refusal to submit to testing.**

1. If a person refuses to submit to testing under section 39-20-01 or 39-20-14, none may be given, but the law enforcement officer shall immediately take possession of the person's operator's license if it is then available and shall immediately issue to that person a temporary operator's permit, if the person then has valid operating privileges, extending driving privileges for the next twenty-five days or until earlier terminated by a decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the director's official notification to the person of the director's intent to revoke driving privileges in this state and of the hearing procedures under this chapter. The director, upon the receipt of that person's operator's license and a certified written report of the law enforcement officer in the form required by the director, forwarded by the officer within five days after issuing the temporary operator's permit, showing that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01 or equivalent ordinance or, for purposes of section 39-20-14, had reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol, that the person was lawfully arrested if applicable, and that the person had refused to submit to the test or tests under section 39-20-01 or 39-20-14, shall revoke that person's license or permit to drive and any nonresident operating privilege for the appropriate period under this section, or if the person is a resident without a license or a permit to operate a motor vehicle in this state, the director shall deny to the person the issuance of a license or permit for the appropriate period under this section after the date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as provided in this chapter. In the revocation of the person's operator's license the director shall give credit for time in which the person was without an operator's license after the day of the person's refusal to submit to the test except that the director may not give credit for time in which the person retained driving privileges through a temporary operator's permit issued under this section or section 39-20-03.2. The period of revocation or denial of issuance of a license or permit under this section is:
  - a. One year~~hundred eighty days~~ if the person's driving record shows that within the ~~five~~seven years preceding the most recent violation of this section, the person's operator's license has not previously been

suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.

- b. ~~Three~~Two years if the person's driving record shows that within the ~~five~~seven years preceding the most recent violation of this section, the person's operator's license has been once previously suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.
  - c. ~~Four~~Three years if the person's driving record shows that within the ~~five~~seven years preceding the most recent violation of this section, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination of the same, and the suspensions, revocations, or denials resulted from at least two separate arrests.
2. A person's driving privileges are not subject to revocation under subdivision a of subsection 1 if all of the following criteria are met:
- a. An administrative hearing is not held under section 39-20-05;
  - b. The person mails an affidavit to the director within twenty-five days after the temporary operator's permit is issued. The affidavit must state that the person:
    - (1) Intends to voluntarily plead guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
    - (2) Agrees that the person's driving privileges must be suspended as provided under section 39-06.1-10;
    - (3) Acknowledges the right to a section 39-20-05 administrative hearing and section 39-20-06 judicial review and voluntarily and knowingly waives these rights; and
    - (4) Agrees that the person's driving privileges must be revoked as provided under this section without an administrative hearing or judicial review, if the person does not plead guilty within twenty-five days after the temporary operator's permit is issued, or the court does not accept the guilty plea, or the guilty plea is withdrawn;
  - c. The person pleads guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
  - d. The court accepts the person's guilty plea and a notice of that fact is mailed to the director within twenty-five days after the temporary operator's permit is issued; and
  - e. A copy of the final order or judgment of conviction evidencing the acceptance of the person's guilty plea is received by the director prior to the return or reinstatement of the person's driving privileges; ~~and~~
  - f. ~~The person has never been convicted under section 39-08-01 or equivalent ordinance.~~
3. The court must mail a copy of an order granting a withdrawal of a guilty plea to violating section 39-08-01, or equivalent ordinance, to the director within ten days after it is ordered. Upon receipt of the order, the director shall immediately revoke the person's driving privileges as provided under this section without providing an administrative hearing.

**SECTION 15. AMENDMENT.** Section 39-20-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-04.1. Administrative sanction for driving or being in physical control of a vehicle while having certain alcohol concentration.**

1. After the receipt of the certified report of a law enforcement officer and if no written request for hearing has been received from the arrested person under section 39-20-05, or if that hearing is requested and the findings, conclusion, and decision from the hearing confirm that the law enforcement officer had reasonable grounds to arrest the person and test results show that the arrested person was driving or in physical control of a vehicle while having an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight at the time of the performance of a test within two hours after driving or being in physical control of a motor vehicle, the director shall suspend the person's driving privileges as follows:
  - a. For ninety-one days if the person's driving record shows that, within the ~~five~~seven years preceding the date of the arrest, the person has not previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has not previously been suspended or revoked under this chapter and the violation was for an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, and under eighteen one-hundredths of one percent by weight.
  - b. For one hundred eighty days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within ~~five~~the seven years preceding the last violation and the last violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
  - c. For three hundred sixty-five days if the person's driving record shows that, within the ~~five~~seven years preceding the date of the arrest, the person has once previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has once previously been suspended or revoked under this chapter with the last violation or suspension for an alcohol concentration under eighteen one-hundredths of one percent by weight.
  - d. For two years if the person's driving record shows that within the ~~five~~seven years preceding the date of the arrest, the person's operator's license has once been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, with the last violation or suspension for an alcohol concentration of at least eighteen one-hundredths of one percent by weight or if the person's driving record shows that within the ~~five~~seven years preceding the date of arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests with the last violation or suspension for an alcohol concentration of under eighteen one-hundredths of one percent by weight.
  - e. For three years if the operator's record shows that within ~~five~~the seven years preceding the date of the arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section

39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests and the last violation or suspension was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

2. In the suspension of the person's operator's license the director shall give credit for the time the person was without an operator's license after the day of the offense, except that the director may not give credit for the time the person retained driving privileges through a temporary operator's permit issued under section 39-20-03.1 or 39-20-03.2.

**SECTION 16. AMENDMENT.** Section 39-20-05 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-05. Administrative hearing on request - Election to participate in the twenty-four seven sobriety program.**

1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or 39-20-04.1, the director shall afford that person an opportunity for a hearing if the person mails or communicates by other means authorized by the director a request for the hearing to the director within ten days after the date of issuance of the temporary operator's permit. Upon completion of the hearing, an individual may elect to participate in the twenty-four seven sobriety program under chapter 54-12. The hearing must be held within thirty days after the date of issuance of the temporary operator's permit. If no hearing is requested within the time limits in this section, and no affidavit is submitted within the time limits under subsection 2 of section 39-20-04, and if the individual has not provided the director with written notice of election to participate in the twenty-four seven sobriety program under chapter 54-12, the expiration of the temporary operator's permit serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state.
2. If the issue to be determined by the hearing concerns license suspension for operating a motor vehicle while having an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the director and at a time and place designated by the director. The hearing must be recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the individual had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with respect to an individual under twenty-one years of age, the individual had been driving or was in actual physical control of a vehicle while having an alcohol concentration of at least two one-hundredths of one percent by weight; whether the individual was placed under arrest, unless the individual was under twenty-one years of age and the alcohol concentration was less than eight one-hundredths of one percent by weight, then arrest is not required and is not an issue under any provision of this chapter; whether the individual was tested in accordance with section 39-20-01 or 39-20-03 and, if applicable, section 39-20-02; and whether the test results show the individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood or urine sample from the director of the state crime laboratory or the director's designee, or electronically posted by the director of the state crime laboratory or the director's designee on the crime laboratory information management system and certified by a law enforcement officer or individual who has authorized access to the crime laboratory management system through the criminal justice data

information sharing system or a certified copy of the checklist and test records from a certified breath test operator, and a copy of a certified copy of a certificate of the director of the state crime laboratory designating the director's designees. establish prima facie the alcohol concentration or the presence of drugs, or a combination thereof, shown therein. Whether the individual was informed that the privilege to drive might be suspended based on the results of the test is not an issue.

3. If the issue to be determined by the hearing concerns license revocation for refusing to submit to a test under section 39-20-01 or 39-20-14, the hearing must be before a hearing officer assigned by the director at a time and place designated by the director. The hearing must be recorded. The scope of a hearing for refusing to submit to a test under section 39-20-01 may cover only the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with respect to a person under twenty-one years of age, the person had been driving or was in actual physical control of a vehicle while having an alcohol concentration of at least two one-hundredths of one percent by weight; whether the person was placed under arrest; and whether that person refused to submit to the test or tests. The scope of a hearing for refusing to submit to a test under section 39-20-14 may cover only the issues of whether the law enforcement officer had reason to believe the person committed a moving traffic violation or was involved in a traffic accident as a driver, whether in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol and, whether the person refused to submit to the onsite screening test. Whether the person was informed that the privilege to drive would be revoked or denied for refusal to submit to the test or tests is not an issue.
4. At a hearing under this section, the regularly kept records of the director and state crime laboratory may be introduced. Those records establish prima facie their contents without further foundation. For purposes of this chapter, the following are deemed regularly kept records of the director and state crime laboratory:
  - a. Any copy of a certified copy of an analytical report of a blood or urine sample received by the director from the director of the state crime laboratory or the director's designee or electronically posted by the director of the state crime laboratory or the director's designee on the crime laboratory information management system and certified by, and received from, a law enforcement officer or an individual who has authorized access to the crime laboratory management system through the criminal justice data information sharing system, or a certified copy of the checklist and test records received by the director from a certified breath test operator; and
  - b. Any copy of a certified copy of a certificate of the director of the state crime laboratory or the director's designee relating to approved methods, devices, operators, materials, and checklists used for testing for alcohol concentration or the presence of drugs received by the director from the director of the state crime laboratory or the director's designee, or that have been electronically posted with the state crime laboratory division of the attorney general at the attorney general website; and
  - c. Any copy of a certified copy of a certificate of the director of the state crime laboratory designating the director's designees.
5. At the close of the hearing, the hearing officer shall notify the person of the hearing officer's findings of fact, conclusions of law, and decision based on the findings and conclusions and shall immediately deliver to the person a copy of the decision. If the hearing officer does not find in

favor of the person, the copy of the decision serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. If the hearing officer finds, based on a preponderance of the evidence, that the person refused a test under section 39-20-01 or 39-20-14 or that the person had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, the hearing officer shall immediately take possession of the person's temporary operator's permit issued under this chapter. If the hearing officer does not find against the person, the hearing officer shall sign, date, and mark on the person's permit an extension of driving privileges for the next twenty days and shall return the permit to the person. The hearing officer shall report the findings, conclusions, and decisions to the director within ten days of the conclusion of the hearing. If the hearing officer has determined in favor of the person, the director shall return the person's operator's license by regular mail to the address on file with the director under section 39-06-20.

6. If the person who requested a hearing under this section fails to appear at the hearing without justification, the right to the hearing is waived, and the hearing officer's determination on license revocation, suspension, or denial will be based on the written request for hearing, law enforcement officer's report, and other evidence as may be available. The hearing officer shall, on the date for which the hearing is scheduled, mail to the person, by regular mail, at the address on file with the director under section 39-06-20, or at any other address for the person or the person's legal representative supplied in the request for hearing, a copy of the decision which serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. Even if the person for whom the hearing is scheduled fails to appear at the hearing, the hearing is deemed to have been held on the date for which it is scheduled for purposes of appeal under section 39-20-06.

**SECTION 17. AMENDMENT.** Subsection 6 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

6. The director of the state crime laboratory or the director's designee may appoint, train, certify, and supervise field inspectors of breath testing equipment and its operation, and the inspectors shall report the findings of any inspection to the director of the state crime laboratory or the director's designee for appropriate action. Upon approval of the methods or devices, or both, required to perform the tests and the individuals qualified to administer them, the director of the state crime laboratory or the director's designee shall prepare, certify, and electronically post a written record of the approval with the state crime laboratory division of the attorney general at the attorney general website, and shall include in the record:
  - a. An annual register of the specific testing devices currently approved, including serial number, location, and the date and results of last inspection.
  - b. An annual register of currently qualified and certified operators of the devices, stating the date of certification and its expiration.
  - c. The operational checklist and forms prescribing the methods currently approved by the director of the state crime laboratory or the director's designee in using the devices during the administration of the tests.
  - d. The certificate of the director of the state crime laboratory designating the director's designees.



- e. The certified records electronically posted under this section may be supplemented when the director of the state crime laboratory or the director's designee determines it to be necessary, and any certified supplemental records have the same force and effect as the records that are supplemented.
- e-f. The state crime laboratory shall make the certified records required by this section available for download in a printable format on the attorney general website.

**SECTION 18. AMENDMENT.** Subsection 9 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

- 9. Notwithstanding any statute or rule to the contrary, a defendant who has been found to be indigent by the court in the criminal proceeding at issue may subpoena, without cost to the defendant, the individual who conducted the chemical analysis referred to in this section to testify at the trial on the issue of the amount of alcohol concentration or presence of other drugs, or a combination thereof in the defendant's blood, breath, or urine at the time of the alleged act. If the ~~state toxicologist, the director of the state crime laboratory, or any employee of either, or designee~~ is subpoenaed to testify by a defendant who is not indigent and the defendant does not call the witness to establish relevant evidence, the court shall order the defendant to pay costs to the witness as provided in section 31-01-16. ~~An indigent defendant may also subpoena the individual who withdrew the defendant's blood by following the same procedure.~~

**SECTION 19. AMENDMENT.** Subsection 10 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

- 10. ~~A signed statement from the individual medically qualified to draw the blood sample for testing as set forth in subsection 5 is prima facie evidence that the blood sample was properly drawn and no further foundation for the admission of this evidence may be required. A law enforcement officer who has witnessed an individual who is medically qualified to draw the blood sample for testing may sign a verified statement that the law enforcement officer witnessed the individual draw the blood sample and the individual followed the approved methods of the state toxicologist. Further foundation is not required to establish that the blood sample was drawn according to the approved method of the state toxicologist.~~

**SECTION 20. AMENDMENT.** Section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-14. Screening tests.**

- 1. Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the individual's breath for the purpose of estimating the alcohol concentration in the individual's breath upon the request of a law enforcement officer who has reason to believe that the individual committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol.
- 2. An individual may not be required to submit to a screening test or tests of breath while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient.

3. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that North Dakota law requires the individual to take the screening test to determine whether the individual is under the influence of alcohol, that refusal to take the screening test is a crime, and that refusal of the individual to submit to a screening test will may result in a revocation for at least one hundred eighty days and up to fourthree years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available. ~~However, the~~
4. The director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath, blood, or urine sample for a chemical test requested under section 39-20-01 for the same incident.
5. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein.
6. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol in an individual's blood, breath, or urine.

**SECTION 21.** A new section to chapter 39-20 of the North Dakota Century Code is created and enacted as follows:

**Restricted license upon twenty-four seven sobriety program participation.**

Any driver suspended under this chapter may elect to participate in the twenty-four seven sobriety program under chapter 54-12. The director may issue a temporary restricted license that takes effect after fifteen days of the suspension have been served provided that the driver is not subject to any unrelated suspension. Notwithstanding any other provision of law, an individual may not receive a temporary restricted operator's license until after fourteen days after the administrative hearing on the offense under this chapter has been waived or held, or after fourteen days of the final appeal, whichever is longer.

**SECTION 22. AMENDMENT.** Section 40-05-06 of the North Dakota Century Code is amended and reenacted as follows:

**40-05-06. City fines and penalties limited.**

1. Except as provided in subsections 2 and 3, the fine or penalty for the violation of any ordinance, resolution, or regulation of a city may not exceed one thousand five hundred dollars, and the imprisonment may not exceed thirty days for one offense.
2. For every violation of a city ordinance regulating the operation or equipment of motor vehicles or regulating traffic, except those ordinances listed in section 39-06.1-05, a fee may be established, by ordinance, which may not exceed the limits, for equivalent categories of violations, set forth in section 39-06.1-06.

3. For every violation of a city ordinance enforcing the requirements of 40 CFR 403 relating to publicly owned treatment works, or prohibiting shoplifting, vandalism, criminal mischief, or malicious mischief, the penalty may not exceed a fine of one thousand dollars, imprisonment for thirty days, or both such fine and imprisonment.

This section does not prohibit the use of the sentencing alternatives, other than a fine or imprisonment, provided by section 12.1-32-02 for the violation of a city ordinance, nor does this section limit the use of deferred or suspended sentences under subsections 3 and 4 of section 12.1-32-02.

**SECTION 23. LEGISLATIVE MANAGEMENT STUDY - ADMINISTRATIVE PROCEDURE FOR DRIVING UNDER THE INFLUENCE.** During the 2013-14 interim, the legislative management shall consider studying the administrative procedure for driving under the influence of alcohol and drugs. The study must include a review of the use of ignition interlock devices and of the effect of an individual refusing to submit to chemical testing. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

**SECTION 24. DEPARTMENT OF HUMAN SERVICES - UNDERAGE DRINKING PREVENTION PROGRAM.** The department of human services shall facilitate the continuation of the parents listen, educate, ask, discuss program, a multiagency collaboration among the department of human services, department of transportation, North Dakota state university extension service, and North Dakota university system which has the goal of reducing the consumption of alcohol by minors by providing developmentally appropriate strategies and evidence-based underage drinking prevention services to parents and professionals throughout the state. Through this program the department of human services shall collaborate with the governor's prevention advisory council on drugs and alcohol in pursuing prevention activities.

**SECTION 25. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$360,000, or so much of the sum as may be necessary, to the department of human services for the purpose of funding the underage drinking prevention program provided for under section 24 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015.

**SECTION 26. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,200,000, or so much of the sum as may be necessary, to the attorney general for the purpose of purchasing secure continuous remote alcohol monitors for individuals in the twenty-four seven sobriety program, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Renumber accordingly

Reengrossed HB 1302 was placed on the Seventh order of business on the calendar.

#### MOTION

**REP. VIGESAA MOVED** that HB 1302, which is on the Seventh order, be laid over one legislative day, which motion prevailed.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1306, as reengrossed:** Your conference committee (Sens. Miller, Burckhard, Dotzenrod and Reps. Bellew, Dockter, Zaiser) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1424, adopt amendments as follows, and place HB 1306 on the Seventh order:

That the Senate recede from its amendments as printed on page 1424 of the House Journal and pages 987 and 988 and 1291 and 1292 of the Senate Journal and that Reengrossed House Bill No. 1306 be amended as follows:

Page 1, line 15, replace "nine" with "six"

Page 1, line 15, after "~~four~~" insert "seven"

Page 1, line 15, remove the overstrike over "~~hundred~~" and insert immediately thereafter "fifty"

Page 1, line 24, replace "nine" with "six"

Page 1, line 24, after "~~four~~" insert "seven"

Page 1, line 24, remove the overstrike over "~~hundred~~" and insert immediately thereafter "fifty"

Page 2, line 5, replace "nine" with "six"

Page 2, line 5, after "~~four~~" insert "seven"

Page 2, line 5, remove the overstrike over "~~hundred~~" and insert immediately thereafter "fifty"

Page 2, line 16, remove "a. A disabled veteran or unremarried surviving spouse who would qualify for a credit"

Page 2, remove lines 17 through 31

Page 3, remove lines 1 through 11

Page 3, line 12, remove "5."

Page 3, line 15, remove "and 'income' has the meaning provided in section"

Page 3, line 16, remove "57-02-08.1"

Page 3, line 17, remove the overstrike over "~~5.~~"

Page 3, line 17, remove "6."

Page 3, line 19, remove the overstrike over "~~6.~~"

Page 3, line 19, remove "7."

Page 3, line 24, remove the overstrike over "~~7.~~"

Page 3, line 24, remove "8."

Page 4, line 1, remove the overstrike over "~~8.~~"

Page 4, line 1, remove "9."

Page 4, line 7, remove the overstrike over "~~9.~~"

Page 4, line 7, remove "10."

Page 4, line 11, remove the overstrike over "~~—10.~~"

Page 4, line 11, remove "11."

Page 4, line 15, remove the overstrike over "~~11.~~"

Page 4, line 15, remove "12."

Page 4, line 22, after "2012" insert ", for ad valorem property taxes and for taxable years beginning after December 31, 2013, for mobile home taxes"

Renumber accordingly

Reengrossed HB 1306 was placed on the Seventh order of business on the calendar.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. BELLEW MOVED** that the conference committee report on Reengrossed HB 1306 as printed on HJ pages 1785-1786 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1306, as amended, was placed on the Eleventh order of business.

**SECOND READING OF HOUSE BILL**

**HB 1306:** A BILL for an Act to amend and reenact section 57-02-08.8 of the North Dakota Century Code, relating to disabled veteran's eligibility for a homestead tax credit and a renter credit; and to provide an effective date.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 89 YEAS, 0 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Becker; Bellew; Belter; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Drovda; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Sukut; Thoreson; Toman; Vigasaa; Weisz; Wieland; Williams; Speaker Devlin

**ABSENT AND NOT VOTING:** Owens; Strinden; Trottier; Wall; Zaiser

Reengrossed HB 1306 passed.

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**REPORT OF CONFERENCE COMMITTEE**

**HCR 3011, as engrossed:** Your conference committee (Sens. Hogue, Armstrong, Grabinger and Reps. Paur, Klemin, Hanson) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1232-1233, adopt amendments as follows, and place HCR 3011 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1232 and 1233 of the House Journal and pages 1073 and 1074 of the Senate Journal and that Engrossed House Concurrent Resolution No. 3011 be amended as follows:

Page 1, line 2, after "impact" insert "of measures to initiate constitutional amendments and to the placing"

Page 1, line 2, after "measures" insert "on the ballot"

Page 1, line 4, after "a" insert "significant"

Page 1, line 4, remove "of"

Page 1, line 5, remove "twenty million dollars or more"

Page 1, line 5, after the period insert "The measure also would prohibit the approval for circulation of any petition to initiate a constitutional amendment that would make a direct appropriation of public funds for a specific purpose or require the legislative assembly to appropriate funds for a specific purpose."

Page 1, line 20, overstrike "a procedure through which the legislative"

Page 1, line 21, overstrike "council may establish"

Page 1, line 21, after "the" insert "extent of the"

Page 1, line 23, remove "If the legislative council determines the fiscal impact of an initiated measure will be"

Page 1, remove lines 24 and 25

Page 2, replace lines 1 and 2 with "A measure determined to have a significant fiscal impact must be voted on at a general election."

If a petition to initiate a constitutional amendment would make a direct appropriation of public funds for a specific purpose or would require the legislative assembly to appropriate funds for a specific purpose, the petition may not be approved for circulation."

Renumber accordingly

Engrossed HCR 3011 was placed on the Seventh order of business on the calendar.

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. PAUR MOVED** that the conference committee report on Engrossed HCR 3011 be adopted, which motion prevailed on a voice vote.

Engrossed HCR 3011, as amended, was placed on the Eleventh order of business.

#### **SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3011:** A concurrent resolution to amend and reenact section 2 of article III of the Constitution of North Dakota, relating to the fiscal impact of measures to initiate constitutional amendments and to the placing of initiated measures on the ballot.

#### **ROLL CALL**

The question being on the final adoption of the amended resolution, which has been read. The roll was called and there were 54 YEAS, 35 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bellew; Belter; Boehning; Brandenburg; Carlson; Damschen; Delzer; Dockter; Dosch; Drovdal; Froseth; Grande; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Johnson, D.; Karls; Kasper; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kreun; Larson; Looyesen; Louser; Maragos; Monson; Nathe; Nelson, J.; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schmidt; Silbernagel; Skarphol; Streyle; Sukut; Thoreson; Toman; Vigasaa; Weisz; Wieland; Speaker Devlin

**NAYS:** Amerman; Beadle; Becker; Boe; Boschee; Brabandt; Delmore; Fehr; Frantsvog; Glassheim; Gruchalla; Guggisberg; Haak; Hanson; Hogan; Holman; Hunskor; Johnson, N.; Keiser; Kelsh, J.; Kelsh, S.; Kretschmar; Laning; Martinson; Meier; Mock; Mooney; Muscha; Nelson, M.; Onstad; Oversen; Rust; Schatz; Steiner; Williams

**ABSENT AND NOT VOTING:** Owens; Strinden; Trottier; Wall; Zaiser

Reengrossed HCR 3011 was declared adopted on a recorded roll call vote.

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**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1250.

#### **SENATE AMENDMENTS TO HOUSE BILL NO. 1250**

In lieu of the amendments adopted by the Senate as printed on pages 1102-1113 of the Senate Journal, House Bill No. 1250 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact three new sections to chapter 57-38, a new subdivision to subsection 7 of section 57-38-30.3, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota

Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment; to amend and reenact subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsection 3 of section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, section 57-38-30, subsection 1 and subdivisions c, d, and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes, reduction in income tax rates for corporations, individuals, estates, and trusts, transition of financial institutions to corporate income tax treatment, income tax credits and exclusions, and allocation to political subdivisions from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax; to provide for a report; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 2. AMENDMENT.** Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation, ~~financial institution~~, or trust subject to the taxes imposed by chapter ~~57-35.3~~ or 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

**SECTION 3. AMENDMENT.** Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3~~ or 57-38.

**SECTION 4. AMENDMENT.** Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

**40-63-06. Historic preservation and renovation tax credit.**

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

**SECTION 5. AMENDMENT.** Subsection 3 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3~~ or 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~ chapter 57-38 as if the exemption did not exist. If an employer, this subsection

does not exempt a renaissance fund organization from complying with the income tax withholding laws.

**SECTION 6. AMENDMENT.** Subsection 4 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 7. AMENDMENT.** Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

**SECTION 8. AMENDMENT.** Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:
  - a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.
  - b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate. Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certificate before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.
  - c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.
  - d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.
  - e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.



- f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.
- g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.
- h. Be in compliance with the securities laws of this state.
- i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:
  - (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;
  - (2) The dollar amount remitted by the taxpayer or passthrough entity; and
  - (3) The date the payment was received by the angel fund for the investment.
- j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

**SECTION 9. AMENDMENT.** Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

- 5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~
- 7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions tax~~ return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

**SECTION 10.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Employer-provided child care credit.**

- 1. An employer is allowed a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for providing a qualified child care facility. The amount of the credit under this section is fifty percent of the qualified child care expenditures incurred by the employer. Qualified child care expenditures under this section may not be used in the calculation of any other income tax deduction or credit allowed under state law.
- 2. For purposes of this section:
  - a. "Employer" means a taxpayer who employs one or more full-time equivalent employees and whose primary source of income is from a business other than the business of providing child care services.
  - b. "Qualified child care expenditure" means any amount paid or incurred:

- (1) To acquire, construct, rehabilitate, or expand property:
  - (a) That is to be used as part of a qualified child care facility;
  - (b) For which a deduction under federal law for depreciation, or amortization in lieu of depreciation, is allowable; and
  - (c) That does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer;
- (2) For the direct costs necessary for the operation of the child care facility;
- (3) For the indirect or overhead costs properly attributable to the child care facility, including insurance, utilities, front office salaries, property taxes, legal fees, and advertising; or
- (4) Under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, including any amount paid to the child care facility for additional direct or indirect costs of the facility.

The term "qualified child care expenditure" does not include expenses in excess of the fair market value of such care.

- c. "Qualified child care facility" means a facility the principal use of which is to provide child care assistance to the taxpayer's employees and that meets the requirements of all applicable laws and regulations of the state and local government in which it is located.
  - (1) The term "qualified child care facility" does not apply to a facility which is the principal residence of the operator of the facility.
  - (2) A facility may not be treated as a qualified child care facility with respect to a taxpayer unless:
    - (a) Enrollment in the facility is open to employees of the taxpayer during the taxable year; and
    - (b) Eligibility for enrollment must be offered to all employees on an equal opportunity basis.
3. The taxpayer shall claim the total credit amount for the taxable year in which the qualified child care expenditures are made, except depreciated property expenditures shall be claimed in the taxable year in which the property is placed in service. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year.
4. If two or more taxpayers share in the qualified child care expenditures, each taxpayer must be allowed the credit in relation to the respective share paid or incurred by each taxpayer of the total expenditures for the facility in each taxable year.
5. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.
6. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. The total credit determined at the entity level must be passed through to the partners, shareholders, or

members in proportion to their respective interests in the passthrough entity. An individual taxpayer may take the credit passed through under this subsection against the individual's state income tax liability under section 57-38-30.3.

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit in the form and manner as may be prescribed by the tax commissioner.
8. It is the intent of the legislative assembly that the credit provided in this section must be liberally construed and interpreted to effectuate the expansion of child care availability in the state.

**SECTION 11.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit under section 10 of this Act.

**SECTION 12.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Financial institutions - Net operating losses - Credit carryovers.**

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:
  - a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and
  - b. Is binding until the earlier of:
    - (1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or
    - (2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.
2. If an election is made under this section, the following apply:
  - a. A subchapter S corporation may not file a consolidated return.
  - b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.
  - c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3.

**SECTION 13.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Corporate credit for contributions to rural leadership North Dakota.**

There is allowed a credit against the tax imposed by section 57-38-30 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university.

extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient.

**SECTION 14. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-30. Imposition and rate of tax on corporations.**

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~fifty-eight hundredths percent.
2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~ninety-eight hundredths percent.
3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~fifteen~~eighty-four hundredths percent.

**SECTION 15. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

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

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

If North Dakota taxable income is:      The tax is equal to:

Not over ~~\$34,500~~\$36,250      1.51%1.36%

Over ~~\$34,500~~\$36,250    ~~\$520.95~~\$494.28 plus 2.82%2.55%

but not over ~~\$83,600~~\$87,850      of amount over ~~\$34,500~~\$36,250

Over ~~\$83,600~~\$87,850    ~~\$1,905.57~~\$1,808.25 plus 3.13%2.83%

but not over ~~\$174,400~~\$183,250      of amount over ~~\$83,600~~\$87,850

Over ~~\$174,400~~\$183,250      ~~\$4,747.61~~\$4,504.63 plus 3.63%3.28%

but not over ~~\$379,150~~\$398,350      of amount over ~~\$174,400~~\$183,250

Over ~~\$379,150~~\$398,350      ~~\$12,180.04~~\$11,555.37 plus 3.99%3.60%

of amount over ~~\$379,150~~\$398,350

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$57,700~~\$60,650 4.54%1.36%

Over ~~\$57,700~~\$60,650 ~~\$871.27~~\$826.98 plus 2.82%2.55%

but not over ~~\$139,350~~\$146,400 of amount over ~~\$57,700~~\$60,650

Over ~~\$139,350~~\$146,400 ~~\$3,173.80~~\$3,010.57 plus 3.13%2.83%

but not over ~~\$242,300~~\$223,050 of amount over ~~\$139,350~~\$146,400

Over ~~\$242,300~~\$223,050 ~~\$5,457.14~~\$5,177.00 plus 3.63%3.28%

but not over ~~\$379,150~~\$398,350 of amount over ~~\$242,300~~\$223,050

Over ~~\$379,150~~\$398,350 ~~\$11,513.79~~\$10,923.14 plus 3.99%3.60%

of amount over ~~\$379,150~~\$398,350

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$28,850~~\$30,325 4.54%1.36%

Over ~~\$28,850~~\$30,325 ~~\$435.64~~\$413.49 plus 2.82%2.55%

but not over ~~\$69,675~~\$73,200 of amount over ~~\$28,850~~\$30,325

Over ~~\$69,675~~\$73,200 ~~\$1,586.90~~\$1,505.28 plus 3.13%2.83%

but not over ~~\$106,150~~\$111,525 of amount over ~~\$69,675~~\$73,200

Over ~~\$106,150~~\$111,525 ~~\$2,728.57~~\$2,588.49 plus 3.63%3.28%

but not over ~~\$189,575~~\$199,175 of amount over ~~\$106,150~~\$111,525

Over ~~\$189,575~~\$199,175 ~~\$5,756.90~~\$5,461.56 plus 3.99%3.60%

of amount over ~~\$189,575~~\$199,175

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$46,250~~\$48,600 4.54%1.36%

Over ~~\$46,250~~\$48,600 ~~\$698.38~~\$662.68 plus 2.82%2.55%

but not over ~~\$119,400~~\$125,450 of amount over ~~\$46,250~~\$48,600

Over ~~\$119,400~~\$125,450 ~~\$2,761.21~~\$2,619.63 plus 3.13%2.83%

but not over ~~\$193,350~~\$203,150 of amount over ~~\$119,400~~\$125,450

Over ~~\$193,350~~\$203,150 ~~\$5,075.84~~\$4,815.74 plus 3.63%3.28%

but not over ~~\$379,150~~\$398,350 of amount over ~~\$193,350~~\$203,150

Over ~~\$379,150~~\$398,350 ~~\$11,820.38~~\$11,214.18 plus 3.99%3.60%

of amount over ~~\$379,150~~\$398,350

e. Estates and trusts.

If North Dakota taxable income is:      The tax is equal to:

Not over ~~\$2,300~~\$2,450 ~~1.51%~~1.36%

Over ~~\$2,300~~\$2,450    ~~\$34.73~~\$33.41 plus ~~2.82%~~2.55%

but not over ~~\$5,450~~\$5,700      of amount over ~~\$2,300~~\$2,450

Over ~~\$5,450~~\$5,700    ~~\$123.56~~\$116.17 plus ~~3.13%~~2.83%

but not over ~~\$8,300~~\$8,750      of amount over ~~\$5,450~~\$5,700

Over ~~\$8,300~~\$8,750    ~~\$212.77~~\$202.37 plus ~~3.63%~~3.28%

but not over ~~\$11,350~~\$11,950      of amount over ~~\$8,300~~\$8,750

Over ~~\$11,350~~\$11,950    ~~\$323.48~~\$307.26 plus ~~3.99%~~3.60%

of amount over ~~\$11,350~~\$11,950

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

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

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

- g. The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

**SECTION 16. AMENDMENT.** Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

- c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35-3~~section 12 of this Act.
- d. Reduced by ~~thirty~~forty percent of:

- (1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.
- (2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008. Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to twenty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.~~
- f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~ section 12 of this Act.

**SECTION 17.** Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under this subsection. This subsection applies to the first tax year beginning after December 31, 2012.
8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

**SECTION 18.** Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

**SECTION 19.** Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

**SECTION 20. AMENDMENT.** Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-26.1. Allocation of revenues among political subdivisions.**

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~ forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided

by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.
  - a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:
    - (1) Thirty-two percent of the amount must be allocated equally among the counties; and
    - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.
  - b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:
    - (1) Forty percent of the amount must be allocated equally among the counties; and
    - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.



**SECTION 21. REPEAL.** Chapter 57-35.3 of the North Dakota Century Code is repealed.

**SECTION 22. LEGISLATIVE MANAGEMENT REPORT.** By December 31, 2014, the department of human services, with the assistance of the tax commissioner, shall prepare and file a report with the legislative council on the impact of the employer-provided child care credit on the availability of child care and on existing child care providers' ability to continue to provide affordable quality child care and the effects on the ability of the state's workforce to find affordable quality child care.

**SECTION 23. EFFECTIVE DATE.** Section 20 of this Act is effective for taxable events occurring after June 30, 2014, and the remainder of this Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1258.

**SENATE AMENDMENTS TO HOUSE BILL NO. 1258**

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "15.1-21-02.5" insert "and 15.1-21-02.6"

Page 2, replace lines 6 through 14 with:

- "6. a. Completed two units of:
- (1) ~~Two units of the~~The same foreign or native American language;
  - (2) The same native American language;
  - (3) American sign language; ~~or~~
  - (4) Career and technical education from a coordinated plan of study recommended by the department of career and technical education and approved by the superintendent of public instruction; and
- b. One unit selected from:
- (1) Foreign languages;
  - (2) Native American languages;
  - (3) American sign language;
  - (4) Fine arts; or
  - (5) Career and technical education;"

Page 2, after line 29, insert:

**"SECTION 2. AMENDMENT.** Section 15.1-21-02.6 of the North Dakota Century Code is amended and reenacted as follows:

**5.1-21-02.6. North Dakota scholarship - Amount - Applicability.**

1. a. (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.

- b. (2) 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 five hundred dollars for each quarter 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.
- b. (1) The state board of higher education shall provide to any student who graduates from high school during or after the 2012-13 school year and who is 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 one thousand two 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.
- (2) The state board of higher education shall provide to any student who graduates from high school during or after the 2012-13 school year and is 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 eight hundred thirty-three dollars, for each quarter 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.
- 2. The state board 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 ten days.
- 3. a. A~~Except as provided in this subsection, a~~ student is not entitled to receive more than six thousand dollars under this section.
- b. A student who graduates from high school during or after the 2012-13 school year is entitled to receive up to ten thousand dollars under this section.
- 4. The state board of higher education shall forward the scholarship directly to the institution in which the student is enrolled.
- 5. a. (1) This section does not require a student to be enrolled in consecutive semesters.
- (2) This section does not require a student to be enrolled in consecutive quarters.
- b. 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.
- 6. A scholarship under this section is available to any eligible resident student who fulfills the requirements of section 15.1-21-02.4 or 15.1-21-02.5 and who graduates from:

- a. A high school in this state;
  - b. A high school in a bordering state under chapter 15.1-29; or
  - c. A nonpublic high school in a bordering state while residing with a custodial parent in this state.
7. a. For purposes of North Dakota scholarship eligibility under this section, "full-time" means enrollment in at least twelve credits during a student's first two semesters and enrollment in at least fifteen credits during each semester thereafter or enrollment in the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.
- b. (1) If a student requires fewer than fifteen credits to graduate, the student may retain scholarship eligibility by enrolling in fewer than fifteen but at least twelve credits during the semester, or the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.
  - (2) Students who graduated from high school during the 2009-10 or the 2010-11 school year and who have completed six semesters may retain scholarship eligibility by enrolling in only twelve credits during each of the student's final two semesters, or the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system."

Renumber accordingly

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently passed: HCR 3047.

**SENATE AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3047**

Page 1, line 2, replace "department" with "commission"

Page 1, line 6, replace "department" with "three-member commission"

Page 1, line 6, remove "with"

Page 1, line 7, replace "the charge that the department" with "to"

Page 1, line 17, replace "The department" with "A three-member commission"

Page 1, remove lines 21 through 25

Page 2, remove lines 1 through 9

Page 2, line 10, replace "4." with:

- "2. The governor shall appoint each member of the commission from a list of at least three nominees agreed to by a majority of the following:
- a. The speaker of the house of representatives;
  - b. The president pro tempore of the senate;
  - c. The chief justice of the North Dakota supreme court;
  - d. The superintendent of public instruction; and
  - e. A representative of an educational interest group selected by three of the four aforementioned individuals.

3. The governor shall ensure that one member of the commission has leadership experience in a private sector business, industry, or service, and that one member, at the time of appointment, holds a professional position within the higher education sector. Each member of the commission must be confirmed by the senate.
4. The term of office for each commission member is four years, except that the initial terms must be staggered by lot so that no more than one member's term expires each year. Each term begins on July first and members may be reappointed to three consecutive terms.
5. A member of the commission is subject to removal by impeachment in the same manner as that established for the removal of the governor.
- 6."

Page 2, line 10, replace "director" with "commission"

Page 2, line 13, replace "director" with "commission"

Page 2, line 14, replace "director" with "commission"

Page 2, after line 14, insert:

- "7. The legislative assembly may provide for the appointment of an advisory board that includes a faculty and a student representative."

Renumber accordingly

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

**MR. SPEAKER:** The Senate has appointed as a conference committee to act with a like committee from the House on:

**HB 1001:** Sens. Carlisle; Holmberg; O'Connell

**HB 1007:** Sens. G. Lee; Holmberg; Robinson

**HB 1011:** Sens. Bowman; Wanzek; Warner

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1128, HB 1306, HCR 3011.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report on: HB 1099, HB 1112.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1138, HB 1170, HB 1171, HCR 3034.

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

**MR. SPEAKER:** The President has signed: HB 1080, HB 1102, HB 1139, HB 1157, HB 1205, HB 1251, HB 1440.

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

**MR. PRESIDENT:** The Speaker has signed: HB 1061, HB 1063, HB 1080, HB 1102, HB 1139, HB 1163, HB 1166, HB 1338, HCR 3016.

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

**MR. PRESIDENT:** The Speaker has signed: HB 1157, HB 1205, HB 1251, HB 1440.

**MOTION**

**REP. VIGESAA MOVED** that the absent members be excused, which motion prevailed.

**MOTION**

**REP. VIGESAA MOVED** that the House be on the Fourth, Fifth, Seventh, and Sixteenth orders of business and at the conclusion of those orders, the House stand adjourned until 8:00 a.m., Tuesday, April 23, 2013, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1025, as engrossed:** Your conference committee (Sens. Hogue, Lyson, Grabinger and Reps. Kretschmar, Klemin, Delmore) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1227-1229, adopt amendments as follows, and place HB 1025 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1227-1229 of the House Journal and pages 1068-1070 of the Senate Journal and that Engrossed House Bill No. 1025 be amended as follows:

Page 1, line 1, remove "subsection 3 of section 37-17.1-12 and"

Page 1, line 1, after "sections" insert "37-17.1-12,"

Page 1, line 2, after "37-17.1-16" insert a comma

Page 1, replace lines 5 through 13 with:

**"SECTION 1. AMENDMENT.** Section 37-17.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**37-17.1-12. Compensation - Entitlement - Time - Amount.**

1. Persons within this state shall conduct themselves and keep and manage their affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public to effectively prevent, mitigate, prepare for, respond to, and recover from a disaster or emergency. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster or emergency. This chapter neither increases nor decreases these obligations but recognizes their existence under the Constitution of North Dakota and statutes of this state and the common law. Compensation for services or for the taking or use of property must be only to the extent that obligations recognized herein are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered that person's services or property without compensation.
2. Personal services may not be compensated by the state or any county or city thereof, except pursuant to statute or local law or ordinance.
3. Compensation for property ~~must~~may be ~~only~~paid if the property was commandeered or otherwise used in management of a disaster or emergency declared ~~by the governor and its use or destruction was ordered by the governor~~under proper authority to the extent not otherwise waived or agreed upon before the use of property.
4. A claim made against a county or city must be made in writing to the appropriate governing body within two years after the use, damage, loss, or destruction of the property under proper authority is discovered or reasonably should have been discovered, may only be for actual damages not recovered from claimants' property or other applicable insurance, and may be paid from any combination of funds provided under section 40-33-02.2, disaster relief funds made available to a county or city for this purpose, or other funds at the discretion of the governing body. A city or county may establish reasonable provisions for the payment of compensation.
5. Any person claiming compensation for the use, damage, loss, or destruction of property ~~by the state~~ under this chapter shall file a written claim therefor with the office of management and budget in the form and

manner required by the office. The claim for compensation must be received by the office of management and budget within ~~one year~~two years after the use, damage, loss, or destruction of the property pursuant to the governor's order under section 37-17.1-05 is discovered or reasonably should have been discovered or compensation under this chapter is waived.

- ~~5-6.~~ Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed between the claimant and the office of management and budget, the amount of compensation must be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state."

Page 1, line 18, remove the overstrike over "~~The state, a county or city, any~~"

Page 1, line 18, remove "Any"

Page 1, line 21, remove the overstrike over "~~person~~"

Page 1, line 21, remove "individual"

Page 1, line 22, remove the overstrike over "~~person~~"

Page 1, line 22, remove "individual"

Page 2, line 4, after "property" insert "except as compensation may be provided in section 37-17.1-12"

Page 2, line 23, after "negligence" insert "or willful and malicious failure to guard or warn against a dangerous condition, use, structure, or activity"

Renumber accordingly

Engrossed HB 1025 was placed on the Seventh order of business on the calendar.

The House stood adjourned pursuant to Representative Vigesaa's motion.

**Buell J. Reich, Chief Clerk**