

VOLUME I
CHAPTERS 1 THROUGH 277

LAWS

PASSED AT
The Sixty-seventh Session
OF THE
Legislative Assembly
OF THE
STATE OF NORTH DAKOTA

BEGUN AND HELD AT BISMARCK, THE CAPITAL, ON
TUESDAY, JANUARY 5, 2021, AND
ADJOURNING THURSDAY, APRIL 29, 2021

AUTHENTICATION

STATE OF NORTH DAKOTA Department of State, Bismarck

I, Alvin A. Jaeger, Secretary of State, certify that the laws contained herein are true and correct copies, except clerical errors, of the laws and resolutions passed at the Sixty-seventh Session of the Legislative Assembly of the State of North Dakota, beginning Tuesday, January 5, 2021, and concluding Thursday, April 29, 2021; and also of the constitutional measures submitted at the general election held November 3, 2020.

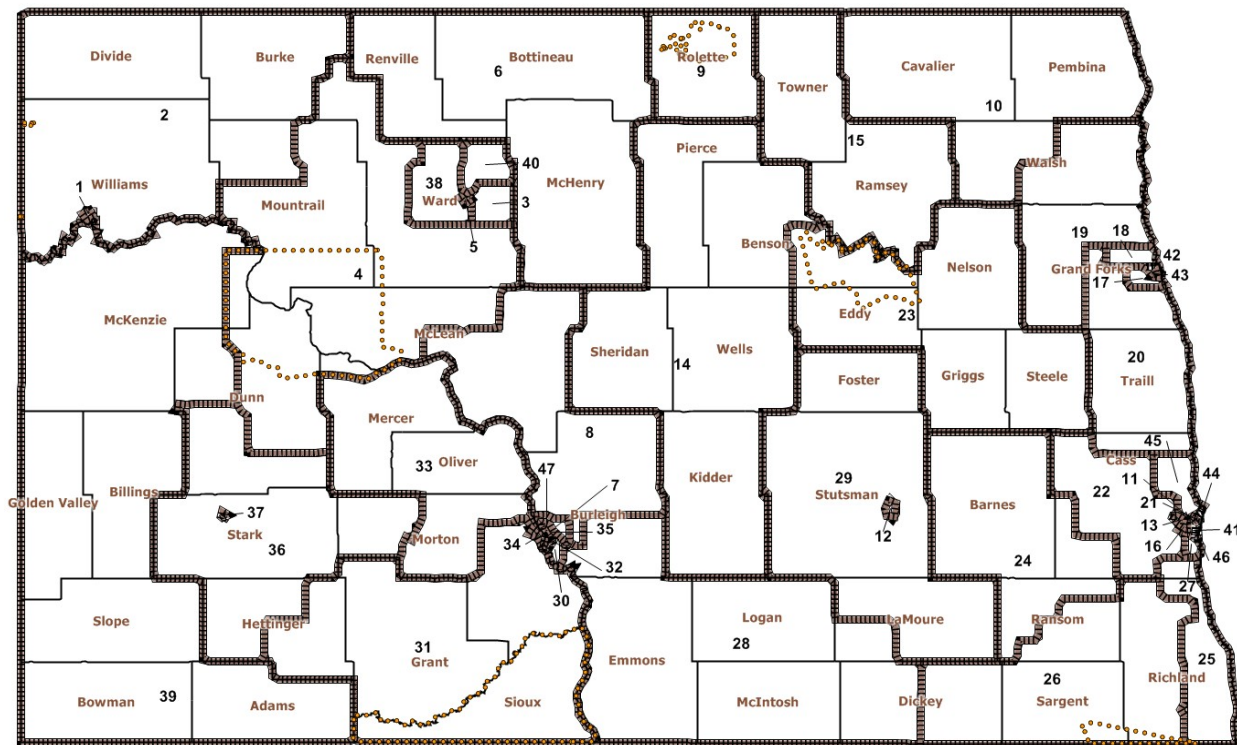
In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of North Dakota, this first day of July 2021.

(SEAL)

ALVIN A. JAEGER
Secretary of State

John Bjornson, Vonette J. Richter, and Emily L. Thompson of the Legislative Council certify that we have prepared the contents of these volumes and that the measures, laws, and resolutions contained herein are true and correct copies of the original measures, laws, and resolutions on file in the office of the Secretary of State in the State Capitol at Bismarck, North Dakota, clerical errors excepted.

JOHN BJORNSON
EMILY L. THOMPSON



LEGISLATIVE DISTRICTS

Legislative Districting Effective During the Sixty-seventh Legislative Session

MEMBERS OF THE SIXTY-SEVENTH LEGISLATIVE ASSEMBLY
State of North Dakota, January 5, 2021, to April 29, 2021

SENATE

President - Lieutenant Governor Brent Sanford
Secretary - Shanda Morgan, Bismarck

Dist.	County	Name	Affil.	Address
1	Pt. Williams	Brad Bekkedahl	R	Williston
2	Burke, Divide, Pt. Mountrail, Pt. Williams	David S. Rust	R	Tioga
3	Pt. Ward	Oley Larsen	R	Minot
4	Pt. Dunn, Pt. McKenzie, Pt. McLean, Pt. Mercer, Pt. Mountrail, Pt. Ward	Jordan Kannianen	R	Stanley
5	Pt. Ward	Randall A. Burckhard	R	Minot
6	Bottineau, McHenry, Renville	Shawn Vedaa	R	Velva
7	Pt. Burleigh	Nicole Poolman	R	Bismarck
8	Pt. Burleigh, Pt. McLean	Howard C. Anderson, Jr.	R	Turtle Lake
9	Rolette	Richard Marcellais	D	Belcourt
10	Cavalier, Pembina, Pt. Walsh	Janne Myrdal	R	Edinburg
11	Pt. Cass	Tim Mathern	D	Fargo
12	Pt. Stutsman	Cole Conely	R	Jamestown
13	Pt. Cass	Judy Lee	R	West Fargo
14	Pt. Benson, Kidder, Pierce, Sheridan, Wells	Jerry Klein	R	Fessenden
15	Ramsey, Towner	Dave Oehlke	R	Devils Lake
16	Pt. Cass	David A. Clemens	R	West Fargo
17	Pt. Grand Forks	Ray Holmberg	R	Grand Forks
18	Pt. Grand Forks	Scott Meyer	R	Grand Forks
19	Pt. Grand Forks, Pt. Walsh	Robert O. Fors	R	Larimore
20	Pt. Cass, Pt. Grand Forks, Traill	Randy D. Lemm	R	Hillsboro
21	Pt. Cass	Kathy Hogan	D	Fargo
22	Pt. Cass	Mark F. Weber	R	Casselton
23	Pt. Benson, Eddy, Griggs, Nelson, Steele	Joan Heckaman	D	New Rockford
24	Barnes, Pt. Cass, Pt. Ransom	Michael A. Wobbema	R	Valley City
25	Pt. Cass, Pt. Richland	Larry Luick	R	Fairmount
26	Pt. Dickey, Pt. Ransom, Pt. Richland, Sargent	Jason G. Heitkamp	R	Wahpeton
27	Pt. Cass	Kristin Roers	R	Fargo
28	Pt. Burleigh, Pt. Dickey, Emmons, Pt. LaMoure, Logan, McIntosh	Robert Erbele	R	Lehr
29	Foster, Pt. LaMoure, Pt. Stutsman	Terry M. Wanzek	R	Jamestown
30	Pt. Burleigh	Diane Larson	R	Bismarck
31	Grant, Pt. Hettinger, Pt. Morton, Sioux	Donald Schaible	R	Mott
32	Pt. Burleigh	Dick Dever	R	Bismarck

33	Pt. Mercer, Pt. Morton, Oliver	Jessica Bell	R	Beulah
34	Pt. Morton	Doug Larsen	R	Mandan
35	Pt. Burleigh	Erin Oban	D	Bismarck
36	Pt. Dunn, Pt. Hettinger, Pt. Morton, Pt. Stark	Jay R. Elkin	R	Taylor
37	Pt. Stark	Rich Wardner	R	Dickinson
38	Pt. Ward	David Hogue	R	Minot
39	Adams, Billings, Bowman, Pt. Dunn, Golden Valley, Pt. McKenzie, Slope	Dale Patten	R	Watford City
40	Pt. Ward	Karen K. Krebsbach	R	Minot
41	Pt. Cass	Kyle Davison	R	Fargo
42	Pt. Grand Forks	Curt Kreun	D	Grand Forks
43	Pt. Grand Forks	JoNell A. Bakke	D	Grand Forks
44	Pt. Cass	Merrill Piepkorn	D	Fargo
45	Pt. Cass	Ronald Sorvaag	R	Fargo
46	Pt. Cass	Jim P. Roers	R	Fargo
47	Pt. Burleigh	Michael Dwyer	R	Bismarck

HOUSE OF REPRESENTATIVES
Speaker - Kim Koppelman
Chief Clerk - Buell Reich, Bismarck

Dist.	County	Name	Affil.	Address
1	Pt. Williams	Patrick Hatlestad	R	Williston
1	Pt. Williams	David Richter	R	Williston
2	Burke, Divide, Pt. Mountrail, Pt. Williams	Bert Anderson	R	Crosby
2	Burke, Divide, Pt. Mountrail, Pt. Williams	Donald Longmuir	R	Stanley
3	Pt. Ward	Jeff A. Hoverson	R	Minot
3	Pt. Ward	Bob Paulson	R	Minot
4	Pt. Dunn, Pt. McKenzie, Pt. McLean, Pt. Mercer, Pt. Mountrail, Pt. Ward	Clayton Fegley	R	Berthold
4	Pt. Dunn, Pt. McKenzie, Pt. McLean, Pt. Mercer, Pt. Mountrail, Pt. Ward	Terry B. Jones	R	New Town
5	Pt. Ward	Jay Fisher	R	Minot
5	Pt. Ward	Scott Louser	R	Minot
6	Bottineau, McHenry, Renville	Dick Anderson	R	Willow City
6	Bottineau, McHenry, Renville	Paul J. Thomas	R	Velva
7	Pt. Burleigh	Rick Becker	R	Bismarck
7	Pt. Burleigh	Jason Dockter	R	Bismarck
8	Pt. Burleigh, Pt. McLean	Jeff Delzer	R	Underwood
8	Pt. Burleigh, Pt. McLean	Dave Nehring	R	Bismarck
9	Rolette	Tracy Boe	D	Mylo
9	Rolette	Marvin E. Nelson	D	Rolla
10	Cavalier, Pembina, Pt. Walsh	Chuck Damschen	R	Hampden
10	Cavalier, Pembina, Pt. Walsh	David Monson	R	Osnabrock
11	Pt. Cass	Gretchen Dobervich	D	Fargo
11	Pt. Cass	Ron Guggisberg	D	Fargo
12	Pt. Stutsman	Mitch Ostlie	R	Jamestown
12	Pt. Stutsman	Bernie Satrom	R	Jamestown
13	Pt. Cass	Kim Koppelman	R	West Fargo
13	Pt. Cass	Austen Schauer	R	West Fargo
14	Pt. Benson, Kidder, Pierce, Sheridan, Wells	Jon O. Nelson	R	Rugby
14	Pt. Benson, Kidder, Pierce, Sheridan, Wells	Robin Weisz	R	Hurdsfield
15	Ramsey, Towner	Dennis Johnson	R	Devils Lake
15	Ramsey, Towner	Greg Westlind	R	Cando
16	Pt. Cass	Ben Koppelman	R	West Fargo
16	Pt. Cass	Andrew Marschall	R	Fargo
17	Pt. Grand Forks	Mark S. Owens	R	Grand Forks
17	Pt. Grand Forks	Mark Sanford	R	Grand Forks
18	Pt. Grand Forks	Corey Mock	D	Grand Forks
18	Pt. Grand Forks	Steve Vetter	D	Grand Forks

19	Pt. Grand Forks, Pt. Walsh	Gary Paur	R	Gilby
19	Pt. Grand Forks, Pt. Walsh	Wayne A. Trottier	R	Northwood
20	Pt. Cass, Pt. Grand Forks, Traill	Mike Beltz	R	Hillsboro
20	Pt. Cass, Pt. Grand Forks, Traill	Jared C. Hagert	R	Emerado
21	Pt. Cass	LaurieBeth Hager	D	Fargo
21	Pt. Cass	Mary Schneider	D	Fargo
22	Pt. Cass	Michael Howe	R	West Fargo
22	Pt. Cass	Brandy Pyle	R	Cassellton
23	Pt. Benson, Eddy, Griggs, Nelson, Steele	Bill Devlin	R	Finley
23	Pt. Benson, Eddy, Griggs, Nelson, Steele	Don Vigesaa	R	Cooperstown
24	Barnes, Pt. Cass, Pt. Ransom	Cole Christensen	R	Rogers
24	Barnes, Pt. Cass, Pt. Ransom	Dwight Kiefert	R	Valley City
25	Pt. Cass, Pt. Richland	Alisa Mitskog	D	Wahpeton
25	Pt. Cass, Pt. Richland	Cynthia Schreiber- Beck	R	Wahpeton
26	Pt. Dickey, Pt. Ransom, Pt. Richland, Sargent	Sebastian Ertelt	R	Lisbon
26	Pt. Dickey, Pt. Ransom, Pt. Richland, Sargent	Kathy Skroch	R	Lidgerwood
27	Pt. Cass	Ruth Buffalo	D	Fargo
27	Pt. Cass	Greg Stemen	R	Fargo
28	Pt. Burleigh, Pt. Dickey, Emmons, Pt. LaMoure, Logan, McIntosh	Mike Brandenburg	R	Edgeley
28	Pt. Burleigh, Pt. Dickey, Emmons, Pt. LaMoure, Logan, McIntosh	Jeffery J. Magrum	R	Hazelton
29	Foster, Pt. LaMoure, Pt. Stutsman	Craig Headland	R	Montpelier
29	Foster, Pt. LaMoure, Pt. Stutsman	Chet Pollert	R	Carrington
30	Pt. Burleigh	Glenn Bosch	R	Bismarck
30	Pt. Burleigh	Mike Nathe	R	Bismarck
31	Grant, Pt. Hettinger, Pt. Morton, Sioux	Karen M. Rohr	R	Mandan
31	Grant, Pt. Hettinger, Pt. Morton, Sioux	Jim Schmidt	R	Huff
32	Pt. Burleigh	Pat D. Heinert	R	Bismarck
32	Pt. Burleigh	Lisa Meier	R	Bismarck
33	Pt. Mercer, Pt. Morton, Oliver	Gary Kreidt	R	New Salem
33	Pt. Mercer, Pt. Morton, Oliver	Bill Tveit	R	Hazen
34	Pt. Morton	Todd Porter	R	Mandan
34	Pt. Morton	Nathan Toman	R	Mandan
35	Pt. Burleigh	Karen Karls	R	Bismarck
35	Pt. Burleigh	Bob Martinson	R	Bismarck

36	Pt. Dunn, Pt. Hettinger, Pt. Morton, Pt. Stark	Dori Hauck*	R	Hebron
36	Pt. Dunn, Pt. Hettinger, Pt. Morton, Pt. Stark	Mike Schatz	R	New England
36	Pt. Dunn, Pt. Hettinger, Pt. Morton, Pt. Stark	Luke Simons**	R	Dickinson
37	Pt. Stark	Mike Lefor	R	Dickinson
37	Pt. Stark	Vicky Steiner	R	Dickinson
38	Pt. Ward	Larry Bellew	R	Minot
38	Pt. Ward	Dan Ruby	R	Minot
39	Adams, Billings, Bowman, Pt. Dunn, Golden Valley, Pt. McKenzie, Slope	Keith Kempenich	R	Bowman
39	Adams, Billings, Bowman, Pt. Dunn, Golden Valley, Pt. McKenzie, Slope	Denton Zubke	R	Watford City
40	Pt. Ward	Matthew Ruby	R	Minot
40	Pt. Ward	Randy A. Schobinger	R	Minot
41	Pt. Cass	Pamela Anderson	D	Fargo
41	Pt. Cass	Michelle Strinden	R	Fargo
42	Pt. Grand Forks	Claire Cory	R	Grand Forks
42	Pt. Grand Forks	Emily O'Brien	R	Grand Forks
43	Pt. Grand Forks	Mary Adams	D	Grand Forks
43	Pt. Grand Forks	Zachary Ista	D	Grand Forks
44	Pt. Cass	Joshua A. Boschee	D	Fargo
44	Pt. Cass	Karla Rose Hanson	D	Fargo
45	Pt. Cass	Mary Johnson	R	Fargo
45	Pt. Cass	Tom Kading	R	Fargo
46	Pt. Cass	Jim Kasper	R	Fargo
46	Pt. Cass	Shannon Roers Jones	R	Fargo
47	Pt. Burleigh	George Keiser	R	Bismarck
47	Pt. Burleigh	Lawrence R. Klemin	R	Bismarck

*Active March 15, 2021

**Expelled March 4, 2021

EMPLOYEES EMPLOYEES OF THE 67th LEGISLATIVE ASSEMBLY

LEGISLATIVE COUNCIL

John Bjornson	Director
Lori Ziegler	Legislative Administrative Officer
Don Traiser	Senior Legislative Business Analyst
Kylah E. Aull	Manager, Library and Record Services
Melissa Ingram	Library and Records Assistant

Legal Division

Vonette J. Richter	Division Director
Emily L. Thompson	Code Revisor
Jennifer S. N. Clark	Senior Counsel
Samantha E. Kramer	Senior Counsel
Dustin Assel	Counsel
Claire Ness	Counsel
Christopher S. Joseph	Counsel
Jill Grossman	Counsel

Fiscal Services Division

Allen H. Knudson	Legislative Budget Analyst and Auditor
Brady A. Larson	Assistant Legislative Budget Analyst and Auditor
Sheila M. Sandness	Senior Fiscal Analyst
Adam Mathiak	Senior Fiscal Analyst
Alex J. Cronquist	Senior Fiscal Analyst
Chris Kadrmas	Senior Fiscal Analyst
Levi Kinnischtzke	Senior Fiscal Analyst

Administrative Services Division

Jason J. Steckler	Division Director
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Information Technology Services

Kyle W. Forster	Information Technology Manager
Cody Malloy	Information Technology Specialist II
Brady Mueller	Information Technology Specialist I
Tyler Biegler	Information Technology Specialist I

Office Services

Donavan D. Klein	Administrative Unit Supervisor
Kayla Seifert	Front Desk Specialist
Andrea Cooper	Lead Legislative Services Specialist
Brad Metz	Legislative Services Specialist II
Justin J. Blasy	Legislative Services Specialist II
Robert Tallman	Legislative Services Specialist I
Harry Farnsworth	Legislative Services Specialist I

LEGISLATIVE COUNCIL SESSION EMPLOYEES

Kasey Degenstein	Office Assistant
------------------	------------------

LEGISLATIVE INTERNS

Justin Borgen	House Industry, Business and Labor
Liz Fordahl	House Agriculture
Megan Hogue	Senate Judiciary
	Senate Energy and Natural Resources
Claire Hoplin	House Education
	House Energy and Natural Resources
Alexandria Maashio	Senate Human Services
	Senate Political Subdivisions
Rainey Selvig	House Human Services
	House Government and Veterans Affairs
Kylie Sollie	Senate Education
	Senate Government and Veterans Affairs
Erik Wallevand	Senate Industry, Business and Labor
	Senate Agriculture
Katie Winbauer	House Finance and Taxation
	House Transportation
David Wischer	House Judiciary
	House Political Subdivisions
	Senate Finance and Taxation
	Senate Transportation

HOUSE OF REPRESENTATIVES

Sydeny Arends	Administrative Assistant to the Majority Leader
Lavat Becker	Bill Clerk
Desarae Bergquist	Page and Bill Book Clerk
Risa Bergquist	Appropriations Committee Clerk
Mary Brucker	Committee Clerk
Dan Bullinger	Staff Assistant to the Minority Leader
Marjorie Conley	Assistant Committee Clerk
Richard Conley	Assistant Sergeant-at-Arms
Jeanette Cook	Committee Clerk
Kathleen Davis	Committee Clerk
Dwight Eckart	Deputy Sergeant-at-Arms
Virginia Emineth	Chief Legislative Assistant
Dean Erbele	Assistant Sergeant-at-Arms
Anna Fiest	Assistant Committee Clerk
Cole Fleck	Assistant Appropriations Committee Clerk
Rachel Haidle	Journal Reporter
Carmen Hart	Committee Clerk
Carmen Hickle	Committee Clerk
Ryan Joyce	Staff Assistant to the Majority Leader
Tim Kramer	Assistant Sergeant-at-Arms
Tamara Krause	Committee Clerk
ReMae Kuehn	Committee Clerk
Ellen LeTang	Committee Clerk
Sheri Lewis	Assistant Appropriations Committee Clerk
Arlene Melarvie	Administrative Assistant to the Speaker
Joel Melarvie	Video Recording Clerk
Beverly Monroe	Committee Clerk
Jerry Moszer	Sergeant-at-Arms
Dale Patrick	Assistant Sergeant-at-Arms
Tanner Paulson	Page and Bill Book Clerk
Marcia Princivalli	Page and Bill Book Clerk
Klarissa Pudwell	Assistant Appropriations Committee Clerk
Buell Reich	Chief Clerk

Kayla Schmidt
 Jarrett Selzler
 Delores Shimek
 Gail Stanek
 Chris VanderVenter
 Jeremiah Veach
 David Waind
 Roman Weiler
 Donna Whetham
 Edwin Whetham
 Mark Zimmerman

Staff Assistant to the Minority Leader
 Page and Bill Book Clerk
 Committee Clerk
 Information Kiosk
 Communications Director
 Parking Lot Attendant
 Assistant Sergeant-at-Arms
 Assistant Sergeant-at-Arms
 Deputy Chief Clerk
 Calendar Clerk
 Assistant Chief Clerk

SENATE

Joel Crane
 Alice Delzer
 Pam Dever
 Renae Doan
 Pamela Fenoff
 Sheila Froehlich
 Denielle Glas
 Audrey Grafsgaard
 Isabella Grotberg
 Mark Johnson
 Patricia Lahr
 Linda Lang
 Rose Laning
 Lyle Lauf
 Marsha Lembke
 Florence Mayer-King
 Shanda Morgan
 Jamal Omar
 Dave Owen
 De'Vaughn Porter
 Jon Reiten
 Dennis Rodin
 Wayne Rogstad
 Jillian Schaible
 Kim Schneider
 Noreen Steckler
 Skyler Strand
 Erin Swanson
 Melinda Teske
 Chris VandeVenter
 Justin Velez
 Kathy Wachter
 Mary Jo Wocken
 Joe Wolf
 Lynn Wolf
 Sheldon Wolf

Committee Clerk
 Committee Clerk
 Committee Clerk
 Administrative Assistant to the Majority Leader
 Chief Committee Clerk
 Page and Bill Book Clerk
 Page and Bill Book Clerk
 Bill Clerk
 Committee Clerk
 Deputy Sergeant-at-Arms
 Committee Clerk
 Chief Page and Bill Book Clerk
 Assistant Appropriations Committee Clerk
 Sergeant-at-Arms
 Supply Room Coordinator
 Journal Reporter
 Secretary of the Senate
 Committee Clerk
 Committee Clerk
 Parking Lot Attendant
 Staff Assistant to the Majority Leader
 Assistant Secretary of the Senate
 Assistant Sergeant-at-Arms
 Information Kiosk
 Recording Clerk
 Assistant Sergeant-at-Arms
 Assistant Appropriations Clerk
 Page and Bill Book Clerk
 Assistant Chief Committee Clerk
 Communication Director
 Committee Clerk
 Administrative Assistant to the Minority Leader
 Committee Clerk
 Calendar Clerk
 Committee Clerk
 Committee Clerk

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APPROPRIATIONS

CHAPTER 1

HOUSE BILL NO. 1001

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the office of the governor; to amend and reenact sections 54-07-04 and 54-08-03 of the North Dakota Century Code, relating to the salaries of the governor and lieutenant governor; to repeal section 3 of chapter 26 of the 2019 Session Laws, relating to the appropriation of additional income to the office of the governor; to provide an exemption; to provide for a report; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the office of the governor for the purpose of defraying the expenses of the office of the governor, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$3,623,946	\$237,088	\$3,861,034
Operating expenses	368,440	53,195	421,635
Contingencies	10,000	0	10,000
Rough rider awards	10,800	0	10,800
Governor's salary	<u>274,112</u>	<u>10,363</u>	<u>284,475</u>
Total general fund	\$4,287,298	\$300,646	\$4,587,944
Full-time equivalent positions	18.00	(1.00)	17.00

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Transition costs	\$65,000	\$0
Boards and commission database project	139,808	0
Total general fund	\$204,808	\$0

SECTION 3. ADDITIONAL INCOME - APPROPRIATION - GOVERNOR'S OFFICE - BUDGET SECTION REPORT. Subject to the limitations of this section, in addition to the amounts appropriated in section 1 of this Act, there is appropriated to the governor's office, any additional income from other funds, excluding federal funds, which may become available to the governor's office, for the period beginning with the effective date of this Act, and ending June 30, 2023. Any other funds received under this section must be used for the specific purpose intended for the funds or transferred to the appropriate state agency or institution. Upon the receipt of other funds under this section, the governor's office shall provide a report to the budget

section regarding the source, amount, and purpose of the funds received. The governor's office may not expend other funds under this section if the amount of funds received from a source exceeds \$150,000, but may seek emergency commission and budget section authorization under chapter 54-16. Federal funds which may become available to the governor's office may be accepted by the governor's office. Federal funds accepted by the governor's office may not be spent until authorization is received from the legislative assembly or from the emergency commission and budget section under chapter 54-16.

SECTION 4. GOVERNOR'S SALARY - EXEMPTION. The governor's salary line item in section 1 of this Act includes the sum of \$284,475 for the salary of the governor for the biennium beginning July 1, 2021, and ending June 30, 2023. If the governor chooses not to accept the salary or any portion of the salary pursuant to section 54-07-04, section 54-07-04 does not apply to the portion of the salary not accepted. Notwithstanding section 54-16-04, the office of management and budget may transfer appropriation authority from the governor's salary line item to other line items in section 1 of this Act.

SECTION 5. AMENDMENT. Section 54-07-04 of the North Dakota Century Code is amended and reenacted as follows:

54-07-04. Salary of governor.

The annual salary of the governor is one hundred ~~thirty-five~~forty thousand ~~three~~eight hundred ~~sixty-four~~twenty-nine dollars through June 30, ~~2020~~2022, and one hundred ~~thirty-eight~~forty-three thousand ~~sevensix~~hundred forty-eight~~forty-six~~ dollars thereafter.

SECTION 6. AMENDMENT. Section 54-08-03 of the North Dakota Century Code is amended and reenacted as follows:

54-08-03. Salary of lieutenant governor.

The annual salary of the lieutenant governor is one hundred ~~five~~nine thousand ~~two~~five hundred ~~eighty-five~~thirty-six dollars through June 30, ~~2020~~2022, and one hundred ~~seventeen~~eleven thousand ~~nine~~seven hundred ~~seventeen~~twenty-seven dollars thereafter.

SECTION 7. REPEAL. Section 3 of chapter 26 of the 2019 session laws is repealed.

SECTION 8. EXEMPTION - LINE ITEM TRANSFERS - 2019-21 BIENNIUM. Notwithstanding section 54-16-04, the office of management and budget may transfer up to \$64,242 of appropriation authority from the operating expenses line item to the salaries and wages line item in section 1 of chapter 26 of the 2019 session laws as requested by the governor.

SECTION 9. EXEMPTION. The funding appropriated in the rough rider awards line item in section 1 of chapter 26 of the 2019 session laws is not subject to the provisions of section 54-44.1-11 and may be continued into the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 10. EMERGENCY. Sections 3, 7, and 8 of this Act are declared to be an emergency measure.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 2

HOUSE BILL NO. 1002

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the office of the secretary of state and public printing; to amend and reenact section 54-09-05 of the North Dakota Century Code, relating to the salary of the secretary of state; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the secretary of state for the purpose of defraying the expenses of the secretary of state and public printing, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

Subdivision 1.

SECRETARY OF STATE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$4,978,126	\$549,956	\$5,528,082
Operating expenses	3,009,553	298,871	3,308,424
Grants	0	25,000	25,000
Petition review	8,000	0	8,000
Election reform	1,601,747	3,097,942	4,699,689
Total all funds	\$9,597,426	\$3,971,769	\$13,569,195
Less estimated income	4,231,641	4,073,933	8,305,574
Total general fund	\$5,365,785	(\$102,164)	\$5,263,621
Full-time equivalent positions	32.00	1.00	33.00

Subdivision 2.

SECRETARY OF STATE - PUBLIC PRINTING

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Public printing	\$257,278	\$653	\$257,931
Total general fund	\$257,278	\$653	\$257,931

TOTAL - SECTION 1

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$5,623,063	(\$101,511)	\$5,521,552
Grand total special funds	4,231,641	4,073,933	8,305,574
Grand total all funds	\$9,854,704	\$3,972,422	\$13,827,126

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Voting system and e-poll books	\$11,200,000	\$0
Total special funds	\$11,200,000	\$0

SECTION 3. EXEMPTION - TECHNOLOGY PROJECT. Any unexpended funds from the \$3,050,000 general fund appropriation for a technology project in the operating expenses line item in subdivision 1 of section 1 of chapter 36 of the 2015 Session Laws and continued into the 2017-19 and 2019-21 bienniums are not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation may be expended during the biennium beginning July 1, 2021, and ending June 30, 2023.

¹ **SECTION 4. AMENDMENT.** Section 54-09-05 of the North Dakota Century Code is amended and reenacted as follows:

54-09-05. Salary of secretary of state.

The annual salary of the secretary of state is one hundred ~~seventy-two~~ thousand ~~eighty-two~~ hundred ~~eighty-five~~forty-one dollars through June 30, ~~2020~~2021, and one hundred ~~ten~~fourteen thousand ~~five~~four hundred ~~eighty-two~~eighty-six dollars thereafter.

SECTION 5. TRIBAL GOVERNMENT ADMINISTRATIVE COSTS. Of the funds appropriated in the grants line item in subdivision 1 of section 1 of this Act, \$25,000 is from the general fund for the purpose of providing grants to each federally recognized tribal government located within the state for the biennium beginning July 1, 2021, and ending June 30, 2023. The secretary of state may provide grants in an amount up to \$5,000 to each tribal government to reimburse administrative costs incurred by each tribal government to issue addresses and identifications for voting purposes.

Approved April 8, 2021

Filed April 9, 2021

¹ Section 54-09-05 was also amended by section 28 of House Bill No. 1015, chapter 15.

CHAPTER 3

HOUSE BILL NO. 1003

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the attorney general; to provide an appropriation to the department of human services; to amend and reenact the new section to chapter 53-06.1, as created by section 1 of House Bill No. 1212, as approved by the sixty-seventh legislative assembly, and section 54-12-11 of the North Dakota Century Code, relating to the salary of the attorney general and charitable gaming tax revenue distributions; to provide for a transfer; to provide an exemption; to provide for a statement of legislative intent; to provide for a report; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the attorney general for the purpose of defraying the expenses of the attorney general, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$45,954,981	\$4,340,368	\$50,295,349
Operating expenses	15,588,646	844,392	16,433,038
Capital assets	804,380	934,841	1,739,221
Grants	4,418,440	(515,000)	3,903,440
Human trafficking victims grants	1,400,000	(298,121)	1,101,879
Forensic nurse examiners grants	250,000	691	250,691
Statewide litigation funding pool	0	4,650,000	4,650,000
Litigation fees	150,000	(22,500)	127,500
Intellectual property attorney	442,085	(442,085)	0
Medical examinations	660,000	0	660,000
North Dakota lottery	5,191,454	63,390	5,254,844
Arrest and return of fugitives	10,000	(1,500)	8,500
Gaming commission	7,489	0	7,489
Criminal justice information sharing	3,631,121	443,847	4,074,968
Law enforcement	<u>2,982,284</u>	<u>66,643</u>	<u>3,048,927</u>
Total all funds	\$81,490,880	\$10,064,966	\$91,555,846
Less estimated income	<u>35,886,284</u>	<u>13,022,844</u>	<u>48,909,128</u>
Total general fund	\$45,604,596	(\$2,957,878)	\$42,646,718
Full-time equivalent positions	245.00	8.00	253.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Criminal history improvement system	\$400,000	\$400,000
Capital assets	1,851,956	1,111,706
Undercover vehicles	200,000	0
Automated biometric identification system	316,000	300,000
Charitable gaming technology system	400,000	475,000
Statewide litigation funding pool	0	4,650,000
Additional income	250,000	0
Total all funds	\$3,417,956	\$6,936,706
Total other funds	<u>3,217,956</u>	<u>6,936,706</u>
Total general fund	\$200,000	\$0

SECTION 3. ADDITIONAL INCOME - APPROPRIATION - REPORT. In addition to the amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from federal or other funds, the sum of \$250,000, or so much of the sum as may be necessary, to the attorney general for the purposes of defraying the expenses of the office, for the biennium beginning July 1, 2021, and ending June 30, 2023. The attorney general shall notify the office of management and budget and the legislative council of any funding made available pursuant to this section.

SECTION 4. APPROPRIATION - 2019-21 BIENNIUM - SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM - DRUG ANALYZERS - EXEMPTION - ONE-TIME FUNDING. There is appropriated from federal funds, not otherwise appropriated, the sum of \$355,000, or so much as the sum as may be necessary, to the attorney general, of which \$255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and \$100,000 is for drug analyzers with federal funding received from the department of transportation, for the period beginning with the effective date of this Act, and ending June 30, 2021. The funding provided under this section is not subject to section 54-44.1-11 and any unexpended funds may be continued and are available for the program during the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item.

SECTION 5. TRANSFER - LAWSUIT SETTLEMENT PROCEEDS - OPIOID ADDICTION PREVENTION AND TREATMENT PROGRAM - APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - ONE-TIME FUNDING - REPORT. The office of management and budget shall transfer up to \$2,000,000 from opioid-related lawsuit settlement proceeds deposited in the attorney general refund fund to the department of human services which is appropriated to the department of human services for the purpose of defraying the expenses of an opioid addiction prevention and treatment program during the biennium beginning July 1, 2021, and ending June 30, 2023. The department of human services shall consult with the attorney general on the use of funding for the program. The attorney general shall notify the legislative council and office of management and budget of any lawsuit settlement proceeds that become available for transfer to the department of human services for this program. This funding is considered a one-time funding item.

SECTION 6. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - TRANSFER - LITIGATION POOL TO STATE AGENCIES - ONE-TIME FUNDING. The statewide litigation funding pool line item in section 1 of this Act includes \$3,000,000 from the strategic investment and improvements fund, which the attorney general shall transfer to eligible state agencies for litigation expenses during the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item. The attorney general may not use funding from the litigation pool to pay judgments under section 32-12-04.

SECTION 7. ESTIMATED INCOME - EXEMPTION - USE OF GAMING TAX ALLOCATION FUND - TRANSFER - LITIGATION POOL TO STATE AGENCIES - ONE-TIME FUNDING. The statewide litigation funding pool line item in section 1 of this Act includes \$1,650,000 from the gaming tax allocation fund. Notwithstanding section 53-06.1-12, the attorney general shall transfer this funding to eligible state agencies for litigation expenses during the biennium beginning July 1, 2021, and ending June 30, 2023, after the distribution of gaming tax revenue grants provided for in section 17 of this Act. The attorney general may not use funding from the litigation pool to pay judgments under section 32-12-04. This funding is considered a one-time funding item.

SECTION 8. ESTIMATED INCOME - CHARITABLE GAMING TECHNOLOGY SYSTEM - CHARITABLE GAMING OPERATING FUND. The estimated income line item in section 1 of this Act includes \$475,000 from the charitable gaming operating fund for defraying expenses related to the continued development and implementation of the charitable gaming technology system.

SECTION 9. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS - REPORTS. The human trafficking victims grants line item in section 1 of this Act includes \$1,101,879 from the general fund for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims and related administrative costs for the biennium beginning July 1, 2021, and ending June 30, 2023. The attorney general may provide grants for the development and implementation of direct care emergency or long-term crisis services, residential care, training for law enforcement, support of advocacy services, and programs promoting positive outcomes for victims. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-eighth legislative assembly on the use of the funds received and the outcomes of its program. The attorney general shall report to the legislative management during the 2021-22 interim on the status and results of the grant program.

SECTION 10. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS. The forensic nurse examiners grants line item in section 1 of this Act includes \$250,691 from the general fund for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs and related administrative costs, for the biennium beginning July 1, 2021, and ending June 30, 2023. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-eighth legislative assembly on the use of the funds received and the outcomes of its programs. The attorney general shall report to the appropriations committees of the sixty-eighth legislative assembly on the number of nurses trained, the number and location of nurses providing services related to sexual assault nurse examiner programs, and documentation of collaborative efforts to assist victims, which includes nurses, the hospital or clinic, law enforcement, and state's attorneys.

SECTION 11. ESTIMATED INCOME - SALARY EQUITY INCREASES - ATTORNEY GENERAL REFUND FUND - REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND. The estimated income line item in section 1 of this Act includes \$1,374,989 for the purpose of providing salary equity increases to employees in the attorney general's office, of which \$1,249,083 is from the attorney general refund fund for bureau of criminal investigation positions and Medicaid fraud control unit positions and \$125,906 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for fire marshal office positions, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 12. LEGISLATIVE INTENT - ATTORNEY GENERAL - SALARY EQUITY INCREASES - INVESTMENT OF LAWSUIT SETTLEMENT PROCEEDS - STATE INVESTMENT BOARD. The attorney general may invest up to \$2,577,624 of funding in the attorney general refund fund, of which \$1,160,896 is derived from January 2021 lawsuit settlement proceeds and \$1,416,728 is derived from March 2021 lawsuit settlement proceeds, and \$251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, under the supervision of the state investment board for the period beginning July 1, 2021, and ending June 30, 2025. It is the intent of the sixty-seventh legislative assembly that \$2,577,624 in the attorney general refund fund and any investment earnings on the funding be retained in the attorney general refund fund and \$251,812 in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund and any investment earnings on the funding be retained in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases as provided for in section 11 of this Act and for the cost to continue the salary equity increases during the 2023-25 biennium, subject to legislative appropriations.

² **SECTION 13. AMENDMENT.** The new section to chapter 53-06.1 of the North Dakota Century Code, as created by section 1 of House Bill No. 1212, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

Charitable gaming operating fund - Attorney general - State treasurer - Continuing-appropriation - Allocations - Transfer to the general fund.

1. There is created in the state treasury the charitable gaming operating fund. The fund consists of all gaming taxes, monetary fines, and interest and penalties collected under this chapter.
2. Excluding moneys in the charitable gaming operating fund appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming, ~~all other the attorney general shall allocate remaining moneys in the charitable gaming operating fund are appropriated to the attorney general on a continuing basis for quarterly allocations~~^{as follows}:
 - a. Ten thousand dollars to the gambling disorder prevention and treatment fund.
 - b. ~~Five~~^{Subject to legislative appropriations, five} percent of the total moneys deposited in the charitable gaming operating fund to cities and counties in proportion to the taxes collected under section 53-06.1-12 from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.
3. On or before June thirtieth of each odd-numbered year, the attorney general shall certify to the state treasurer the amount of accumulated funds in the charitable gaming operating fund which exceed the amount appropriated by the legislative assembly for administrative and operating costs associated with

² Section 53-06.1-11.2 was created by section 1 of House Bill No. 1212, chapter 389.

charitable gaming for the subsequent biennium. The state treasurer shall transfer the certified amount from the charitable gaming operating fund to the general fund prior to the end of each biennium.

SECTION 14. AMENDMENT. Section 54-12-11 of the North Dakota Century Code is amended and reenacted as follows:

54-12-11. Salary of attorney general.

The annual salary of the attorney general is one hundred ~~fifty-ninesixty-five~~ thousand ~~four~~~~eight~~ hundred ~~nineforty-five~~ dollars through June 30, ~~2020~~~~2022~~, and one hundred ~~sixty-three~~~~sixty-nine~~ thousand ~~three~~~~one~~ hundred ~~ninety-four~~~~sixty-two~~ dollars thereafter.

SECTION 15. CRIMINAL HISTORY RECORD CHECKS - FEES. Any individual or entity requesting a criminal history record check from the bureau of criminal investigation, as a result of legislation enacted by the ~~sixty-seventh~~ legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the state's general fund for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 16. EXEMPTION - CONTINGENT FEE ARRANGEMENT. Notwithstanding section 54-12-08.1, the attorney general may contract for legal services compensated by a contingent fee arrangement for ongoing multistate technology litigation during the period beginning with the effective date of this Act and ending June 30, 2023.

SECTION 17. EXEMPTION - GAMING TAX REVENUE GRANTS. Notwithstanding section 53-06.1-12, the attorney general may distribute gaming tax revenue grants to cities and counties relating to the seventh and eighth quarters of the 2019-21 biennium through October 31, 2021.

SECTION 18. EXEMPTION - ATTORNEY GENERAL REFUND FUND. Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund which would otherwise be transferred to the general fund on June 30, 2021.

SECTION 19. EXEMPTION - REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND. Notwithstanding subsection 6 of section 18-13-03, the attorney general may invest \$125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to fire marshal office positions during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 20. EXEMPTION - CONCEALED WEAPON REWRITE PROJECT. The amount appropriated to the attorney general from the general fund for a concealed weapon rewrite project as contained in section 1 of chapter 37 of the 2015 Session Laws and continued into the 2017-19 and 2019-21 bienniums, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the concealed weapon rewrite project, during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 21. EXEMPTION - STATEWIDE AUTOMATED VICTIM INFORMATION AND NOTIFICATION PROGRAM. The amount appropriated to the attorney general from other funds for the statewide automated victim information and notification system as contained in sections 1 and 8 of chapter 3 of the 2017 Session Laws and continued into the 2019-21 biennium, is not subject to the provisions of

section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the legal case management system during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 22. EXEMPTION - INFORMATION TECHNOLOGY EQUIPMENT. The amount appropriated to the attorney general from the general fund for the purchase of information technology equipment as contained in section 1 of chapter 28 of the 2019 Session Laws, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the purchase of information technology equipment, during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 23. LEGISLATIVE INTENT - GAMING DIVISION. It is the intent of the sixty-seventh legislative assembly that the expenses of the attorney general's gaming division be paid from gaming tax revenues.

SECTION 24. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT ATTORNEYS. During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of consolidating attorney and legal-related positions in state government. The study must include an analysis of the number of attorney and legal-related positions in state government, the agency to which the positions are assigned, the type of work performed by the positions, and any efficiencies that may be gained through the consolidation of these positions into the attorney general's office. The study must include consultation with the attorney general and any agency with attorney and legal-related positions in state government for the 2021-23 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 25. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT LITIGATION FUNDING. During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of consolidating litigation-related funding in state government. The study must include an analysis of litigation-related funding in state government agency budgets, including the purpose and source of funding for the litigation and any efficiencies that may be gained through the consolidation of the litigation funding into the attorney general's office. The study must include consultation with the attorney general and any agency with litigation-related funding appropriated for the 2021-23 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 26. LEGISLATIVE MANAGEMENT STUDY - CHARITABLE GAMING LAWS. During the 2021-22 interim, the legislative management shall consider studying laws regarding the state's charitable gaming taxation and use of net proceeds for eligible organizations. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 27. LEGISLATIVE MANAGEMENT STUDY - GAMING ADDICTION AND SUPPORT. During the 2021-22 interim, the legislative management shall consider studying the economic and societal impacts of gambling addiction in the state. The study must include a review of the trend of gambling addiction since the expansion of electronic pull tab gambling in the state, state funding provided for gambling addiction and disorder prevention and treatment, and support programs for individuals and families affected by gambling addiction. The legislative management

shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 28. EMERGENCY. Sections 4 and 16 of this Act are declared to be an emergency measure.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 4

HOUSE BILL NO. 1004

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the state auditor; to amend and reenact sections 54-10-10, 54-10-14, and 54-10-27 of the North Dakota Century Code, relating to the salary of the state auditor, political subdivision audits, and occupational and professional board audits; to provide for a prescription drug coverage performance audit; and to provide for legislative management reports.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state auditor for the purpose of defraying the expenses of the state auditor, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$12,668,218	\$455,341	\$13,123,559
Operating expenses	1,161,820	209,883	1,371,703
Information technology consultants	<u>450,000</u>	<u>0</u>	<u>450,000</u>
Total all funds	\$14,280,038	\$665,224	\$14,945,262
Less estimated income	<u>4,173,178</u>	<u>1,652,974</u>	<u>5,826,152</u>
Total general fund	\$10,106,860	(\$987,750)	\$9,119,110
Full-time equivalent positions	58.00	3.00	61.00

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Copier replacement	<u>\$16,000</u>	<u>\$0</u>
Total general fund	\$16,000	\$0

SECTION 3. AMENDMENT. Section 54-10-10 of the North Dakota Century Code is amended and reenacted as follows:

54-10-10. Salary of state auditor.

The annual salary of the state auditor is one hundred ~~seventy-two~~ thousand ~~eighty-two~~ hundred ~~eighty-five~~ forty-one dollars through June 30, ~~2020~~2022, and one hundred ~~ten~~fourteen thousand ~~five~~four hundred ~~eighty-two~~eighty-six dollars thereafter.

SECTION 4. AMENDMENT. Section 54-10-14 of the North Dakota Century Code is amended and reenacted as follows:

54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports.

1. The state auditor shall audit the following political subdivisions once every two years, except as provided in this section or otherwise by law:
 - a. Counties.
 - b. Cities, and when a city is audited, to include any political subdivision that was created by the city and has bonding authority.
 - c. Park districts.
 - d. School districts.
 - e. Firefighters relief associations.
 - f. Airport authorities.
 - g. Public libraries.
 - h. Water resource districts.
 - i. Garrison Diversion Conservancy District.
 - j. Rural fire protection districts.
 - k. Special education districts.
 - l. Area career and technology centers.
 - m. Correction centers.
 - n. Recreation service districts.
 - o. Weed boards.
 - p. Irrigation districts.
 - q. Rural ambulance service districts.
 - r. Southwest water authority.
 - s. Regional planning councils.
 - t. Soil conservation districts.
 - u. Western area water supply authority industrial water sales on an annual basis.
2. The state auditor shall charge the political subdivision an amount equal to the fair value of the audit and any other services rendered. The fees must be deposited in the state auditor operating account. The state treasurer shall credit the state auditor operating account with the amount of interest earnings attributable to the deposits in that account. Expenses relating to political subdivision audits must be paid from the state auditor operating account, within the limits of legislative appropriation.

3. In lieu of conducting an audit every two years, the state auditor may require annual reports from ~~school districts with less than one hundred enrolled students; cities with less than five hundred population; and other political subdivisions~~ subject to this section, or otherwise provided by law, with less than ~~three hundred~~seven hundred fifty thousand dollars of annual receipts, excluding any federal funds passed through the political subdivision to another entity. If any federal agency performs or requires an audit of a political subdivision that receives federal funds to pass through to another entity, the political subdivision shall provide a copy to the state auditor upon request by the state auditor. The reports must contain the financial information required by the state auditor. The state auditor also may make any additional examination or audit determined necessary in addition to the annual report. When a report is not filed, the state auditor may charge the political subdivision an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge a political subdivision a fee not to exceed ~~eighty-eighty-six~~ dollars an hour for the costs of reviewing the annual report.
4. A political subdivision, at the option of its governing body, may be audited by a certified public accountant or licensed public accountant rather than by the state auditor. The public accountant shall comply with generally accepted government auditing standards for audits of political subdivisions. The report must be in the form and content required by the state auditor. The number of copies of the audit report requested by the state auditor must be filed with the state auditor when the public accountant delivers the audit report to the political subdivision. The state auditor shall review the audit report to determine if the report is in the required form and has the required content, and if the audit meets generally accepted government auditing standards. The state auditor also may periodically review the public accountant's workpapers to determine if the audit meets generally accepted government auditing standards. If the report is in the required form and has the required content, and the report and workpapers comply with generally accepted government auditing standards, the state auditor shall accept the audit report. The state auditor may charge the political subdivision a fee of up to ~~eighty-eighty-six~~ dollars an hour, but not to exceed ~~five~~seven hundred ~~fifty~~ dollars per review, for the related costs of reviewing the audit report and workpapers.
5. A political subdivision may not pay a public accountant for an audit until the state auditor has accepted the audit. However, a political subdivision may make progress payments to the public accountant. A political subdivision shall retain twenty percent of any progress payment until the audit report is accepted by the state auditor.
6. The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing board, officers, or employees of the political subdivision disclosed by the audit report or workpapers, and failure to make the corrections must result in audits being resumed by the state auditor until the irregularities, objectionable accounting procedures, or illegal actions are corrected.

SECTION 5. AMENDMENT. Section 54-10-27 of the North Dakota Century Code is amended and reenacted as follows:

54-10-27. Occupational and professional boards - Audits and reports.

The governing board of any occupational or professional board shall provide for an audit once every two years by a certified public accountant or licensed public accountant. The accountant conducting the audit shall submit the audit report to the state auditor's office. If the report is in the form and style prescribed by the state auditor, the state auditor may not audit that board. An occupational or professional board may request the state auditor to conduct its audit, and if the state auditor agrees to conduct the audit, the state auditor shall deposit the fees charged to the occupational or professional board into the state auditor operating account. Instead of providing for an audit every two years, an occupational or professional board that has less than two hundred thousand dollars of annual receipts may submit an annual report to the state auditor. The report must contain the information required by the state auditor. The state auditor also may make any additional examination or audit determined necessary in addition to the annual report. When a report is not filed, the state auditor may charge the occupational or professional board an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge an occupational or professional board a fee not to exceed fiftyeighty-six dollars an hour for the costs of reviewing the annual report.

SECTION 6. PUBLIC EMPLOYEES RETIREMENT SYSTEM - STATE AUDITOR - PRESCRIPTION DRUG COVERAGE PERFORMANCE AUDIT - REPORTS TO LEGISLATIVE MANAGEMENT. In lieu of the requirement under section 54-52.1-04.16 that the public employees retirement system contract to conduct a prescription drug coverage performance audit of the main public employees retirement system health benefit plan for calendar year 2021, the state auditor shall contract in accordance with chapter 54-10 to conduct a prescription drug coverage performance audit of the main public employees retirement system health benefit plan during the 2021-22 interim, in the same manner as provided for under section 54-52.1-04.16, for calendar years 2019, 2020, and 2021. Audit fees, not to exceed \$375,000, for audits performed under this section must be on a flat fee or hourly basis and be paid by the public employees retirement system board. The state auditor shall provide reports to the legislative management regarding contracts to conduct prescription drug coverage performance audits, performance audit results, and audit reports issued.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 5

HOUSE BILL NO. 1005

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the state treasurer; and to amend and reenact section 54-11-13 of the North Dakota Century Code, relating to the salary of the state treasurer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the state treasurer for the purpose of defraying the expenses of the state treasurer, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,383,141	\$47,354	\$1,430,495
Operating expenses	192,229	(34,806)	157,423
Coal severance payments	<u>171,000</u>	<u>(53,000)</u>	<u>118,000</u>
Total general fund	\$1,746,370	(\$40,452)	\$1,705,918
Full-time equivalent positions	7.00	0.00	7.00

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Information technology costs	<u>\$35,000</u>	<u>\$0</u>
Total special funds	\$35,000	\$0

SECTION 3. AMENDMENT. Section 54-11-13 of the North Dakota Century Code is amended and reenacted as follows:

54-11-13. Salary of state treasurer.

The annual salary of the state treasurer is one hundred ~~seventy-two~~ eighty-two thousand ~~eight hundred eighty-five~~ four hundred eighty-two dollars through June 30, ~~2020~~ 2022, and one hundred ~~ten~~ four thousand ~~five~~ four hundred ~~eighty-two~~ eighty-six dollars thereafter.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 6

HOUSE BILL NO. 1006

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the office of the tax commissioner and for payment of state reimbursement under the homestead tax credit and disabled veterans' tax credit; to amend and reenact section 57-01-04 of the North Dakota Century Code, relating to the salary of the state tax commissioner; to provide an exemption; and to provide for a transfer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the tax commissioner for the purpose of defraying the expenses of the tax commissioner and paying the state reimbursement under the homestead tax credit and disabled veterans' tax credit, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$22,867,956	(\$273,760)	\$22,594,196
Operating expenses	7,112,460	353,660	7,466,120
Capital assets	6,000	0	6,000
Homestead tax credit	15,800,000	2,200,000	18,000,000
Disabled veterans' tax credit	<u>8,410,200</u>	<u>7,889,800</u>	<u>16,300,000</u>
Total all funds	\$54,196,616	\$10,169,700	\$64,366,316
Less estimated income	<u>125,000</u>	<u>0</u>	<u>125,000</u>
Total general fund	\$54,071,616	\$10,169,700	\$64,241,316
Full-time equivalent positions	123.00	(5.00)	118.00

SECTION 2. EXEMPTION - LINE ITEM TRANSFERS. Notwithstanding section 54-16-04, the state tax commissioner may transfer funds between the homestead tax credit and disabled veterans' tax credit line items in section 1 of this Act if one line item does not have sufficient funds available for state reimbursement of eligible tax credits. The state tax commissioner shall notify the office of management and budget and the legislative council of any transfers made pursuant to this section.

SECTION 3. MOTOR VEHICLE FUEL TAX REVENUE TRANSFER. There is transferred to the general fund in the state treasury out of motor vehicle tax revenue collected pursuant to section 57-43.1-02, the sum of \$1,873,744, for the purpose of reimbursing the general fund for expenses incurred in the collection of the motor vehicle fuels and special fuels taxes and the administration of these taxes, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 4. STATEWIDE LITIGATION FUNDING POOL - PAYMENT OF TAX COMMISSIONER LITIGATION-RELATED EXPENSES. The tax commissioner may submit litigation-related expenses to the attorney general which the attorney general shall pay from the statewide litigation funding pool for litigation expenses incurred by

the tax commissioner, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 5. AMENDMENT. Section 57-01-04 of the North Dakota Century Code is amended and reenacted as follows:

57-01-04. Salary.

The annual salary of the state tax commissioner is one hundred ~~seventeen~~twenty-one thousand ~~eighty-seven~~eight hundred fourteen dollars through June 30, ~~2020~~2022, and one hundred ~~twenty~~twenty-four thousand ~~fourteen~~two hundred fifty dollars thereafter.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 7

HOUSE BILL NO. 1007

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the department of labor and human rights; and to provide a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of labor and human rights for the purpose of defraying the expenses of the department of labor and human rights, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$2,475,765	(\$80,786)	\$2,394,979
Operating expenses	<u>330,426</u>	<u>185,649</u>	<u>516,075</u>
Total all funds	\$2,806,191	\$104,863	\$2,911,054
Less estimated income	<u>480,681</u>	<u>36,187</u>	<u>516,868</u>
Total general fund	\$2,325,510	\$68,676	\$2,394,186
Full-time equivalent positions	14.00	(1.00)	13.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Paperless storage system	\$69,659	\$0
Case management system	<u>0</u>	<u>177,717</u>
Total all funds	\$69,659	\$177,717
Less estimated income	<u>0</u>	<u>30,000</u>
Total general fund	\$69,659	\$147,717

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The department of labor and human rights shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 8

HOUSE BILL NO. 1008

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the public service commission; to create and enact two new sections to chapter 49-01, subsection 4 of section 49-22-22, subsection 4 of section 49-22.1-21, and a new section to chapter 64-02 of the North Dakota Century Code, relating to a public service commission program fund, a public utility assessment, siting process administrative fees, and fees for registered service companies and to license and test a registered service person; to amend and reenact sections 49-01-05, 57-43.2-19, 64-02-10, and 64-02-12 of the North Dakota Century Code, relating to the salary of the commissioners, the transfer and distribution of funds in the highway tax distribution fund, fees to test or calibrate weighing and measuring devices, and the deposit of fees; to provide a report; to provide for a transfer; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the public service commission for the purpose of defraying the expenses of the public service commission, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,495,560	\$495,928	\$9,991,488
Operating expenses	1,763,826	37,744	1,801,570
Capital assets	25,000	120,000	145,000
Grants	20,000	0	20,000
Abandoned mined lands contractual services	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	589,018	25,706	614,724
Specialized legal services	<u>94,000</u>	<u>326,000</u>	<u>420,000</u>
Total all funds	\$18,887,404	\$1,005,378	\$19,892,782
Less estimated income	<u>12,172,476</u>	<u>1,289,219</u>	<u>13,461,695</u>
Total general fund	\$6,714,928	(\$283,841)	\$6,431,087
Full-time equivalent positions	43.00	0.00	43.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Specialized legal services	\$336,000	\$0
Grain insolvency litigation	100,000	0

Real-time kinematic equipment	0	120,000
Total all funds	\$436,000	\$120,000
Less estimated income	436,000	114,600
Total general fund	\$0	\$5,400

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The public service commission shall report to the appropriation committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. TRANSFER AND REPAYMENT - BEGINNING FARMER REVOLVING LOAN FUND. The Bank of North Dakota shall transfer from the beginning farmer revolving loan fund to the public service commission the sum of \$900,000, or so much of the sum as may be necessary, included in the estimated income line item in section 1 of this Act to pay for costs associated with a rail rate complaint case. Transfers must be made during the biennium beginning July 1, 2021, and ending June 30, 2023, upon order of the commission. If any amounts are spent pursuant to this section, the public service commission shall reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case.

SECTION 4. A new section to chapter 49-01 of the North Dakota Century Code is created and enacted as follows:

Public service commission program fund - Transfer to general fund.

1. A special fund is established in the state treasury and designated as the public service commission program fund. Moneys deposited in the fund may be spent by the public service commission pursuant to legislative appropriation to defray the expenses of the commission.
2. Revenue from the following sources must be deposited in the public service commission program fund:
 - a. Any fees collected to test or calibrate weighing and measuring devices and licensing of registered service companies and persons;
 - b. All money received from the public utility assessment;
 - c. All money received from the siting administrative fee; and
 - d. All interest and investment income earned on the balance of the fund.
3. The office of management and budget shall transfer any balance in the public service commission program fund that exceeds one million one hundred thousand dollars to the general fund at the end of each biennium.

SECTION 5. A new section to chapter 49-01 of the North Dakota Century Code is created and enacted as follows:

Public utility fee.

1. The commission shall assess each electric and gas utility a fee in proportion to the utility's respective gross operating revenues from the retail sale of gas and electric service within the state during the preceding calendar year. The total of the combined assessments may not exceed three hundred thousand

dollars per biennium. The fee must be paid quarterly and deposited in the public service commission program fund.

2. In January of each year, each electric and gas public utility shall file with the public service commission the amount of gross receipts derived from the company's customers within the state during the preceding calendar year. The commission shall review the gross receipts annually and adjust the fee for each utility in proportion to the gross operating revenues.

SECTION 6. AMENDMENT. Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

49-01-05. Salary of commissioners.

The annual salary of a commissioner is one hundred ~~ten~~^{fifteen} thousand ~~eight~~^{thirteen} hundred ~~twenty-nine~~^{twenty} four dollars through June 30, ~~2020~~²⁰²², and one hundred ~~thirteen~~^{seventeen} thousand six hundred ~~ten~~ dollars thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state.

³ **SECTION 7.** Subsection 4 of section 49-22-22 of the North Dakota Century Code is created and enacted as follows:

4. Every applicant under this chapter shall pay to the commission an administrative fee equal to one hundred dollars for each one million dollars of original investment, not to exceed twenty-five thousand dollars. The administrative fee must be deposited in the public service commission program fund.

SECTION 8. Subsection 4 of section 49-22.1-21 of the North Dakota Century Code is created and enacted as follows:

4. Every applicant under this chapter shall pay to the commission an administrative fee equal to one hundred dollars for each one million dollars of original investment, not to exceed twenty-five thousand dollars. The administrative fee must be deposited into the public service commission program fund.

SECTION 9. AMENDMENT. Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-19. Transfer, deposit, and distribution of funds. (Effective through June 30, ~~2024~~²⁰²⁵)

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to two hundred ~~ninety-four~~^{ninety-seven} thousand ~~five~~^{three} hundred ~~nine~~^{sixty-two} dollars per year must be transferred to the

³ Section 49-22-22 was also amended by section 4 of House Bill No. 1096, chapter 347.

⁴ Section 49-22.1-21 was also amended by section 10 of House Bill No. 1096, chapter 347.

state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

Transfer, deposit, and distribution of funds. (Effective after June 30, 20212025) All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

SECTION 10. A new section to chapter 64-02 of the North Dakota Century Code is created and enacted as follows:

Fees for registered service companies and to license and test a registered service person.

1. Annually, each registered service company shall pay a registration fee of one hundred dollars and a licensing fee of fifty dollars for each registered service person.
2. The commission may assess a registered service person testing fee not to exceed twenty-five dollars per test.

SECTION 11. AMENDMENT. Section 64-02-10 of the North Dakota Century Code is amended and reenacted as follows:

64-02-10. Fees to test or calibrate weighing and measuring devices.

The commission shall collect the following fees to:

1. Test overhead monorail, track, dormant, deck, and hanging scale of one thousand pounds [453 kilograms] or less capacity ~~53.00~~95.00
2. Test movable platform scale ~~44.00~~20.00
3. Test counter or computing scale ~~44.00~~20.00
4. Test hanging scale of fifty pound [22.68 kilogram] capacity or less ~~44.00~~20.00
5. Test a retail motor fuel device ~~44.00~~20.00
6. Test or calibrate weighing and measuring standards, per metrologist, per quarter hour or fraction thereof 17.00
7. Test mobile delivery gasoline and fuel oil meter ~~24.00~~45.00
8. Test gasoline, LPG, or fuel oil meter on common carrier pipelines, or any other meter used in loading railway cars, transports, or other conveyances ~~53.00~~95.00
9. Test propane, ag chemical, or liquid fertilizer meter ~~39.00~~70.00
10. Test or calibrate weighing and measuring devices other than the above and those set by rule, per inspector per quarter hour or fraction thereof ~~44.00~~20.00
11. Witnessing any of the above tests Fifty percent of the applicable fee

When a rejected weighing or measuring device has been reconditioned or replaced by new equipment, it must be retested and certified before being put into use except as otherwise provided by rule. The fee for retest and certification is the same as for the first test and certification.

When a test of a weighing or measuring device is required in addition to the regularly scheduled test, the commission shall charge a fee equal to the cost of operating the motor vehicle used in conducting the test. The mileage charges, as determined by the commission, must be in addition to the regular test fee and calculated to cover the costs of the additional travel. If a test has been requested and the person requesting it fails to appear or to have the weighing or measuring device ready for testing at the arranged time, there is a charge of ten dollars a quarter hour for the time between the arranged time and the time at which the test can begin.

SECTION 12. AMENDMENT. Section 64-02-12 of the North Dakota Century Code is amended and reenacted as follows:

64-02-12. Fees collected - Paid into state treasury public service commission program fund.

All fees and charges collected by the commission under ~~section 64-02-10~~this chapter must be paid into the ~~general fund of the state treasury~~public service commission program fund.

SECTION 13. EMERGENCY. Sections 4, 7, 8, and 12 of this Act are declared to be an emergency measure.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 9

HOUSE BILL NO. 1009

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the agriculture commissioner; to provide for a transfer; to amend and reenact sections 4.1-01-02, 4.1-01-17, 4.1-83-22, 4.1-83-23, 4.1-83-28, and 54-12-08 of the North Dakota Century Code and section 7 of chapter 34 of the 2019 Session Laws, relating to the salary of the agriculture commissioner, the pipeline restoration and reclamation oversight program, insolvency of livestock dealers, the ability of state agencies to employ attorney positions, and the waterbank program; to provide for a report; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the agriculture commissioner for the purpose of defraying the expenses of the agriculture commissioner, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$14,232,746	\$1,484,380	\$15,717,126
Operating expenses	6,592,780	255,272	6,848,052
Capital assets	15,000	0	15,000
Grants	8,823,774	5,908,000	14,731,774
Environmental impact mitigation	5,000,000	(5,000,000)	0
Agricultural products utilization commission	1,760,417	2,700,000	4,460,417
North Dakota trade office	0	1,600,000	1,600,000
Board of animal health	865,718	0	865,718
Wildlife services	1,457,400	0	1,457,400
Pipeline restoration and reclamation oversight program	200,000	0	200,000
Crop harmonization board	75,000	0	75,000
Total all funds	\$39,022,835	\$6,947,652	\$45,970,487
Less estimated income	<u>28,322,406</u>	<u>4,188,369</u>	<u>32,510,775</u>
Total general fund	\$10,700,429	\$2,759,283	\$13,459,712
Full-time equivalent positions	78.00	1.00	79.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Master customer database	\$110,000	\$0

Grain insolvency litigation	100,000	0
Agricultural products utilization commission	2,000,000	2,700,000
Soil health grants	0	700,000
Grasslands grazing grants	0	5,000,000
Total all funds	\$2,210,000	\$8,400,000
Less estimated income	<u>2,000,000</u>	<u>8,400,000</u>
Total general fund	\$210,000	\$0

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The agriculture commissioner shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION - TRANSFER - GENERAL FUND TO BIOSCIENCE INNOVATION GRANT FUND - ONE-TIME FUNDING. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,500,000, or so much of the sum as may be necessary, which the office of management and budget shall transfer to the bioscience innovation grant fund for the biennium beginning July 1, 2021, and ending June 30, 2023. The agriculture commissioner shall use these funds for providing bioscience innovation grants. This funding is considered a one-time funding item.

SECTION 4. APPROPRIATION - TRANSFER - GENERAL FUND TO FEDERAL ENVIRONMENTAL LAW IMPACT REVIEW FUND - ONE-TIME FUNDING. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,000,000, or so much of the sum as may be necessary, which the office of management and budget shall transfer to the federal environmental law impact review fund for the biennium beginning July 1, 2021, and ending June 30, 2023. The agriculture commissioner shall use these funds for defraying costs associated with federal environmental legislation or regulations which detrimentally impact or potentially impact the state's agricultural, energy, or oil production sectors. This funding is considered a one-time funding item.

SECTION 5. ESTIMATED INCOME - TRANSFER - BANK OF NORTH DAKOTA PROFITS - AGRICULTURAL PRODUCTS UTILIZATION COMMISSION - ONE-TIME FUNDING. The estimated income line item in section 1 of this Act includes the sum of \$2,700,000 which the Bank of North Dakota shall transfer from the Bank's current earnings and undivided profits to the agriculture commissioner for deposit in the agricultural products utilization commission fund for defraying the expenses of the agricultural products utilization commission for the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item.

SECTION 6. ESTIMATED INCOME - TRANSFER - BANK OF NORTH DAKOTA PROFITS ADDITIONAL INCOME - SOIL HEALTH COVER CROP GRANT PROGRAM - ONE-TIME FUNDING. The estimated income line item in section 1 of this Act includes the sum of \$700,000, of which the Bank of North Dakota shall transfer \$300,000 from the Bank's current earnings and undivided profits to the agriculture commissioner for deposit in the agriculture commissioner's operating fund and \$400,000 is from federal or other funds available to the agriculture commissioner for defraying the expenses of the soil health cover crop grant program for the biennium beginning July 1, 2021, and ending June 30, 2023. During the 2021-23 biennium, the agriculture commissioner shall submit an application to the North Dakota outdoor heritage advisory board for funding from the outdoor heritage fund for the soil health cover crop grant program, which the North Dakota outdoor heritage advisory board shall consider pursuant to section 54-17.8-03. The agriculture

commissioner shall establish guidelines for the use of grant funding provided for this program. This funding is considered a one-time funding item.

SECTION 7. ESTIMATED INCOME - TRANSFER - STATE WATER COMMISSION. The estimated income line item in section 1 of this Act includes the sum of \$125,000, which the state water commission shall transfer to the agriculture commissioner for the purpose of defraying the expenses of the wildlife services program.

SECTION 8. TRANSFER - ENVIRONMENT AND RANGELAND PROTECTION FUND - MINOR USE PESTICIDE FUND. The agriculture commissioner shall transfer \$325,000 from the environment and rangeland protection fund to the minor use pesticide fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 9. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - GRASSLANDS GRAZING GRANT PROGRAM - ONE-TIME FUNDING - MATCHING FUNDS. The estimated income line item in section 1 of this Act includes the sum of \$5,000,000 from the strategic investment and improvements fund for the purpose of providing grassland grazing grants to an organization representing cooperative grazing associations in the state. To be eligible for a grant under this program, an organization must provide one dollar of matching funds from nonstate sources for every four dollars of grant funding. An organization that receives a grant under this program may distribute the funding to cooperative grazing associations for eligible infrastructure projects, which must be located on national grasslands within the state. Eligible infrastructure projects include water development; fencing; conservation initiatives; compliance with federal permitting requirements, including fees for professional services; and other projects to enhance wildlife habitat, capture carbon, or increase the health of grasslands. Program participants shall develop and implement a grazing land plan in compliance with local soil conservation district guidance and the plan must be approved by the local soil conservation district. The agriculture commissioner shall establish additional guidelines for the program.

SECTION 10. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION FUND. The estimated income line item in section 1 of this Act includes the sum of \$6,899,395 from the environment and rangeland protection fund for the purpose of defraying the expenses of various agriculture commissioner programs.

SECTION 11. ESTIMATED INCOME - GAME AND FISH FUND. The estimated income line item in section 1 of this Act includes the sum of \$619,329 from the game and fish department operating fund for the purpose of defraying the expenses of various agriculture commissioner programs.

SECTION 12. TRADE OFFICE - MATCHING FUND REQUIREMENT. The North Dakota trade office line item and the general fund appropriation in section 1 of this Act include \$1,600,000 of funding related to the North Dakota trade office. The agriculture commissioner may spend sixty percent of this amount without requiring any matching funds from the trade office. Any additional amounts may be spent only to the extent the North Dakota trade office provides one dollar of matching funds from private or other public sources for each one dollar provided by the agriculture commissioner. Matching funds may include money spent by businesses or organizations to pay salaries to export assistants, providing training to export assistants, or to purchase computer equipment as part of the North Dakota trade office's export assistant program.

SECTION 13. AMENDMENT. Section 4.1-01-02 of the North Dakota Century Code is amended and reenacted as follows:

4.1-01-02. Salary of agriculture commissioner.

The annual salary of the agriculture commissioner is one hundred ~~sixteen~~twenty-one thousand ~~eight~~five hundred ~~thirty-six~~fifty-three dollars through June 30, ~~2020~~2022, and one hundred ~~nineteen~~twenty-three thousand ~~seven~~nine hundred ~~fifty-seven~~eighty-four dollars after that date.

SECTION 14. AMENDMENT. Section 4.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

4.1-01-17. Pipeline restoration and reclamation oversight pilot program - Generally.

1. The commissioner shall establish a pilot program providing technical assistance and support to surface owners and surface tenants on pipeline restoration and followup support to surface owners and surface tenants on pipeline reclamation.
2. The commissioner may contract for ombudsmen to be a resource for technical assistance and followup on pipeline issues. The ombudsmen may not investigate or assist with any pipeline installed before January 1, 2006, or regulated by the public service commission under title 49, and may not assist in easement negotiations.
3. The pilot program may provide technical education, support, and outreach on pipeline-related matters in coordination with other entities.
4. The commissioner may contract with local individuals, deemed trustworthy by the surface owners and surface tenants, to be ombudsmen. The commissioner is not subject to the provisions of chapter 54-44.4 when contracting for the services of ombudsmen.
5. The names of surface owners and surface tenants who receive assistance under the program are closed records as defined in section 44-04-17.1.

SECTION 15. AMENDMENT. Section 4.1-83-22 of the North Dakota Century Code is amended and reenacted as follows:

4.1-83-22. Appointment of trustee.

1. ~~Upon the insolvency of a livestock dealer, the agriculture commissioner may apply to the district court of the county in which the dealer maintains its principal place of business for appointment as the trustee.~~
2. ~~Upon notice to the livestock dealer, as the court shall prescribe but not exceeding ten days, or upon a written waiver of notice by the dealer, the court shall hear and make a determination regarding the application in a summary manner.~~
3. ~~If the court determines that the livestock dealer is insolvent within the meaning of this chapter and that it would be in the best interest of persons holding claims against the dealer for the purchase price of livestock sold to the dealer or to the dealer's agent that the agriculture commissioner execute the trust,~~

~~the court shall issue an order appointing the commissioner as the trustee, without bond.~~

- ~~4. Upon being appointed as the trustee shall provide notice to the livestock dealer and may immediately suspend, close, or take control of assets held in the trust fund pursuant to section 4.1-83-21, or take any combination of these actions as the agriculture commissioner deems necessary to begin orderly liquidation of trust fund assets as set forth in this chapter.~~
2. Upon establishing the trust fund, the agriculture commissioner shall perform the duties of a trustee as set forth in this chapter.

SECTION 16. AMENDMENT. Section 4.1-83-23 of the North Dakota Century Code is amended and reenacted as follows:

4.1-83-23. Possession of records and property - Notice to file claims.

1. a. ~~Upon being appointed trustee establishing the trust fund,~~ the agriculture commissioner shall take possession of all accounts and records pertaining to the livestock dealer's business. After reviewing the records, the agriculture commissioner may return to the dealer any records that are not necessary to the settlement of claims under this chapter.
- b. ~~Upon being appointed trustee establishing the trust fund,~~ the agriculture commissioner shall take possession of all livestock purchased by the dealer under the dealer's license and remaining in the dealer's possession.
2. The agriculture commissioner, as trustee, shall publish a notice once each week for three consecutive weeks in the official newspaper of each county in which the livestock dealer was conducting business, directing any person having a claim against the dealer to file the claim and all supporting documentation with the commissioner no later than forty-five days from the last date of publication. Any person failing to meet the filing requirements set forth in the notice is barred from participating in any funds marshalled by the agriculture commissioner under this chapter.

SECTION 17. AMENDMENT. Section 4.1-83-28 of the North Dakota Century Code is amended and reenacted as follows:

4.1-83-28. Report of amounts payable - Distribution of trust fund.

1. Upon recovery of the trust fund, or so much of the fund as is recoverable or necessary to pay the outstanding claims, the agriculture commissioner shall file with the ~~court~~claimants a report showing the amount payable on each claim, after recognition of all proper liens, pledges, assignments, and deductions.
2. If the trust fund is insufficient to pay all claims in full, the agriculture commissioner shall prorate the fund among the claimants.
- ~~3. The court shall notify the claimants by mail regarding the proposed distribution and direct that the claimants show cause why the report and distribution should not be approved.~~
4. After holding a hearing on the matter, the ~~court~~agriculture commissioner shall:

- a. Approve or modify the report; and
- b. Issue an order directing that the trust fund be distributed; and
- c. ~~Discharge the agriculture commissioner from all duties as trustee.~~

⁵ **SECTION 18. AMENDMENT.** Section 54-12-08 of the North Dakota Century Code is amended and reenacted as follows:

54-12-08. Assistant and special assistant attorneys general - Appointment - Revocation - Compensation.

1. After consultation with the head of the state department or institution or with the state board, commission, committee, or agency affected, the attorney general may appoint assistant or special assistant attorneys general to represent the state board, commission, committee, or agency. A state officer, head of any state department, whether elected or appointed, or state department, board, commission, committee, or agency may not employ legal counsel, and no person may act as legal counsel in any matter, action, or proceeding in which the state or any state department, board, commission, committee, or agency is interested or is a party, except upon written appointment by the attorney general. Workforce safety and insurance, the department of transportation, the state tax commissioner, the public service commission, the insurance commissioner, the agriculture commissioner, and the securities commissioner may employ attorneys to represent them. These entities shall pay the salaries and expenses of the attorneys they employ within the limits of legislative appropriations. The attorneys that represent these entities must be special assistant attorneys general appointed by the attorney general pursuant to this section. Absent good cause, the attorney general shall appoint as special assistant attorneys general licensed attorneys selected by these entities. The attorney general may revoke the appointment only for good cause or upon the request of the entity. Good cause means an inadequate level of experience, competence, or ethical standards.
2. The powers conferred upon special assistant attorneys general are the same as are exercised by the regular assistant attorneys general, unless the powers are limited specifically by the terms of the appointment. Except as otherwise provided by this section, an appointment is revocable at the pleasure of the attorney general. The appointment may be made with or without compensation, and when compensation is allowed by the attorney general for services performed, the compensation must be paid out of the funds appropriated therefor.
3. The attorney general may require payment for legal services rendered by any assistant or special assistant attorney general to any state official, board, department, agency, or commission and those entities shall make the required payment to the attorney general. Moneys received by the attorney general in payment for legal services rendered must be deposited into the attorney general's operating fund. General fund moneys may not be utilized for the payment of legal services provided by the attorneys employed by the attorney general, except for those payments required of the department of human services, state department of health, department of environmental quality, and the state hospital.

⁵ Section 54-12-08 was also amended by section 485 of House Bill No. 1247, chapter 352.

4. An assistant or special assistant attorney general appointed to represent the state board of higher education or an institution under the control of the state board of higher education may access and examine any record under the control of the state board of higher education. For purposes of reviewing records under the Family Educational Rights and Privacy Act [20 U.S.C. 1232g; 34 CFR 99] or any other federal privacy law, the assistant or special assistant attorney general is considered a state educational official authorized to access student records.

SECTION 19. ESTIMATED INCOME - PIPELINE RESTORATION AND RECLAMATION. The estimated income line item in section 1 of this Act includes the sum of \$200,000 from the abandoned oil and gas well plugging and site reclamation fund for the purpose of defraying the expenses of the pipeline restoration and reclamation program.

SECTION 20. AMENDMENT. Section 7 of chapter 34 of the 2019 Session Laws is amended and reenacted as follows:

SECTION 7. WATERBANK PROGRAM - MATCHING FUNDS. The salaries and wages line item in section 1 of this Act includes up to \$50,000 from the general fund for matching funds for the North Dakota outdoor heritage fund grant provided for the waterbank program.

SECTION 21. WATERBANK PROGRAM - MATCHING FUNDS. The salaries and wages line item in section 1 of this Act includes up to \$50,000 from the general fund for matching funds for the North Dakota outdoor heritage fund grant provided for the waterbank program.

SECTION 22. LEGISLATIVE MANAGEMENT STUDY - NORTH DAKOTA BEEF COMMISSION. During the 2021-22 interim, the legislative management shall consider studying the North Dakota beef commission, including its operations and the selection of commission members. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 23. EMERGENCY. Sections 15, 16, and 17 of this Act are declared to be an emergency measure.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 10

HOUSE BILL NO. 1010

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the insurance commissioner; to provide an appropriation for the distribution of funds from the insurance tax distribution fund; to create and enact a new section to chapter 26.1-36 of the North Dakota Century Code, relating to examinations of health carriers; to amend and reenact section 26.1-01-09 of the North Dakota Century Code, relating to the salary of the insurance commissioner; to provide for a legislative management study; and to provide for a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from federal funds and other income, to the insurance commissioner for the purpose of defraying the expenses of the insurance commissioner, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$8,149,998	(\$73,717)	\$8,076,281
Operating expenses	1,566,675	802,684	2,369,359
Capital assets	0	100,000	100,000
Total special funds	\$9,716,673	\$828,967	\$10,545,640
Full-time equivalent positions	41.00	(3.00)	38.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Office remodel	\$0	\$100,000
State flexibility to stabilize the market grant	0	662,000
Coal and fossil fuel industry insurance study	0	200,000
Health care analysis	200,000	0
Total special funds	\$200,000	\$962,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The insurance commissioner shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the insurance tax distribution fund in the state treasury, not otherwise appropriated, the sum of \$20,728,540 or so much of the sum as may be necessary, to the insurance commissioner for the purpose of providing payments, in accordance with provisions of

section 18-04-05, to North Dakota fire departments in the amount of \$19,588,470 and payments to the North Dakota firefighter's association in the amount of \$1,140,070 for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 4. UNSATISFIED JUDGMENT FUND. Section 1 of this Act includes \$26,610 from the state unsatisfied judgment fund to pay unsatisfied judgment fund administrative expenses for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 5. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - COAL AND FOSSIL FUEL INDUSTRY INSURANCE STUDY. The appropriation in section 1 of this Act includes the sum of \$200,000 from the strategic investment and improvements fund for the insurance commissioner to study the availability, cost, and risks associated with insurance coverage in the lignite coal industry.

SECTION 6. AMENDMENT. Section 26.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

26.1-01-09. Salary of commissioner.

The annual salary of the commissioner is ~~one hundred seven thousand eight hundred eighty-five dollars through June 30, 2020~~ one hundred twelve thousand two hundred forty-one dollars through June 30, 2022, and ~~one hundred ten thousand five hundred eighty-two~~ one hundred fourteen thousand four hundred eighty-six dollars thereafter.

SECTION 7. A new section to chapter 26.1-36 of the North Dakota Century Code is created and enacted as follows:

Examinations.

1. As used in this section, the terms "health carrier" and "health benefit plan" have the same meaning as provided under section 26.1-36.3-01.
2. Whenever the commissioner, in the commissioner's sole discretion, deems it appropriate, but at least once every five years, the commissioner or any of the commissioner's examiners shall conduct a comprehensive examination of a health carrier with a market share of twenty-five percent or more of health benefit plan covered lives in this state. The examination must be conducted in accordance with an examination conducted under chapter 26.1-03. In determining the scope of the comprehensive examination, the commissioner shall consider the criteria set forth in the market conduct handbook adopted by the national association of insurance commissioners and adopted by the commissioner which is in effect when the examination is initiated and any other matters deemed appropriate by the commissioner.

SECTION 8. LEGISLATIVE MANAGEMENT STUDY - MEDICATION OPTIMIZATION. During the 2021-22 interim, the legislative management shall consider studying medication optimization. The study must include a review of the implementation of clinical pharmacist-led medication optimization programs in individual, large group, and small group plans, including provider credentialing, billing standards and procedures, providing standards of care, patient monitoring, consistent documentation of outcomes and efforts related to de-prescribing, and structuring an outcome reporting system for medication optimization programs. The study also must include a review of changes necessary to state laws and administrative rules to implement effective medication optimization. The insurance commissioner shall assist

the legislative management with the study and identify and request the participation of stakeholders needed to complete this study. The insurance commissioner shall collect and provide to the legislative management the data needed to complete the study. The data provided by stakeholders, not otherwise publicly disclosed, must be considered confidential pursuant to section 44-04-18.4. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 9. LEGISLATIVE MANAGEMENT STUDY - FIRE-RELATED INSURANCE LINES. During the 2021-22 interim, the legislative management shall consider studying fire-related lines of insurance, including the insurance premium tax revenue generated from fire-related lines of insurance and the appropriate amounts to be distributed to fire departments and the North Dakota firefighter's association pursuant to section 18-04-05. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 11

HOUSE BILL NO. 1011

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the securities department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from other income, to the securities department for the purpose of defraying the expenses of the securities department, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$2,163,558	\$50,323	\$2,213,881
Operating expenses	593,561	1,542	595,103
Total special funds	\$2,757,119	\$51,865	\$2,808,984
Full-time equivalent positions	10.00	0.00	10.00

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 12

HOUSE BILL NO. 1012

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the department of human services; to provide an appropriation to the state department of health; to provide an appropriation to the legislative council; to provide an appropriation to the office of management and budget; to create and enact a new section to chapter 1-02, two new sections to chapter 50-06, and a new section to chapter 50-24.1 of the North Dakota Century Code, relating to person-first language, substance use disorder treatment voucher system grants, a behavioral health bed management system, and medical assistance coverage of interpreter services; to create and enact a new paragraph to subdivision I of subsection 1 of section 50-11.1-22 of the North Dakota Century Code as created by section 8 of House Bill No. 1416, as approved by the sixty-seventh legislative assembly, relating to the North Dakota early childhood council membership; to amend and reenact sections 50-06-42, 50-11.1-14, 50-24.1-02.7, 50-24.1-31, and 50-24.1-37 of the North Dakota Century Code, relating to the substance use disorder voucher program, early childhood workforce development fees, Medicaid coverage for workers with disability coverage and families of children with disabilities, and the Medicaid expansion program; to repeal section 50-24.1-18.1 of the North Dakota Century Code, relating to consumer-directed health maintenance services; to provide an exemption; to provide a statement of legislative intent; to provide for a report; to provide for a study; to provide for a transfer; to provide for the conveyance of land; to provide an application; to provide for retroactive application; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of human services for the purpose of defraying the expenses of its various divisions, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

Subdivision 1.

MANAGEMENT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$20,222,500	(\$882,643)	\$19,339,857
Operating expenses	134,438,862	83,747,426	218,186,288
Capital assets	50,000	25,000	75,000
Total all funds	\$154,711,362	\$82,889,783	\$237,601,145
Less estimated income	90,021,088	49,909,553	139,930,641
Total general fund	\$64,690,274	\$32,980,230	\$97,670,504

Subdivision 2.

PROGRAM AND POLICY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$68,994,873	\$53,731,256	\$122,726,129
Operating expenses	150,961,583	20,314,902	171,276,485
Capital assets	10,000	0	10,000
Grants	452,041,904	15,404,936	467,446,840
Grants - medical assistance	2,742,157,720	295,998,870	3,038,156,590
Total all funds	\$3,414,166,080	\$385,449,964	\$3,799,616,044
Less estimated income	<u>2,232,568,138</u>	<u>272,982,735</u>	<u>2,505,550,873</u>
Total general fund	\$1,181,597,942	\$112,467,229	\$1,294,065,171

Subdivision 3.

FIELD SERVICES

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Human service centers	\$204,701,143	(\$34,917,117)	\$169,784,026
Institutions	137,476,480	(6,942,407)	130,534,073
Total all funds	\$342,177,623	(\$41,859,524)	\$300,318,099
Less estimated income	<u>127,314,955</u>	<u>(13,041,660)</u>	<u>114,273,295</u>
Total general fund	\$214,862,668	(\$28,817,864)	\$186,044,804

Subdivision 4.

COUNTY SOCIAL SERVICE FINANCING

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
County social services	\$173,700,000	\$16,217,386	\$189,917,386
Total all funds	\$173,700,000	\$16,217,386	\$189,917,386
Less estimated income	<u>173,700,000</u>	<u>14,976,995</u>	<u>188,676,995</u>
Total general fund	\$0	\$1,240,391	\$1,240,391

Subdivision 5.

TOTAL - SECTION 1

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$1,461,150,884	\$117,869,986	\$1,579,020,870
Grant total special funds	2,623,604,181	324,827,623	2,948,431,804
Grant total all funds	\$4,084,755,065	\$442,697,609	\$4,527,452,674
Full-time equivalent positions	2,230.23	19.10	2,249.33

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Technology projects	\$13,785,658	\$67,641,747
Capital projects - life skills and transition center	4,277,165	0
Capital projects - state hospital	2,493,500	0

Capital projects - southeast human service center	0	724,000
Developmental disabilities provider stabilization grants	0	125,000
Medically complex children provider funding	977,603	0
Hyperbaric oxygen therapy grant	335,000	0
State hospital study	200,000	0
Nursing facility payment methodology	0	<u>7,200,000</u>
Total all funds	\$22,068,926	\$75,690,747
Less estimated income	<u>20,556,323</u>	<u>51,457,531</u>
Total general fund	\$1,512,603	\$24,233,216

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The department of human services shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION - 2019-21 BIENNium - DEPARTMENT OF HUMAN SERVICES - FIRE PROTECTION AGREEMENTS - EXEMPTION. There is appropriated out of any moneys in the department of human services operating fund in the state treasury, not otherwise appropriated, the sum of \$333,333, or so much of the sum as may be necessary, to the department of human services for the purpose of providing a grant to a city located in a county of fewer than 25,000 individuals and provides prevention and extinguishment of fires at the North Dakota state hospital, for the period beginning with the effective date of this Act and ending June 30, 2021. The funding appropriated in this section is a one-time funding item. The requirements of chapter 54-44.4 do not apply to the selection of a grant recipient, the grant award, or payments made under this section. The department of human services may not enter any future agreement with a political subdivision for fire protection services.

SECTION 4. APPROPRIATION - STATE DEPARTMENT OF HEALTH. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$281,715, or so much of the sum as may be necessary, and the sum of \$281,715 from special funds derived from grants, donations, and other income, to the state department of health for the purpose of providing a grant to the task force on the prevention of sexual abuse of children for staff and programming materials focused on primary prevention activities, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 5. APPROPRIATION - LEGISLATIVE MANAGEMENT STUDY - STATEWIDE ACUTE PSYCHIATRIC AND RESIDENTIAL CARE NEEDS.

1. During the 2021-22 interim, the legislative management shall study the acute psychiatric hospitalization and related step down residential treatment and support needs of individuals with mental illness. The legislative management shall create an acute psychiatric treatment committee consisting of eight members to conduct the study. The legislative management chairman shall designate the committee chairman and vice chairman and the legislative council shall provide staff services for the committee. The committee must complete the study by October 1, 2022.
2. As part of the study, the committee shall gather input from stakeholders and other groups, including private hospitals, the department of human services, and mental health advocates.
3. The study must review options for a long-term plan for acute psychiatric hospitalization and related step down residential treatment and support needs

in the state and short-term options during the next two bienniums to contract with private provider acute psychiatric care facilities to provide treatment services in four or more cities in the state, workforce needs of such specific locations, and options to replace the existing state hospital facility with one or more treatment facilities focused on forensic psychiatric evaluation and treatment.

4. The committee, with the approval of the legislative management, may obtain consulting services to determine the total number of acute care beds needed in the state and to develop recommendations for private provider contracts, treatment requirements and outcome measures, locations in the state, including private and public facilities, the future use of facilities at the state hospital campus including the LaHaug building, and other items identified in subsection 3. The consulting services may also develop conceptual drawings for recommendations for a new state hospital.
5. The department of human services shall provide to the consultants and the committee a complete description of other outpatient and inpatient private and public behavioral health services, including substance use disorder facilities, existing in the state to prevent acute behavioral health hospitalization and to support patients following discharge from psychiatric hospitalization and related residential care.
6. The department of human services shall seek Medicaid plan amendments or Medicaid waivers to allow federal funding reimbursement for services provided in institutions for mental diseases to Medicaid beneficiaries between the ages of twenty-one and sixty-four.
7. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.
8. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the legislative council for consulting services for the study identified in this section, for the period beginning with the effective date of this section, and ending June 30, 2023. The funding appropriated in the section is considered a one-time funding item.

SECTION 6. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET - CAPITOL BUILDING FUND. There is appropriated out of any moneys in the capitol building fund in the state treasury, not otherwise appropriated, the sum of \$25,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of utilizing a consultant to determine the compliance of the capitol building with 2010 Americans with Disabilities Act standards, for the biennium beginning July 1, 2021, and ending June 30, 2023. The funding appropriated in this section is considered a one-time funding item.

SECTION 7. SPENDING RESTRICTION - 2021-23 BIENNIUM - FEDERAL MEDICAL ASSISTANCE PERCENTAGE. The department of human services may not spend any general fund savings resulting from federal enhancements or adjustments that cause the federal medical assistance percentage to exceed the rates used by the sixty-seventh legislative assembly for budgeting purposes for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 8. FUNDING TRANSFERS - EXEMPTION - AUTHORIZATION - REPORT. Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority between line items within subdivisions 1, 2, and 3 of section 1 of this Act for the biennium beginning July 1, 2021, and ending June 30, 2023, as requested by the department of human services. The department of human services shall notify the legislative council of any transfer made pursuant to this section. The department shall report to the budget section after June 30, 2022, any transfer made in excess of \$50,000 and to the appropriations committees of the sixty-eighth legislative assembly regarding any transfers made pursuant to this section.

SECTION 9. FUNDING TRANSFERS - EXEMPTION - AUTHORIZATION - REPORT. Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority from line items within subdivisions 1, 2, and 3 of section 1 of this Act to subdivision 4 of section 1 of this Act for the biennium beginning July 1, 2021, and ending June 30, 2023, as requested by the department of human services. The department of human services shall notify the legislative council of any transfer made pursuant to this section. The department shall report to the budget section after June 30, 2022, any transfer made in excess of \$50,000 and to the appropriations committees of the sixty-eighth legislative assembly regarding any transfers made pursuant to this section.

SECTION 10. FULL-TIME EQUIVALENT POSITION - AGING SERVICES - LEGISLATIVE INTENT. Section 1 of this Act includes one full-time equivalent position for the administration of services resulting from a federal department of justice lawsuit settlement. This position is authorized only for the biennium beginning July 1, 2021, and ending June 30, 2023, and may not be included in the department's base budget for the biennium beginning July 1, 2023, and ending June 30, 2025. It is the intent of the sixty-seventh legislative assembly that future legislative assemblies retain and exercise unfettered discretion to appropriate funds as they deem appropriate without regard to the federal department of justice lawsuit settlement.

SECTION 11. TRANSFER OF APPROPRIATION AUTHORITY. Section 1 of this Act includes appropriation authority for the department of human services for the biennium beginning July 1, 2021, and ending June 30, 2023. On September 1, 2022, in accordance with provisions of House Bill No. 1247, as approved by the sixty-seventh legislative assembly, the office of management and budget shall transfer remaining appropriation authority contained in section 1 of this Act, and any remaining appropriation authority for the department of human services in other bills approved by the sixty-seventh legislative assembly, to the department of health and human services. The appropriation authority in section 1 of this Act and appropriation authority for the department of human services from any other bill that is transferred to the department of health and human services must be maintained and reported separately from other appropriation authority transferred to the department of health and human services.

SECTION 12. ESTIMATED INCOME - FEDERAL CORONAVIRUS RELIEF FUND. The estimated income line item in subdivision 2 of section 1 of this Act includes the sum of \$2,457,638 from the federal coronavirus relief fund for senior nutrition services and the sum of \$1,750,000 from the federal coronavirus relief fund for the community behavioral health program.

SECTION 13. ESTIMATED INCOME - HUMAN SERVICE FINANCE FUND. The estimated income line item in subdivision 4 of section 1 of this Act includes the sum of \$187,223,092 from the human service finance fund for state-paid economic assistance and social and human services.

SECTION 14. ESTIMATED INCOME - COMMUNITY HEALTH TRUST FUND.

The estimated income line item in subdivision 2 of section 1 of this Act includes the sum of \$31,500,000 from the community health trust fund for defraying expenses in the medical services division.

SECTION 15. ESTIMATED INCOME - HEALTH CARE TRUST FUND. The estimated income line item in subdivision 2 of section 1 of this Act includes the sum of \$1,000,000 from the health care trust fund and \$1,150,538 from federal funds for nursing facility operating margin adjustments.

SECTION 16. CAPITAL PAYMENTS. During the biennium beginning July 1, 2021, and ending June 30, 2023, the department of human services is authorized to expend funds for the payment of special assessments at the state hospital and life skills and transition center.

SECTION 17. CAPITAL PROJECTS - EMERGENCY COMMISSION APPROVAL. During the biennium beginning July 1, 2021, and ending June 30, 2023, the department of human services is authorized to proceed with the demolition of the chapel, administrative building, and employee building and associated tunnels at the state hospital. Pursuant to section 8 of this Act, the director of the office of management and budget may transfer appropriation authority between line items within subdivisions 1, 2, and 3 of section 1 of this Act. The department may transfer funds for the demolition of the identified buildings and associated tunnels and for emergency capital projects. Notwithstanding section 54-27-12, the department of human services may spend up to \$5,000,000 for emergency projects under this section and may seek emergency commission approval to spend more than \$5,000,000 under this section.

SECTION 18. PERMANENT SUPPORTIVE HOUSING GRANTS. Subdivision 2 of section 1 of this Act includes the sum of \$4,672,536 from the general fund for permanent supportive housing grants. The department of human services shall develop a funding methodology to distribute the funding to qualified entities that utilize best practices for permanent supportive housing, provide recovery-oriented and person-centered services, submit process and outcome measures to the department, and authorize the department to conduct onsite visits to review program operations.

SECTION 19. EMERGENCY STABILIZATION GRANTS - DEVELOPMENTAL DISABILITIES WAIVER.

1. Subdivision 2 of subsection 1 of this Act includes the sum of \$125,000 from the general fund for the purpose of providing emergency stabilization grants to developmental disability in-home support providers to support the sustainability of newly licensed providers within the developmental disability provider network. To be eligible to receive an emergency stabilization grant, a licensed developmental disability in-home support provider must be in operation as of October 1, 2020, with an initial license date of October 15, 2015, or later, and comply with grant requirements established by the department of human services. The requirements of chapter 54-44.4 do not apply to the selection of a grantee, the grant award, or payments made under this section.
2. The department of human services shall include in-home support providers in future appendix K applications, to allow eligibility for retainer payments in a manner equivalent to day support services.

SECTION 20. REFUGEE RESETTLEMENT SERVICES - LEGISLATIVE MANAGEMENT REPORT. Subdivision 2 of section 1 of this Act includes the sum of \$6,069,408 of federal funds for the refugee resettlement program. The department of human services shall collaborate with applicable federal and private placement agencies to develop a plan to resettle refugees in at least five geographically diverse communities in the state outside of the existing resettlement communities with a goal of resettling twenty-five percent of new refugees outside of existing resettlement communities. During the 2021-22 interim, the department of human services shall provide a report to the legislative management regarding refugee resettlement services.

SECTION 21. EXPENDITURES MAY NOT EXCEED APPROPRIATION - MEDICAL ASSISTANCE EXPANSION PROGRAM - APPLICATION.

1. Subdivision 2 of section 1 of this Act includes the sum of \$703,317,464, of which \$80,934,488 is from the general fund, for the medical assistance expansion program for the biennium beginning July 1, 2021, and ending June 30, 2023. The expenditures for individuals eligible for the medical assistance expansion program may not exceed this amount. For purposes of this section:
 - a. Expenditures do not include those made for individuals identified as medically frail and who receive services through the traditional Medicaid program administered by the department of human services for which there is a separate appropriation of \$10,184,568 included in subdivision 2 of section 1 of this Act.
 - b. Expenditures do not include prescription drugs for the medical assistance expansion program population which is administered by the department of human services through its fee-for-service Medicaid program for which there is a separate appropriation of \$29,460,720 included in subdivision 2 of section 1 of this Act.
 - c. Expenditures do not include coverage for individuals ages nineteen and twenty for the medical assistance expansion program population which is administered by the department of human services through its fee-for-service Medicaid program for which there is a separate appropriation of \$12,705,466 included in subdivision 2 of section 1 of this Act.
2. The department of human services may exceed appropriations for increases in medical assistance expansion program caseload and for the addition of coverage consistent with the traditional Medicaid 1915(i) state plan.
3. The managed care organization under contract with the department to manage the medical assistance expansion program shall reimburse providers within the same provider type and specialty at consistent levels and with consistent methodology and may not provide incentive, quality, or supplemental payments to providers, unless part of a value-based program approved by the department. The managed care organization may consider urban and rural providers as different provider types. Critical access hospitals may not be paid less than one hundred percent of Medicare allowable costs.
4. The managed care organization and the department of human services shall ensure payments to Indian or Tribal 638 health care providers, federally qualified health centers, and rural health clinics meet the federally required minimum levels of reimbursement.

5. The department of human services shall ensure providers within the same provider type and specialty are reimbursed at consistent levels and with consistent methodology and shall ensure the capitation rates under risk contracts are actuarially sound and are adequate to meet managed care organization contractual requirements regarding availability of services, assurance of adequate capacity and services, and coordination and continuity of care.
6. The department of human services and the Medicaid expansion managed care organization shall ensure the appropriate contract amendment is adopted for coverage through December 31, 2021. The contract amendment shall stay within the appropriation and the requirements of chapter 54-44.4 do not apply.

SECTION 22. EXPENDITURES MAY NOT EXCEED APPROPRIATION - MEDICAL ASSISTANCE EXPANSION PROGRAM - APPLICATION.

1. Subdivision 2 of section 1 of this Act includes the sum of \$703,317,464, of which \$80,934,488 is from the general fund, for the medical assistance expansion program for the biennium beginning July 1, 2021, and ending June 30, 2023. The expenditures for individuals eligible for the medical assistance expansion program may not exceed this amount. For purposes of this section:
 - a. Expenditures do not include those made for individuals identified as medically frail and who receive services through the traditional Medicaid program administered by the department of human services for which there is a separate appropriation of \$10,184,568 included in subdivision 2 of section 1 of this Act.
 - b. Expenditures do not include prescription drugs for the medical assistance expansion program population which is administered by the department of human services through its fee-for-service Medicaid program for which there is a separate appropriation of \$29,460,720 included in subdivision 2 of section 1 of this Act.
 - c. Expenditures do not include coverage for individuals ages nineteen and twenty for the medical assistance expansion program population which is administered by the department of human services through its fee-for-service Medicaid program for which there is a separate appropriation of \$12,705,466 included in subdivision 2 of section 1 of this Act.
2. The department of human services may exceed appropriations for increases in medical assistance expansion program caseload and for the addition of coverage consistent with the traditional Medicaid 1915(i) state plan.
3. The managed care organization under contract with the department to manage the medical assistance expansion program shall reimburse providers within the same provider type and specialty at consistent levels and with consistent methodology and may not provide incentive, quality, or supplemental payments to providers, unless part of a value-based program approved by the department. The managed care organization shall reimburse all North Dakota substance use providers of American society of addiction medicine level 2.5 at consistent levels and with consistent methodology. The managed care organization may consider urban and rural providers as

different provider types. Critical access hospitals may not be paid less than one hundred percent of Medicare allowable costs.

4. The managed care organization and the department of human services shall ensure payments to Indian or Tribal 638 health care providers, federally qualified health centers, and rural health clinics meet the federally required minimum levels of reimbursement.
5. The department of human services shall ensure providers within the same provider type and specialty are reimbursed at consistent levels and with consistent methodology and shall ensure the capitation rates under risk contracts are actuarially sound and are adequate to meet managed care organization contractual requirements regarding availability of services, assurance of adequate capacity and services, and coordination and continuity of care.

SECTION 23. A new section to chapter 1-02 of the North Dakota Century Code is created and enacted as follows:

Person-first language.

The provisions of this code, unless the context otherwise requires, must be construed in person-first language and any new enactments of this code must be written in person-first language.

SECTION 24. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Substance use disorder treatment voucher system grants.

1. A licensed substance abuse treatment program, excluding regional human service centers and hospital or medical clinic-based programs for medical management of withdrawal, may apply for a competitive substance use disorder treatment voucher system grant. A licensed substance abuse treatment program is eligible for a one-time grant award. To receive a grant, a licensed substance abuse treatment program shall:
 - a. Submit an application in the form and manner prescribed by the department;
 - b. Enter a grant agreement with the department;
 - c. Use grant funds for a licensed substance abuse treatment program with fewer than seventeen beds in an underserved area, as determined by the department, in the state's substance abuse treatment system;
 - d. Use the grant funds to support the provision of substance use disorder treatment in underserved areas of the state's substance abuse treatment system;
 - e. Provide and disclose information needed to comply with the department's data collection requirements; and
 - f. Operate in compliance with grant requirements.

2. The department, within legislative appropriations, may distribute up to two grants under this section to licensed substance abuse treatment programs.
3. The department may recapture grant funds distributed to a licensed program found by the department to be out of compliance with the requirements established by the grant program, including ending or reducing the operation of the substance use disorder treatment services in the underserved area.
4. The department may not collect property, equipment, or supplies purchased with grant funds from the licensed substance abuse treatment program after successful completion of the terms of the grant.
5. The grant term must be for five years.

⁶ **SECTION 25. AMENDMENT.** Section 50-06-42 of the North Dakota Century Code is amended and reenacted as follows:

50-06-42. Substance use disorder treatment voucher system.

1. The department shall establish and administer, within the limits of legislative appropriations, a voucher system to address underserved areas and gaps in the state's substance abuse treatment system and to assist in the payment of addiction treatment services provided by licensed substance abuse treatment programs, excluding regional human service centers, and hospital- or medical clinic-based programs for medical management of withdrawal-, and any institution for mental diseases in accordance with subsection 2.
2. The department shall deny a licensed substance abuse treatment program's substance use disorder treatment voucher system application and deny reimbursement by the substance use disorder treatment voucher system if the licensed substance abuse treatment program is an institution for mental diseases and reimbursement is requested for residential beds added on or after July 1, 2020.
3. Services eligible for the voucher program include only those levels of care recognized by the American society of addiction medicine, with particular emphasis given to underserved areas and programs. The department shall ensure that a licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers collects and reports process and outcome measures. The department shall develop requirements and provide training and technical assistance to a licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers. A licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers shall provide evidence-based services.

SECTION 26. AMENDMENT. Section 50-06-42 of the North Dakota Century Code is amended and reenacted as follows:

50-06-42. Substance use disorder treatment voucher system.

1. The department shall establish and administer, within the limits of legislative appropriations, a voucher system to address underserved areas and gaps in the state's substance abuse treatment system and to assist in the payment of

⁶ Section 50-06-42 was also amended by section 1 of House Bill No. 1402, chapter 361.

addiction treatment services provided by licensed substance abuse treatment programs, excluding regional human service centers, hospital- or medical clinic-based programs for medical management of withdrawal, and any institution for mental diseases in accordance with subsection 2.

2. The department shall deny a licensed substance abuse treatment program's substance use disorder treatment voucher system application and deny reimbursement by the substance use disorder treatment voucher system if the licensed substance abuse treatment program is an institution for mental diseases and reimbursement is requested for residential beds added on or after July 1, 2020.
3. Services eligible for the voucher program include only those levels of care recognized by the American society of addiction medicine, with particular emphasis given to underserved areas and programs. The department shall ensure that a licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers collects and reports process and outcome measures. The department shall develop requirements and provide training and technical assistance to a licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers. A licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers shall provide evidence-based services.
4. The department shall allocate funding appropriated for the substance use disorder treatment voucher as follows:
 - a. No more than forty-five percent of the appropriated amount may be allocated for residential substance use disorder services administered by licensed substance abuse treatment programs with more than sixteen beds.
 - b. The remaining appropriation must be allocated for residential programs with sixteen or fewer beds, nonresidential outpatient, and ancillary substance use disorder services administered by licensed substance abuse treatment programs.

SECTION 27. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Behavioral health bed management system.

The department shall establish and maintain a behavioral health bed management system to improve utilization of behavioral health bed capacity. Public and private providers of residential or inpatient behavioral health services shall participate in and report daily to the department the information and documentation necessary to maintain the behavioral health bed management system in the form and manner prescribed by the department.

SECTION 28. AMENDMENT. Section 50-11.1-14 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-14. Workforce development.

1. The department may establish a statewide system to build systematic early childhood workforce voluntary training which may include distance learning formats, a professional registry, certificates, and specializations.

2. The department may charge reasonable fees for all training and development courses to offset costs. All fees collected under this section must be paid to the department or the department's authorized agent and must be used to defray the cost of providing training and development courses to providers and staff members of early childhood services.

⁷ **SECTION 29.** A new paragraph to subdivision 1 of subsection 1 of section 50-11.1-22 of the North Dakota Century Code, as created by section 8 of House Bill No. 1416, as approved by the sixty-seventh legislative assembly, is created and enacted as follows:

A special education director;

SECTION 30. AMENDMENT. Section 50-24.1-02.7 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.7. Workers with disabilities coverage.

The department shall establish and implement a buyin program to provide medical assistance to an individual who, except for substantial gainful activity, meets the definition of disabled under the supplemental security income program under title XVI of the federal Social Security Act, who is at least sixteen but less than sixty-five years of age, and who is gainfully employed. The program ~~must~~:

1. ~~Be~~Must be made available to an individual with a disability who is a member of a household with a net income less than two hundred twenty-five percent of the most recently revised official poverty line published by the federal office of management and budget applicable to the household size;
2. ~~Allow~~Must allow up to an additional ten thousand dollars in assets;
3. ~~Require~~Must require the payment of a premium that is based upon a sliding scale which may not be less than two and one-half percent nor more than seven and one-half percent of the individual's gross countable income;
4. ~~Include~~Must include a one-time program enrollment fee of one hundred dollars; and
5. ~~Provide~~Must provide that the failure of an enrolled individual to pay premiums for three months may result in the termination of enrollment in the program; and
6. May not require the payment of a premium or enrollment fee or disenroll an individual for failure to pay a premium or enrollment fee for workers with disabilities coverage during a federally declared emergency if collection of the premium or enrollment fee may impact the receipt of federal funds.

SECTION 31. AMENDMENT. Section 50-24.1-31 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-31. Optional medical assistance for families of children with disabilities.

⁷ Section 50-11.1-22 was created by section 2 of House Bill No. 1466, chapter 368.

1. The department shall establish and implement a buyin program under the federal Family Opportunity Act enacted as part of the Deficit Reduction Act of 2005 [Pub. L. 109-171; 120 Stat. 4; 42 U.S.C. 1396] to provide medical assistance and other health coverage options to families of children with disabilities and whose net income does not exceed two hundred fifty percent of the federal poverty line published by the federal office of management and budget applicable to the household size.
2. The department may not require the payment of a premium or disenroll an individual for failure to pay a premium for families of children with disabilities coverage during a federally declared emergency if collection of the premium may impact the receipt of federal funds.

⁸ **SECTION 32. AMENDMENT.** Section 50-24.1-37 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-37. Medicaid expansion - Legislative management report. (Effective through July 31, 2021- Contingent repeal - [See note](#))

1. The department of human services shall expand medical assistance coverage as authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] to individuals under sixty-five years of age with income below one hundred thirty-eight percent of the federal poverty line published by the federal office of management and budget applicable to the household size.
2. The department shall inform new enrollees in the medical assistance expansion program that benefits may be reduced or eliminated if federal participation decreases or is eliminated.
3. Except for pharmacy services, the department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange.
4. The contract between the department and the private carrier must provide the department with full access to provider reimbursement rates. The department shall consider provider reimbursement rate information in selecting a private carrier under this section. Before August first of each even-numbered year, the department shall submit a report to the legislative management regarding provider reimbursement rates under the medical assistance expansion program. This report may provide cumulative data and trend data but may not disclose identifiable provider reimbursement rates.
5. Provider reimbursement rate information received by the department under this section is confidential, except the department may use the reimbursement rate information to prepare the report to the legislative management as required under this section.

⁹ **SECTION 33. AMENDMENT.** Section 50-24.1-37 of the North Dakota Century Code is amended and reenacted as follows:

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- ⁸ Section 50-24.1-37 was also amended by section 33 of House Bill No. 1012, chapter 12.
 - ⁹ Section 50-24.1-37 was also amended by section 32 of House Bill No. 1012, chapter 12.

50-24.1-37. Medicaid expansion - Legislative management report.
(Contingent repeal - [See note](#))

1. The department of human services shall expand medical assistance coverage as authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] to individuals under sixty-five years of age with income below one hundred thirty-eight percent of the federal poverty line published by the federal office of management and budget applicable to the household size.
2. The department shall inform new enrollees in the medical assistance expansion program that benefits may be reduced or eliminated if federal participation decreases or is eliminated.
3. Except for pharmacy services and coverages for individuals ages nineteen and twenty, the department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange.
4. The contract between the department and the private carrier must provide the department with full access to provider reimbursement rates. The department shall consider provider reimbursement rate information in selecting a private carrier under this section. Before August first of each even-numbered year, the department shall submit a report to the legislative management regarding provider reimbursement rates under the medical assistance expansion program. ~~This report may provide cumulative data and trend data but may not disclose identifiable provider reimbursement rates.~~
5. Provider reimbursement rate information received by the department under this section is confidential, ~~except the department may use the reimbursement rate information to prepare the report to the legislative management as required under this section an open record.~~

SECTION 34. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Interpreter services.

Medical assistance coverage, including Medicaid expansion, must include payment for sign and oral language interpreter services for assistance in providing covered health care services to a recipient of medical assistance who has limited English proficiency or who has hearing loss and uses interpreting services. The department shall adopt rules to implement this section.

SECTION 35. REPEAL. Section 50-24.1-18.1 of the North Dakota Century Code is repealed.

SECTION 36. CONVEYANCE OF LAND AUTHORIZED - LIFE SKILLS AND TRANSITION CENTER. The state of North Dakota, by and through the department of human services, may convey real property associated with the life skills and transition center in Grafton to the Grafton parks and recreation department. The department of human services may convey a portion of two parcels of land commonly referred to as "the bowl" on the terms and conditions determined appropriate by the department and the attorney general. Sections 54-01-05.2 and 54-01-05.5 do not apply to this conveyance.

SECTION 37. CONVEYANCE OF LAND AUTHORIZED - LIFE SKILLS AND TRANSITION CENTER. The state of North Dakota, by and through the department of human services, may convey real property associated with the life skills and transition center in Grafton to the Grafton fire department. The department of human services may convey a parcel of land, 7.45 acres, more or less, located in part of lot 1, block 1, state school first addition to the city of Grafton, which is located within the southwest $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of section 13, township 157 north, range 53 west, on the terms and conditions determined appropriate by the department and attorney general. Sections 54-01-05.2 and 54-01-05.5 do not apply to this conveyance.

SECTION 38. LEASE OF LAND - STATE HOSPITAL. The department of human services and national guard may enter an agreement to lease up to twenty acres of real property associated with the state hospital for the national guard to construct a new training and storage facility.

SECTION 39. PROVIDER PROCESS AND OUTCOME MEASURES. Providers that receive funding from the department of human services shall submit process and outcome measures, as required by the department, to the department of human services for programs and services supported by state funding during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 40. QUALIFIED RESIDENTIAL TREATMENT PROVIDERS. The department of human services shall adopt rules, on or before October 1, 2021, establishing a new ratesetting process and requirements for foster care maintenance rates for qualified residential treatment providers based on the appropriation approved by the sixty-seventh legislative assembly.

SECTION 41. COMMUNITY BEHAVIORAL HEALTH PROGRAM. Pursuant to section 8 of this Act, the director of the office of management and budget may transfer appropriation authority between line items within subdivisions 1, 2, and 3 of section 1 of this Act for the biennium beginning July 1, 2021, and ending June 30, 2023, as requested by the department of human services. The department may transfer funds for the continuation of the community behavioral health program pursuant to subsection 2 of section 54-23.3-10.

SECTION 42. EXEMPTION. The amount appropriated for the Medicaid management information system technology stack upgrade in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for the completion of the Medicaid management information system technology stack upgrade during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 43. EXEMPTION. The amount appropriated for the modification of the department of human services' eligibility systems in chapter 578 of the 2011 Special Session Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation approved under section 54-44.1-11 for continuation into the 2013-15 biennium, then the 2015-17 biennium, then the 2017-19 biennium, and then the 2019-21 biennium are available for the completion of the modification of the eligibility systems project during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 44. EXEMPTION. The amount appropriated for the development of the child care licensing and data system in chapter 11 of the 2017 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation approved under section 54-44.1-11 for continuation into the 2019-21

biennium are available for the completion of the child care licensing and data system during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 45. EXEMPTION. The amount appropriated for the development of the health information network in chapter 11 of the 2017 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation approved under section 54-44.1-11 for continuation into the 2019-21 biennium are available for the completion of the health information network during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 46. EXEMPTION. The sum of \$200,000 from the general fund appropriated for the department's operating expenses for the school behavioral health program in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for the completion of the school behavioral health pilot projects during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 47. EXEMPTION. The sum of \$150,000 from the general fund appropriated for the department's operating expenses for behavioral health recovery home grants in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation may be used for behavioral health recovery home grants during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 48. EXEMPTION. The sum of \$750,000 from the general fund appropriated to the department of human services for the purpose of providing suicide prevention grants in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for the suicide prevention grants during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 49. EXEMPTION. The sum of \$3,000,000 from the general fund appropriated to the department of human services for the purpose of providing a community behavioral health program to provide comprehensive community-based services for individuals who have serious behavioral health conditions in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for the community behavioral health program during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 50. EXEMPTION. The sum of \$335,000 from the general fund appropriated to the department of human services for the purpose of providing a grant to an entity to develop a hyperbaric oxygen therapy pilot program in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for the completion of the grant to an entity to develop a hyperbaric oxygen therapy pilot program during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 51. EXEMPTION. The sum of \$572,000 from the strategic investment and improvements fund appropriated to the department of human services for the purpose of a roof replacement project at the state hospital in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for the completion of the roof replacement project at the state hospital during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 52. EXEMPTION. The amount appropriated for the development of the electronic visit verification project in chapter 11 of the 2017 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation approved under section 54-44.1-11 for continuation into the 2019-21 biennium are available for the completion of the electronic visit verification project during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 53. LEGISLATIVE INTENT - UTILIZATION RATE ADJUSTMENT. It is the intent of the sixty-seventh legislative assembly that the department of human services seek a deficiency appropriation from the sixty-eighth legislative assembly for any expenditures that exceed appropriated amounts as a result of utilization rates, nursing home costs associated with the establishment of the new rate structure as provided in House Bill No. 1090, or developmental disability provider reimbursement rate adjustments, during the biennium beginning July 1, 2021, and ending June 30, 2023, if funding is not sufficient to pay actual expenses.

SECTION 54. DEVELOPMENTAL DISABILITY PROVIDER RATES. By July 1, 2021, the department of human services, in consultation with the developmental disabilities payment steering committee, shall identify \$6,950,000 in reductions to be made to payment rates for intermediate care facilities and residential services for individuals with developmental disabilities, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 55. LEGISLATIVE INTENT - STATE FISCAL RECOVERY FUND OR OTHER FUNDS - TRANSITION OF INDIVIDUALS FROM LIFE SKILLS AND TRANSITION CENTER. It is the intent of the sixty-seventh legislative assembly that the department of human services seek an appropriation during any special session of the sixty-seventh legislative assembly from the state fiscal recovery fund received through H.R. 1319 of the 117th Congress, also known as the federal American Rescue Plan Act, or from any eligible federal or other funds made available to the department, for the purpose of transitioning individuals from the life skills and transition center to community-based providers.

SECTION 56. LEGISLATIVE INTENT - SUPPORTED EMPLOYMENT FUNDING. It is the intent of the sixty-seventh legislative assembly that funding appropriated from the general fund for supported employment in section 1 of this Act be used to continue contracts with existing evidence-based supported employment providers during the biennium beginning July 1, 2021, and ending June 30, 2023, and that any funding available through the federal Medicaid 1915(i) state plan amendment be utilized before funding appropriated from the general fund.

SECTION 57. LEGISLATIVE INTENT - CONSULTANTS. It is the intent of the sixty-seventh legislative assembly that the department of human services and state department of health utilize federal funds available to the departments to obtain consulting services to facilitate the merger of the department of human services and state department of health as provided for in House Bill No. 1247 as approved by the sixty-seventh legislative assembly for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 58. LEGISLATIVE INTENT - PROVIDER RATE INCREASE. Section 1 of this Act includes funding for human service provider inflation increases of two percent the first year and one-quarter of one percent the second year of the biennium beginning July 1, 2021, and ending June 30, 2023. It is the intent of the sixty-seventh legislative assembly that future special sessions of the sixty-seventh legislative assembly consider an additional second year inflationary increase during the 2021-23 biennium based on any extensions of the enhanced federal Medicaid assistance

percentage and a review of budget needs of all areas of the department of human services.

SECTION 59. REPORT TO LEGISLATIVE MANAGEMENT - EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT PROGRAM. During the 2021-22 interim, the department of human services shall conduct a study of the early and periodic screening, diagnostic, and treatment program and prepare a report. The department of human services may contract with a consultant to assist in the study and the preparation of the report. The report shall include data on the number, ages, and geographic locations of children receiving screening, diagnostic, and treatment services; the capacity of the program to ensure all children who require screening, diagnostic, and treatment services are identified and receive services; data on the disposition of referrals of children who are screened and eligible for diagnostic and treatment services, including how many receive services and how many do not receive those services by county; an assessment of the program's efforts to provide comprehensive screening and treatment for children as required by federal law; an assessment of the deficits of the program's efforts to provide comprehensive screening and treatment as required by federal law; recommendations to ensure or expand services so that all eligible children are adequately served by the program; and additional data needed to assess the program accountability and efficiency. Before October 1, 2022, the department of human services shall provide the report to the legislative management.

SECTION 60. REPORT TO LEGISLATIVE MANAGEMENT - REVISED PAYMENT METHODOLOGY FOR BASIC CARE FACILITIES. The department of human services, in collaboration with basic care providers and other representatives of the basic care industry, shall develop a report for payment methodology revisions for basic care facilities that must include recommendations for:

1. Methods of reimbursement for basic care facility cost categories, including direct care, indirect care, room and board, and property; and
2. The feasibility of standardizing payments for basic care facilities in the same peer group.

Before October 1, 2022, the department shall present the report to the legislative management regarding the revised payment methodology. The estimated costs related to the implementation of the payment methodology revisions must be included in the department's 2023-25 biennium budget request submitted to the sixty-eighth legislative assembly.

SECTION 61. LEGISLATIVE MANAGEMENT REPORT - FOUR-YEAR OLD PROGRAM - EARLY CHILDHOOD GRANTS. During the 2021-22 interim, the department of human services shall provide reports to the legislative management regarding the status of four-year old program approvals, the North Dakota early childhood council, and the early childhood grant for best in class four-year old experiences.

SECTION 62. SUBSTANCE USE DISORDER TREATMENT VOUCHERS - REPORT TO BUDGET SECTION. During the 2021-22 interim, the department of human services behavioral health division shall submit quarterly reports to the budget section on the status of the substance use disorder treatment voucher system program, including data on the utilization of the program, data on program expenditures, and an estimate of the number of months of funding remaining in the program.

SECTION 63. TRANSFER OF EMPLOYEES. The department of human services may use the identified twenty-seven full-time equivalent child care licensing positions of the human service zone transferred to the department pursuant to chapter 391 of the 2019 Session Laws for child care licensing, quality control, and early childhood administration.

SECTION 64. RETROACTIVE APPLICATION. Section 25 of this Act applies retroactively to July 1, 2020.

SECTION 65. EFFECTIVE DATE. Sections 22 and 33 of this Act become effective January 1, 2022.

SECTION 66. EXPIRATION DATE. Section 24 of this Act is effective through July 1, 2027, and after that date is ineffective.

SECTION 67. EMERGENCY. The sum of \$2,457,638 from the federal coronavirus relief fund included in subdivision 2 of section 1 for senior nutrition services, sections 3, 5, 30, 31, and 54 of this Act, and section 22 of Senate Bill No. 2086, as approved by the sixty-seventh legislative assembly, are declared to be an emergency measure.

Approved May 10, 2021

Filed May 10, 2021

CHAPTER 13

HOUSE BILL NO. 1013

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the department of public instruction, the state library, the school for the deaf, and the North Dakota vision services - school for the blind; to amend and reenact sections 15.1-02-02, 15.1-02-16, 15.1-06-19, and 15.1-27-16 of the North Dakota Century Code, relating to the salary of the superintendent of public instruction, credentialing, school counselors, and administrative cost-sharing for cooperating districts; to provide for a transfer; to provide an exemption; to provide for a legislative management study; to provide for reports; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of public instruction, the state library, the school for the deaf, and North Dakota vision services - school for the blind for the purpose of defraying the expenses of those agencies, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

Subdivision 1.

DEPARTMENT OF PUBLIC INSTRUCTION

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$18,027,035	(\$172,288)	\$17,854,747
Operating expenses	33,770,947	(472,798)	33,298,149
Integrated formula payments	2,098,202,429	33,622,571	2,131,825,000
Grants - special education	24,000,000	3,000,000	27,000,000
Grants - transportation	56,500,000	1,600,000	58,100,000
Grants - other grants	287,062,705	25,926,188	312,988,893
Grants - program grants	7,680,000	(7,680,000)	0
Grants - passthrough grants	2,863,764	(2,863,764)	0
Grants - program and passthrough	0	23,887,064	23,887,064
PowerSchool	5,500,000	(250,000)	5,250,000
National board certification	108,000	68,290	176,290
Total all funds	\$2,533,714,880	\$76,665,263	\$2,610,380,143
Less estimated income	<u>812,553,743</u>	<u>139,429,527</u>	<u>951,983,270</u>
Total general fund	\$1,721,161,137	(\$62,764,264)	\$1,658,396,873
Full-time equivalent positions	89.25	(3.00)	86.25

Subdivision 2.

STATE LIBRARY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$4,300,335	(\$160,428)	\$4,139,907
Operating expenses	1,621,917	200,786	1,822,703
Grants	<u>2,233,528</u>	0	<u>2,233,528</u>
Total all funds	\$8,155,780	\$40,358	\$8,196,138
Less estimated income	<u>2,374,361</u>	(9,944)	<u>2,364,417</u>
Total general fund	\$5,781,419	\$50,302	\$5,831,721
Full-time equivalent positions	27.75	(1.00)	26.75

Subdivision 3.

SCHOOL FOR THE DEAF

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$8,054,944	\$277,876	\$8,332,820
Operating expenses	1,705,586	21,500	1,727,086
Capital assets	158,678	697,500	856,178
Grants	<u>40,000</u>	(40,000)	0
Total all funds	\$9,959,208	\$956,876	\$10,916,084
Less estimated income	<u>2,430,358</u>	1,079,170	<u>3,509,528</u>
Total general fund	\$7,528,850	(\$122,294)	\$7,406,556
Full-time equivalent positions	44.61	0.00	44.61

Subdivision 4.

NORTH DAKOTA VISION SERVICES - SCHOOL FOR THE BLIND

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$4,935,291	\$56,903	\$4,992,194
Operating expenses	795,821	29,850	825,671
Capital assets	<u>39,192</u>	<u>381,500</u>	<u>420,692</u>
Total all funds	\$5,770,304	\$468,253	\$6,238,557
Less estimated income	<u>1,052,315</u>	424,363	<u>1,476,678</u>
Total general fund	\$4,717,989	\$43,890	\$4,761,879
Full-time equivalent positions	27.90	(0.15)	27.75

Subdivision 5.

TOTAL - SECTION 1

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$1,739,189,395	(\$62,792,366)	\$1,676,397,029
Grand total special funds	<u>818,410,777</u>	<u>140,923,116</u>	<u>959,333,893</u>
Grand total all funds	\$2,557,600,172	\$78,130,750	\$2,635,730,922

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Department of public instruction		

Science experiments grant	\$0	\$13,500,000
Regional education association grants	0	250,000
State automated reporting system maintenance	0	200,000
Rapid enrollment grants	3,000,000	0
State automated reporting system rewrite	1,200,000	0
Music education grants	800,000	0
State school aid formula rewrite	<u>200,000</u>	<u>0</u>
Total department of public instruction - all funds	\$5,200,000	\$13,950,000
Total department of public instruction - estimated income	<u>5,000,000</u>	<u>13,750,000</u>
Total department of public instruction - general fund	\$200,000	\$200,000
School for the deaf		
Extraordinary repairs	\$250,000	\$0
Campus server upgrade	0	7,500
Operating expenses	0	21,500
Equipment	20,000	40,000
Boiler and resource center projects	<u>0</u>	<u>650,000</u>
Total school for the deaf - estimated income	\$270,000	\$719,000
North Dakota vision services - school for the blind		
South wing restroom remodel	\$120,000	\$0
Gymnasium floor replacement	42,000	0
West wing roof repair	39,000	0
Daily living skills area remodel	25,000	0
Adaptive technology equipment	20,000	0
Other repairs	18,500	0
Garage door replacement	16,000	0
Vision screening devices	0	11,500
Replace flooring	0	10,000
Replace south wing air conditioning	0	40,000
Repair sidewalk, roof, and parking lot	0	24,000
Replace doors and key system	0	45,000
Heating, ventilation, and air conditioning upgrades	0	86,000
Install LED lighting	0	33,000
South wing electrical service	<u>0</u>	<u>165,000</u>
Total school for the blind - estimated income	\$280,500	\$414,500
Grand total - all funds	\$5,750,500	\$15,083,500
Grand total - estimated income	<u>5,550,500</u>	<u>14,883,500</u>
Grand total - general fund	\$200,000	\$200,000

The 2021-23 biennium one-time funding amounts are not part of the entity's base budget for the 2023-25 biennium. The department of public instruction, school for the deaf, and North Dakota vision services - school for the blind shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION - TUITION APPORTIONMENT. The sum of \$433,020,000, included in the integrated formula payments line item in subdivision 1 of section 1 of this Act, is from the state tuition fund in the state treasury. Any additional amount in the state tuition fund that becomes available for distribution to public schools is appropriated to the department of public instruction for that purpose for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 4. ESTIMATED INCOME - FOUNDATION AID STABILIZATION FUND. The estimated income line item in subdivision 1 of section 1 of this Act includes the

sum of \$143,454,500 from the foundation aid stabilization fund for integrated formula payments.

SECTION 5. INTEGRATED FORMULA PAYMENTS AND SPECIAL EDUCATION CONTRACTS EXPENDITURE AUTHORITY. The superintendent of public instruction may expend funds included in the integrated formula payments and grants - special education contracts line items in subdivision 1 of section 1 of this Act for paying grants for educational services that were due in the 2019-21 biennium but which were not filed, claimed, or properly supported by the education provider until after June 30, 2021. To be reimbursed under this section, claims must be properly supported and filed with the superintendent of public instruction by June 30, 2022.

SECTION 6. GIFTED AND TALENTED PROGRAM. The sum of \$800,000, included in the integrated formula payments line item in subdivision 1 of section 1 of this Act, must be distributed to reimburse school districts or special education units for gifted and talented programs upon the submission of an application that is approved in accordance with guidelines adopted by the superintendent of public instruction. The superintendent of public instruction shall encourage cooperative efforts for gifted and talented programs among school districts and special education units.

SECTION 7. MEDICAID MATCHING FUNDING - SCHOOL APPROVAL - WITHHOLDING AND DISTRIBUTION.

1. State school aid payments for special education must be reduced by the amount of matching funds required to be paid by school districts or special education units for students participating in the Medicaid program for the biennium beginning July 1, 2021, and ending June 30, 2023. Special education funds equal to the amount of the matching funds required to be paid by the school district or special education unit must be paid by the superintendent of public instruction to the department of human services on behalf of the school district or unit.
2. State school aid payments for integrated formula payments must be reduced by the amount of funds required to be paid by school districts for school approval for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 8. TRANSPORTATION GRANTS - DISTRIBUTION.

1. During each year of the 2021-23 biennium, the superintendent of public instruction shall calculate the payment to which each school district is entitled based on the state transportation formula as it existed on June 30, 2001, except that the superintendent shall provide reimbursement at the rate of:
 - a. One dollar and eleven cents per mile for schoolbuses having a capacity of ten or more passengers;
 - b. Fifty-two cents per mile for vehicles having a capacity of nine or fewer passengers;
 - c. Fifty cents per mile, provided:
 - (1) The student being transported is a student with a disability, as defined in chapter 15.1-32;

- (2) The student's individualized education program plan requires that the student attend a public or a nonpublic school located outside the student's school district of residence;
 - (3) The student is transported by an adult member of the student's family;
 - (4) The student is transported in a vehicle furnished by the student's parents;
 - (5) The student's transportation is paid for by the student's parents; and
 - (6) The reimbursement does not exceed two round trips daily between the student's home and school.
- d. Fifty cents per mile, one way, provided:
- (1) The student being transported resides more than two miles from the public school that the student attends;
 - (2) The student is transported by an adult member of the student's family;
 - (3) The student is transported in a vehicle furnished by the student's parents; and
 - (4) The student's transportation is paid for by the student's parents.
- e. Thirty cents per student for each one-way trip.
2. The superintendent of public instruction shall use the latest available student enrollment count in each school district in applying the provisions of subsection 1.
 3. This section does not authorize the reimbursement of any costs incurred in providing transportation for student attendance at extracurricular activities or events.

SECTION 9. CONDITION ON APPROPRIATION FOR GRANTS - PROGRAM AND PASSTHROUGH LINE ITEM. The appropriation in the grants - program and passthrough line item in subdivision 1 of section 1 of this Act is conditioned on the superintendent of public instruction not using federal funds to defray the expenses of the following programs for which state funding is provided in this line item for the biennium beginning July 1, 2021, and ending June 30, 2023:

1. Adult education matching grants;
2. School food services matching grants;
3. Program grant pool; and
4. Mentoring program.

SECTION 10. REGIONAL EDUCATION ASSOCIATIONS - GRANTS - DISTRIBUTION. The integrated formula payments line item in subdivision 1 of section 1 of this Act includes \$500,000 from the general fund for the purpose of providing annual grants to regional education associations for the biennium beginning July 1, 2021, and ending June 30, 2023. An annual grant of \$35,714 is provided to

each regional education association that exists as of July 1, 2021. Regional education associations that merge during the 2021-23 biennium are entitled to the annual grants that would have been paid to each of the member associations.

SECTION 11. POSTSECONDARY TRANSITIONAL GRANT PROGRAM FUNDING. The integrated formula payments line item in subdivision 1 of section 1 of this Act includes funding for postsecondary transitional grants. The superintendent of public instruction shall provide integrated formula payments to postsecondary transitional programs for eligible students enrolled in a postsecondary transitional program within the state at the rate provided under section 15.1-27-04.1. For purposes of this section, "eligible student" means a student with a documented intellectual or developmental disability who is at least eighteen years of age but has not reached the age of twenty-two, who has graduated from a public high school in the state or obtained an equivalent degree, and who enrolls in a postsecondary transitional program. By June thirtieth of each year, postsecondary transitional programs shall submit to the superintendent of public instruction for the reimbursement of eligible students enrolled in the program. Grant payments under this section may not exceed the per student rate under section 15.1-27-04.1. The superintendent of public instruction shall review and approve postsecondary transitional programs and develop a system for the distribution of payments necessary to implement this section.

SECTION 12. USE OF NEW MONEY - NONADMINISTRATIVE PERSONNEL COMPENSATION INCREASES - REPORT TO LEGISLATIVE MANAGEMENT.

1. During the 2021-23 biennium, the board of each school district shall use an amount equal to at least seventy percent of all new money received by the district, resulting from increases in the base integrated formula payment rate, to increase the compensation paid to nonadministrative personnel.
2. For purposes of this section, the superintendent of public instruction shall provide guidance to school districts regarding the calculation of the amount of new money resulting from increases in the base integrated formula payment rate during the 2021-23 biennium.

SECTION 13. EXEMPTION - GENERAL EDUCATIONAL DEVELOPMENT FEES AND DISPLACED HOMEMAKER DEPOSITS. Notwithstanding section 54-44.1-15, the department of public instruction may deposit indirect cost recoveries in its operating account. In addition, any moneys collected by the department of public instruction for general educational development fees and displaced homemakers deposits must be deposited in the public instruction fund in the state treasury. Any funds deposited in the public instruction fund may only be spent subject to appropriation by the legislative assembly.

SECTION 14. EXEMPTION - TRANSFER - PUBLIC INSTRUCTION FUND. Notwithstanding section 54-44.1-11, if, after the superintendent of public instruction complies with all statutory payment obligations imposed for the 2019-21 biennium, any moneys remain in the integrated formula payments line item in subdivision 1 of section 1 of chapter 38 of the 2019 Session Laws, the lesser of \$23,887,064 or the remaining amount must be continued into the 2021-23 biennium and the office of management and budget shall transfer this amount into the public instruction fund for the purpose of providing program and passthrough grants as appropriated in subdivision 1 of section 1 of this Act.

SECTION 15. EXEMPTION - DYSLEXIA SCREENING PILOT PROGRAM. Notwithstanding section 54-44.1-11, if, after the superintendent of public instruction

complies with all statutory payment obligations imposed for the 2019-21 biennium, any moneys remain in the integrated formula payments line item in subdivision 1 of section 1 of chapter 38 of the 2019 Session Laws, up to \$250,000 must be continued into the 2021-23 biennium for the purpose of defraying the expenses of the dyslexia screening pilot program.

SECTION 16. EXEMPTION - STATE AUTOMATED REPORTING SYSTEM REWRITE. Up to \$600,000 of the unexpended amount remaining from the one-time appropriation from the foundation aid stabilization fund for the state automated reporting system rewrite, as authorized in subdivision 1 of section 1 of chapter 38 of the 2019 Session Laws, is not subject to the provisions of section 54-44.1-11 at the end of the 2019-21 biennium, and may be continued into the 2021-23 biennium for the purpose of continuing the state automated reporting system rewrite.

SECTION 17. STATE AID TO PUBLIC LIBRARIES. The grants line item in subdivision 2 of section 1 of this Act includes \$1,737,582 for aid to public libraries, of which no more than one-half may be expended during the fiscal year ending June 30, 2022.

SECTION 18. EXEMPTION - SCHOOL FOR THE DEAF - HIGHER EDUCATION INTERPRETER GRANT PROGRAM DISTRIBUTION. The \$40,000 appropriated for the purpose of providing grants to assist institutions under the control of the state board of higher education with the cost of interpreters and real-time captioning for students who are deaf or hard of hearing in subdivision 3 of section 1 of chapter 38 of the 2019 Session Laws and any funding continued for this purpose from prior bienniums is not subject to section 54-44.1-11. Any funds remaining must be distributed pursuant to the provisions of this section:

1. The school for the deaf shall develop a formula to determine the grant amount for which an institution is eligible. The formula must be based on a uniform hourly reimbursement.
2. To obtain a grant under this section, an institution shall submit to the school for the deaf, at the time and in the manner directed by the school, invoices showing the amount expended for interpreters and real-time captioning for students who are deaf or hard of hearing.
3. The school for the deaf may not distribute more than fifty percent of the amount appropriated during the first year of the biennium.
4. If any grant moneys remain undistributed at the end of the biennium, the school for the deaf shall provide additional prorated grants to institutions that incurred, during the biennium, hourly expenses in excess of the formula reimbursement level.
5. At the request of an institution under the control of the state board of higher education, the school for the deaf shall consult with the institution and provide advice regarding the provision of services most appropriate to meet a student's needs.

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

15.1-02-02. Salary.

The annual salary of the superintendent of public instruction is one hundred ~~twenty-two~~^{twenty-seven} thousand ~~eight~~^{seven} hundred ~~ten~~^{sixty-eight} dollars through June 30, 2020~~2022~~, and one hundred ~~twenty-five~~^{thirty} thousand ~~eight~~^{three} hundred ~~eighty~~^{twenty-three} dollars thereafter.

¹⁰ **SECTION 20. AMENDMENT.** Section 15.1-02-16 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-16. Superintendent of public instruction - Issuance of credentials to teachers and administrators.

The superintendent of public instruction may adopt rules governing the issuance of:

1. Credentials for teachers of driver's education;
2. Credentials for teachers of early childhood special education;
3. Credentials for elementary school principals;
4. Credentials for teachers of students who are emotionally disturbed;
5. Credentials for teachers of students who are gifted and talented;
6. Credentials for secondary school principals;
7. Credentials for library media;
8. Credentials for teachers of title I;
9. Credentials for teachers of students who have intellectual disabilities;
10. Credentials for teachers of students who are physically disabled;
11. Credentials for coordinators of programs for students with limited English proficiency;
12. Credentials for school counselors;
13. Credentials for special education directors;
14. Credentials for special education strategists;
15. Credentials for teachers of students who have specific learning disabilities;
16. Credentials for superintendents;
17. Credentials for teachers of students who have vision impairments;
18. Credentials for teachers of students who are deaf or hard of hearing;
19. Credentials for teachers of computer and cyber science; and

¹⁰ Section 15.1-02-16 was also amended by section 1 of House Bill No. 1131, chapter 137, and section 1 of House Bill No. 1188, chapter 138.

20. Certificate of completion for paraprofessionals; and
21. Certificate of completion for school health technicians.

SECTION 21. AMENDMENT. Section 15.1-06-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-19. Counselor positions - Requirement.

1. Beginning with the 2010-11 school year, each school district must have available one full-time equivalent school counselor for every three hundred students in grades seven through twelve.
2. Beginning with the 2022-23 school year, each school district must have available one full-time equivalent school counselor for every three hundred students in grades kindergarten through six.
- 2-3. Up to one-third of the full-time equivalency requirement established in subsection 1 may be met by career advisors.
- ~~3-4.~~ For purposes of this section, a "career advisor" means an individual who holds a certificate in career development facilitation issued by the department of career and technical education under section 15-20.1-24 or an individual who is provisionally approved by the department of career and technical education under section 15-20.1-25 to serve as a career advisor.

SECTION 22. AMENDMENT. Section 15.1-27-16 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-16. Per student payments - Administrative cost-sharing - Cooperating districts and special education units.

1. If any school district receiving payments under this chapter cooperates with another school district for the joint provision of educational services under a plan approved by the superintendent of public instruction, the superintendent of public instruction shall, notwithstanding the provisions of section 15.1-27-03.2, create and assign a separate weighting factor that allows the cooperating districts to receive, for a period of four years, a payment rate equivalent to that which each district would have received had the cooperative plan not taken effect. The superintendent of public instruction shall compute the separate weighting factor to four decimal places and that weighting factor is effective for the duration of the cooperative plan.
2. A school district that is cooperating with another school district under a cooperative plan approved by the superintendent of public instruction, and which has taxable property located in the same city as the other school district under the cooperative plan, may not be required as part of the cooperative plan to:
 - a. Provide unduplicated grade level services; or
 - b. Share administrative personnel.
3. If any school district receiving payments under this chapter or any special education unit cooperates with another school district or special education unit to jointly employ both a superintendent and a business manager or to jointly

employ both a special education unit director and a business manager, the superintendent of public instruction shall provide partial reimbursement of the combined salaries of the superintendent and the business manager or partial reimbursement of the combined salaries of the special education unit director and the business manager as follows:

- a. If the combined salaries exceed three hundred thousand dollars, the amount of the reimbursement must be calculated based upon three hundred thousand dollars. Each cooperating school district or special education unit shall receive a prorated share of the reimbursement percentages listed below based on the percentage of full-time equivalency that the superintendent and business manager or the special education unit director and business manager are employed by each district or special education unit. The percentage of reimbursement for the combined salaries of the jointly hired superintendent and business manager or of the jointly hired special education unit director and business manager must be as follows:
 - (1) If two schools or special education units are cooperating, ten percent of the combined salaries;
 - (2) If three schools or special education units are cooperating, fifteen percent of the combined salaries;
 - (3) If four schools or special education units are cooperating, twenty percent of the combined salaries; and
 - (4) If five or more schools or special education units are cooperating, twenty-five percent of the combined salaries.
- b. To be eligible for reimbursement under this subsection, the cooperating school districts or special education units must:
 - (1) Have been approved by the superintendent of public instruction and have implemented their administrative cost-sharing program after June 30, 2022; and
 - (2) Submit the salaries of the superintendent and business manager or the salaries of the special education unit director and business manager to the superintendent of public instruction by June first of each year.

SECTION 23. LEGISLATIVE MANAGEMENT STUDY - SCHOOL CONSTRUCTION FUNDING. During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of using up to one percent of common schools trust fund assets annually for school construction grants. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 24. LEARNING LOSS, ACCELERATED LEARNING RECOVERY, AND ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF FUND - REPORT TO LEGISLATIVE MANAGEMENT. School districts receiving funds from the elementary and secondary school emergency relief fund shall provide two narrative summary reports to the superintendent of public instruction, including information regarding learning losses of students identified within the district, including subgroup gaps; school district plans to accelerate learning recovery for all

students, including closing subgroup gaps; uses of elementary and secondary school emergency relief funds, including the percentage of those funds expended in categories determined by the superintendent of public instruction; and the impact elementary and secondary school emergency relief fund expenditures had on accelerating the learning recovery for the districts' students. The first school district report must be submitted to the superintendent of public instruction by December 1, 2021. An aggregated report must be presented by the superintendent of public instruction to the legislative management by June 1, 2022. The second school district report must be submitted to the superintendent of public instruction by December 1, 2022. An aggregated report must be presented by the superintendent of public instruction to the sixty-eighth legislative assembly.

SECTION 25. EXPIRATION DATE. Section 22 of this Act is effective through June 30, 2024, and after that date is ineffective.

SECTION 26. EMERGENCY. The \$12,000,000 appropriated from the federal coronavirus relief fund, of which \$6,565,432 is in the operating expenses line item and \$5,434,568 is in the grants line item in section 1 and identified in sections 2 and 8 of Senate Bill No. 2018, as approved by the sixty-seventh legislative assembly, and the \$100,000 appropriated from the general fund for a motion picture production and recruitment grant in the grants line item in section 1 and identified in section 2 of Senate Bill No. 2018, as approved by the sixty-seventh legislative assembly, are declared to be an emergency measure.

SECTION 27. EMERGENCY. Senate Bill No. 2317, as approved by the sixty-seventh legislative assembly, is declared to be an emergency measure.

Approved May 10, 2021

Filed May 10, 2021

CHAPTER 14

HOUSE BILL NO. 1014

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the protection and advocacy project.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the protection and advocacy project for the purpose of defraying the expenses of the protection and advocacy project, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Protection and advocacy operations	\$7,166,150	\$236,790	\$7,402,940
Total all funds	\$7,166,150	\$236,790	\$7,402,940
Less estimated income	3,926,135	337,455	4,263,590
Total general fund	\$3,240,015	(\$100,665)	\$3,139,350
Full-time equivalent positions	28.50	0	28.50

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Accrued leave payments	\$132,550	\$0
Polycom machine	8,000	0
Total all funds	\$140,550	\$0
Less estimated income	68,000	0
Total general fund	\$72,550	\$0

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 15

HOUSE BILL NO. 1015

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the various divisions under the supervision of the director of the office of management and budget; to provide an appropriation to the state treasurer; to provide an appropriation to the department of career and technical education, the department of public instruction, the university of North Dakota, Dickinson state university, the highway patrol, the judicial branch, the department of transportation, the department of commerce, and Mayville state university; to provide a contingent appropriation to the Bank of North Dakota; to create and enact a new section to chapter 10-04, a new section to chapter 24-02, and a new subsection to section 54-44-04 of the North Dakota Century Code, relating to notice filing for certain legacy fund investments, cooperative transportation agreements, and state employee salary increases; to amend and reenact subsection 1 of section 10-04-03, section 54-09-05, as amended by section 4 of House Bill No. 1002, as approved by the sixty-seventh legislative assembly, a new chapter to title 54, as created by section 3 of House Bill No. 1452, as approved by the sixty-seventh legislative assembly, subsection 3 of section 54-44-11, sections 54-44.1-18, 54-44.4-07, 54-44.4-08, 57-51.1-07.5, subsections 2 and 3 of section 57-51.1-07.7, and subsection 2 of section 57-51.1-07.8 of the North Dakota Century Code, relating to qualifications of the securities commissioner, the salary of the secretary of state, the clean sustainable energy authority, the balance of the state personnel training and development operating fund, publishing political subdivision budgets, environmentally preferable products, the state share of oil and gas tax revenue allocations, the municipal infrastructure fund, and the county and township infrastructure fund; to repeal section 54-06-25 of the North Dakota Century Code, relating to the state employee compensation commission; to provide for a transfer; to provide for a claims payment; to provide compensation guidelines; to provide an exemption; to provide a statement of legislative intent; to provide for a legislative management study; to provide a report; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the office of management and budget for the purpose of defraying the expenses of the office of management and budget, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$21,903,816	\$23,163	\$21,926,979
Operating expenses	14,937,426	1,375,788	16,313,214
Emergency commission contingency fund	500,000	(100,000)	400,000
Capital assets	767,125	4,767,494	5,534,619
Grants	54,000	(54,000)	0

Guardianship grants	1,950,000	500,000	2,450,000
Prairie public broadcasting	1,200,000	0	1,200,000
Community service supervision grants	350,000	0	350,000
State student internship program	0	100,000	100,000
Total all funds	\$41,662,367	\$6,612,445	\$48,274,812
Less estimated income	<u>8,746,515</u>	<u>5,501,898</u>	<u>14,248,413</u>
Total general fund	\$32,915,852	\$1,110,547	\$34,026,399
Full-time equivalent positions	112.00	(4.00)	108.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Extraordinary repairs	\$1,900,000	\$500,000
Capitol south entrance project	2,000,000	0
Special assessments on capitol grounds	320,000	300,000
Litigation funding pool	3,500,000	0
Assessment of state lands and facilities	500,000	0
Risk management technology project	170,000	0
State student internship program	250,000	100,000
Electronic procurement study	50,000	0
Facility consolidation study	0	350,000
Building automation project	0	518,800
Interior and exterior signage projects	0	500,000
Procurement software	0	2,021,204
Statewide budget software	0	1,230,100
Total all funds	\$8,690,000	\$5,520,104
Less estimated income	<u>8,390,000</u>	<u>5,420,104</u>
Total general fund	\$300,000	\$100,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The office of management and budget shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION - COMMUNITY SERVICES SUPERVISION FUND. Any moneys in the community service supervision fund under section 29-26-22 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 period beginning with the effective date of this Act, and ending June 30, 2023.

SECTION 4. APPROPRIATION - STATE DISASTER RELIEF FUND - TAX RELIEF FUND - STATE TREASURER - DISTRIBUTIONS TO NON-OIL-PRODUCING COUNTIES.

1. a. Due to extraordinary flooding in 2020 in parts of the state and due to the excessive cost of road maintenance, there is appropriated out of any moneys in the state disaster relief fund in the state treasury, not otherwise appropriated, the sum of \$8,200,000, or so much of the sum as may be necessary, and out of any moneys in the tax relief fund in the state treasury, not otherwise appropriated, the sum of \$1,800,000, or so much of

- the sum as may be necessary, to the state treasurer for the purpose of providing distributions to non-oil-producing counties for the benefit of the organized and unorganized townships within each non-oil-producing county, for the biennium beginning July 1, 2021, and ending June 30, 2023.
- b. In August 2021, the state treasurer shall distribute \$10,000,000, or so much of the sum as may be necessary, to non-oil-producing counties for the benefit of the organized and unorganized townships within each non-oil-producing county. The distribution to each non-oil-producing county must provide for an equal allocation to each organized and unorganized township within the county.
 - c. The amount allocated to organized townships under this subsection must be paid by the county treasurer to each organized township. The amount allocated to unorganized townships under this subsection must be credited by the county treasurer to a special fund for unorganized township roads.
 - d. The distributions under this subsection must be used for the maintenance and improvement of township paved and unpaved roads and bridges. A township is not eligible for an allocation of funds under this subsection if the township does not maintain any township roads.
 - e. For the purposes of this section, a "non-oil-producing county" means a county that has received no allocation of funding or a total allocation of funding under subsection 2 of section 57-51-15 of less than \$5,000,000 for the period beginning September 1, 2019, and ending August 31, 2020.
2. a. There is appropriated out of any moneys in the tax relief fund in the state treasury, not otherwise appropriated, the sum of \$10,000,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing distributions to non-oil-producing counties for the benefit of the organized and unorganized townships within each non-oil-producing county, for the biennium beginning July 1, 2021, and ending June 30, 2023.
 - b. In August 2021, the state treasurer shall distribute \$10,000,000, or so much of the sum as may be necessary, to non-oil-producing counties for the benefit of the organized and unorganized townships within each non-oil-producing county. The distribution to each non-oil-producing county must provide for an allocation to each organized and unorganized township that is proportional to the number of township road miles in each organized and unorganized township relative to the combined total township road miles in all the organized and unorganized townships in all the non-oil-producing counties. The township road miles must be based on certifications provided to the state treasurer using roadway mileage criteria from the department of transportation.
 - c. The amount allocated to organized townships under this subsection must be paid by the county treasurer to each organized township. The amount allocated to unorganized townships under this subsection must be credited by the county treasurer to a special fund for unorganized township roads.
 - d. The distributions under this subsection must be used for the maintenance and improvement of township paved and unpaved roads and bridges.

- e. For the purposes of this subsection, a "non-oil-producing county" means a county that has received no allocation of funding or a total allocation of funding under subsection 2 of section 57-51-15 of less than \$5,000,000 for the period beginning September 1, 2019, and ending August 31, 2020.

SECTION 5. APPROPRIATION - FEDERAL FUNDS - DEPARTMENT OF TRANSPORTATION. There is appropriated out of any moneys derived from federal funds, not otherwise appropriated, the sum of \$55,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of road and bridge projects, for the biennium beginning July 1, 2021, and ending June 30, 2023. Of the \$55,000,000, \$35,000,000 is federal funds that may be matched by funding appropriated in section 10 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, for road and bridge projects, and \$20,000,000 is federal funds that may be matched by funding appropriated in section 4 of this Act for township road and bridge projects pursuant to cooperative agreements.

SECTION 6. APPROPRIATION - FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND - MATCHING FUNDS - ONE-TIME FUNDING.

1. There is appropriated from federal funds derived from the federal coronavirus capital projects fund, not otherwise appropriated, the sum of \$70,000,000, or so much of the sum as may be necessary, to the department of career and technical education for the purpose of a statewide area career center initiative grant program for the period beginning with the effective date of this Act, and ending June 30, 2023. The department of career and technical education shall establish the application process and develop eligibility requirements for the grant program that must include:
 - a. Funding may be used only for career and technical education projects involving construction, addition, maintenance, and equipment for new and existing area career centers;
 - b. Grants awarded to each recipient must be at least \$500,000, but may not exceed \$10,000,000;
 - c. Grants may be awarded only to the extent a school district has secured matching funds from nonstate sources on a dollar-for-dollar basis;
 - d. An applicant identifying sufficient future nonstate sources of funding for ongoing operating and maintenance costs associated with a new or expanded area career center;
 - e. The application period for the grant program begins with the effective date of this Act and ends on June 30, 2022. Any funding not committed by December 31, 2022, may not be spent and must be canceled at the end of the 2021-23 biennium in accordance with section 54-44.1-11;
 - f. Preference must be given to school districts that collaborate with other school districts for a regional area career center facility or to school districts to create a new area career center or use an existing area career center to positively affect that region of the state; and
 - g. Preference must be given to school districts that will promote postsecondary education and workforce training education in conjunction with secondary education.

2. There is appropriated from federal funds derived from the federal coronavirus capital projects fund, not otherwise appropriated, the sum of \$5,900,000, or so much of the sum as may be necessary, to the department of public instruction for the purpose of providing a grant to an entity for the development of a children's science center for the period beginning with the effective date of this Act, and ending June 30, 2023.
3. There is appropriated from federal funds derived from the federal coronavirus capital projects fund, not otherwise appropriated, the sum of \$5,000,000, or so much of the sum as may be necessary, to the university of North Dakota for the purpose of reconstruction of the university's apron at the Grand Forks airport for the period beginning with the effective date of this Act, and ending June 30, 2023.
4. There is appropriated from federal funds derived from the federal coronavirus capital projects fund, not otherwise appropriated, the sum of \$4,000,000, or so much of the sum as may be necessary, to Dickinson state university for the purpose of a Pulver hall project, a meat processing laboratory remodel, and other projects for the period beginning with the effective date of this Act, and ending June 30, 2023.
5. There is appropriated from federal funds derived from the federal coronavirus capital projects fund, not otherwise appropriated, the sum of \$3,000,000, or so much of the sum as may be necessary, to the highway patrol for the purpose of a law enforcement training center remodel project for the period beginning with the effective date of this Act, and ending June 30, 2023.
6. There is appropriated from federal funds derived from the federal coronavirus capital projects fund, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of providing a grant for the construction of a new medical center located in the county seat of Griggs County for the period beginning with the effective date of this Act, and ending June 30, 2023.
7. There is appropriated from federal funds derived from the federal coronavirus capital projects fund, not otherwise appropriated, the sum of \$157,600, or so much of the sum as may be necessary, to the judicial branch for the purpose of purchasing information technology equipment for the period beginning with the effective date of this Act, and ending June 30, 2023.
8. If the federal government distributes funding derived from the federal coronavirus capital projects fund to the state in more than one funding round, the office of management and budget shall prioritize the amounts received in the first funding round as follows:
 - a. \$19,763,000 to the department of career and technical education;
 - b. \$11,716,400 to the parks and recreation department;
 - c. \$5,900,000 to the department of public instruction;
 - d. \$5,000,000 to the university of North Dakota;
 - e. \$4,200,000 to the state historical society;

- f. \$4,000,000 to Dickinson state university;
 - g. \$3,000,000 to the highway patrol;
 - h. \$2,000,000 to the agriculture commissioner;
 - i. \$500,000 to the office of management and budget; and
 - j. \$157,600 to the judicial branch.
9. The funding provided under this section may be spent only to the extent the director of the office of management and budget, in consultation with the budget section, determines the use of the funding complies with federal guidance for the federal coronavirus capital projects fund. The funding provided under this section is considered a one-time funding item.

SECTION 7. LEGISLATIVE INTENT - AREA CAREER CENTERS - FUTURE COSTS. It is the intent of the sixty-seventh legislative assembly that school districts:

- 1. Prepare to provide for any future operating and maintenance costs relating to new or expanded area career centers resulting from the expenditure of federal coronavirus capital projects funds because state funds will not be provided to replace these federal funds; and
- 2. Prepare to provide increased local support for area career centers since state grant funding is limited and may not be available to support any increased future costs related to new or expanded area career centers completed with these federal funds.

SECTION 8. APPROPRIATION - UNIVERSITY OF NORTH DAKOTA - ONE-TIME FUNDING. 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, to the university of North Dakota for the purpose of a space command initiative and related technical programs, including equipment, renovation costs, a sensitive compartmental information facility, and other expenses for the biennium beginning July 1, 2021, and ending June 30, 2023. The funding provided under this section is considered a one-time funding item.

SECTION 9. APPROPRIATION - MAYVILLE STATE UNIVERSITY - ONE-TIME FUNDING. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,600,000, or so much of the sum as may be necessary, to Mayville state university for a natural gas boiler project, for the period beginning with the effective date of this Act, and ending June 30, 2023. The funding provided under this section is considered a one-time funding item.

SECTION 10. APPROPRIATION - DEPARTMENT OF COMMERCE - DISCRETIONARY FUNDS - ONE-TIME FUNDING. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of providing discretionary funds, for the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item.

SECTION 11. APPROPRIATION - JUDICIAL BRANCH - VETERANS' COURT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$145,247, or so much of the sum as may be

necessary, to the judicial branch for the purpose of establishing a veterans' treatment court in the northeast central judicial district, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 12. APPROPRIATION - JUDICIAL BRANCH - YOUTH CULTURAL ACHIEVEMENT PROGRAMS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$90,000, or so much of the sum as may be necessary, to the judicial branch for youth cultural achievement programs, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 13. 2019-21 BIENNIUM APPROPRIATION - TRANSFER - GENERAL FUND TO HIGHWAY FUND - 2021-23 BIENNIUM APPROPRIATION - HIGHWAY FUND AND FEDERAL FUNDS - REPORT.

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000,000, which the office of management and budget shall transfer to the highway fund during the period beginning with the effective date of this Act, and ending June 30, 2021. The funds transferred to the highway fund must be maintained and reported separately from other funds in the highway fund.
2. There is appropriated out of any moneys in the highway fund, not otherwise appropriated, the sum of \$100,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of matching federal discretionary funds received in excess of the regular federal funding amounts included in the department's 2021-23 biennium budget, for the biennium beginning July 1, 2021, and ending June 30, 2023. Of this amount, the department shall use at least \$10,000,000 for matching federal funds for township road and bridge projects.
3. There is appropriated from federal funds, the sum of \$100,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of defraying the expenses of road and bridge construction projects for the biennium beginning July 1, 2021, and ending June 30, 2023.
4. On June 30, 2023, the office of management and budget shall transfer any unexpended and unobligated funds transferred to the highway fund under subsection 1 to the general fund.
5. During the 2021-22 interim, the department of transportation shall provide quarterly reports to the budget section regarding the use of funds transferred from the general fund to the highway fund.

SECTION 14. LEGACY FUND EARNINGS ESTIMATE - 2019-21 BIENNIUM. For legislative council budget status reporting purposes, the sixty-seventh legislative assembly estimates \$736,000,000 of earnings will be transferred from the legacy fund to the general fund at the end of the biennium beginning July 1, 2019, and ending June 30, 2021.

SECTION 15. CONTINGENT APPROPRIATION - THEODORE ROOSEVELT PRESIDENTIAL LIBRARY - LOAN REPAYMENT - ONE-TIME FUNDING. Subject to the provisions of this section, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$17,500,000, or so much of the sum as may be necessary, to the Bank of North Dakota for the purpose of repaying the loan authorized in section 8 of chapter 26 of the 2019 Session Laws

related to the Theodore Roosevelt presidential library, for the biennium beginning July 1, 2021, and ending June 30, 2023. The funding provided in this section is available only if the actual July 1, 2021, general fund balance exceeds the legislative estimate made at the close of the 2021 legislative session by at least \$17,500,000, as determined by the office of management and budget. This funding is considered a one-time funding item.

SECTION 16. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO GENERAL FUND. The office of management and budget shall transfer the sum of \$410,000,000 from the strategic investment and improvements fund to the general fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 17. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO CULTURAL ENDOWMENT FUND - INTENT. The office of management and budget shall transfer the sum of \$1,000,000 from the strategic investment and improvements fund to the cultural endowment fund during the biennium beginning July 1, 2021, and ending June 30, 2023. It is the intent of the sixty-seventh legislative assembly that the council on the arts expend up to \$50,000 annually from the cultural endowment fund pursuant to the appropriation authority provided in section 2 of Senate Bill No. 2010 during the 2021-23 biennium for the maintenance of the public arts projects constructed as part of the North Dakota creative placemaking program. It is further the intent of the legislative assembly that the council on the arts continue to expend \$50,000 annually from the cultural endowment fund for the maintenance of the public arts projects constructed as part of the North Dakota creative placemaking program until the moneys derived from the strategic investment and improvements fund transfer authorized under this section and deposited in the fund have been fully expended.

SECTION 18. TRANSFER - TAX RELIEF FUND TO HUMAN SERVICE FINANCE FUND. The office of management and budget shall transfer the sum of \$187,223,092 from the tax relief fund to the human service finance fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 19. TRANSFER - STATE STUDENT INTERNSHIP PROGRAM FUNDS TO STATE AGENCIES. The office of management and budget shall transfer funds from the state student internship program line item appropriated in section 1 of this Act to eligible state agencies for state student internships during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 20. ESTIMATED INCOME - ONE-TIME FUNDING - CAPITOL BUILDING FUND. The estimated income line item in section 1 of this Act includes \$2,168,800 of one-time funding from the capitol building fund. Of the \$2,168,800, \$350,000 in the operating expenses line item is for a facility consolidation study, \$300,000 in the operating expenses line item is for special assessments associated with the capitol grounds, \$500,000 in the capital assets line item is for extraordinary repairs, \$518,800 in the capital assets line item is for a building automation project, and \$500,000 in the capital assets line item is for interior and exterior signage.

SECTION 21. ESTIMATED INCOME - ONE-TIME FUNDING - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND. The estimated income line item in section 1 of this Act includes \$3,251,304 from the strategic investment and improvements fund. Of the \$3,251,304, \$2,021,204 in the capital assets line item is for procurement software, and \$1,230,100 in the capital assets line item is for budget software.

SECTION 22. GRANTS AND SPECIAL ITEMS. Section 1 of this Act includes appropriation authority which may be used only for the following grants and special items:

Unemployment insurance	\$2,000,000
Capitol grounds planning commission	\$25,000
Statewide memberships and related expenses	\$642,089

SECTION 23. RISK MANAGEMENT FUND - CLAIMS PAYMENT. Pursuant to the continuing appropriation authority under section 32-12.2-07, the director of the office of management and budget may make payments from the risk management fund during the biennium beginning July 1, 2021, and ending June 30, 2023, for reasonable and necessary costs and attorney's fees incurred by a state employee as a result of a criminal investigation or prosecution occurring after December 31, 2018, under circumstances in which there was an absence of probable cause, as identified in a prosecutorial or judicial determination or as determined by the director of the office of management and budget in the absence of a prosecutorial or judicial determination, and in which the offense involves the discharge of a public duty. The director of the office of management and budget shall consult with the attorney general when reviewing claims under this section and shall obtain written approval from the attorney general for any claim exceeding ten thousand dollars.

SECTION 24. STATE EMPLOYEE COMPENSATION ADJUSTMENTS - GUIDELINES.

1. The 2021-23 biennium compensation adjustments for permanent state employees are to average 1.5 percent with a minimum of \$100 per month per eligible employee for the first fiscal year of the biennium and are to average 2 percent per eligible employee for the second year of the biennium. The increases for the first year of the biennium are to be given beginning with the month of July 2021, to be paid in August 2021, and for the second year of the biennium are to be given beginning with the month of July 2022, to be paid in August 2022. Except for minimum amounts, increases for eligible state employees are to be based on documented performance and are not to be the same percentage increase for each employee.
2. The office of management and budget shall develop guidelines for use by state agencies for providing compensation adjustments for classified state employees. The guidelines must follow the compensation philosophy statement under section 54-44.3-01.2.
3. Probationary employees are not entitled to the increases. However, at the discretion of the appointing authority, probationary employees may be given all or a portion of the increases effective in July, paid in August, or upon completion of probation. Employees whose overall documented performance level does not meet standards are not eligible for any salary increase.

SECTION 25. AMENDMENT. Subsection 1 of section 10-04-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The state securities department is under the supervision of a chief officer designated as the securities commissioner. The securities commissioner must be appointed by the governor and confirmed by the senate and shall hold office for a term of four years, beginning on the first day of July following a national presidential election and continuing until a successor has been appointed, confirmed by the senate, and has qualified, unless removed as

herein provided. If the senate is not in session, the governor may make an interim appointment, and the interim appointee shall may hold office until the senate confirms or rejects the appointment. ~~The commissioner must be skilled in securities and may not be an incumbent of any other public office in the state.~~ The commissioner may not own or control any security required to be registered under this chapter, or any security which is exempt based on the approval of the securities department. The commissioner may not be an officer, director, or employee of any broker-dealer, agent, investment adviser, or investment adviser representative required to be registered under this chapter, or of a federal covered adviser required to be notice-filed under this chapter. The governor may remove from office any commissioner who fails to discharge faithfully the duties of office or who becomes disqualified under the provisions of this section.

It is the prime duty of the commissioner to administer the provisions of this chapter. The commissioner shall receive a salary within the amount appropriated for salaries by the legislative assembly. The commissioner shall use a seal with the words "securities commissioner, North Dakota" and such design as the commissioner may prescribe engraved thereon by which seal the commissioner may authenticate documents used in the administration of this chapter. The commissioner may employ such employees as are necessary for the administration of this chapter. In the absence or disability of the commissioner, the deputy or designee of the commissioner shall may administer the provisions of this chapter as acting commissioner.

SECTION 26. A new section to chapter 10-04 of the North Dakota Century Code is created and enacted as follows:

Legacy fund investments - Notice filing.

1. Within thirty days of completion of the transaction, any issuer of securities in receipt of an investment from the legacy fund under paragraph 3 of subdivision a of subsection 3 of section 21-10-11 or under subdivision b of subsection 3 of section 21-10-11, as created by section 4 of House Bill No. 1425 as approved by the sixty-seventh legislative assembly, shall file electronically a notice on a form prescribed by the commissioner and containing information as required by the commissioner.
2. The notice filing requirement under this section does not exempt the issuer from or supersede any other provision of this chapter.

SECTION 27. A new section to chapter 24-02 of the North Dakota Century Code is created and enacted as follows:

Cooperative agreements - Federal transportation-related aid and safety and mobility.

The director may enter into cooperative agreements with any transferee under section 54-27-19 or any federal agency operating a national park and may expend highway fund moneys pursuant to legislative appropriations to match federal funds for the purposes of providing assistance with the assessment, design, and construction of projects to improve the safety and mobility of people or goods in the state.

¹¹ **SECTION 28. AMENDMENT.** Section 54-09-05 of the North Dakota Century Code, as amended by section 4 of House Bill No. 1002, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

54-09-05. Salary of secretary of state.

The annual salary of the secretary of state is one hundred twelve thousand two hundred forty-one dollars through June 30, ~~2024~~2022, and one hundred fourteen thousand four hundred eighty-six dollars thereafter.

¹² **SECTION 29. AMENDMENT.** A new chapter to title 54 of the North Dakota Century Code, as created by section 3 of House Bill No. 1452 as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

Definitions.

As used in this chapter:

1. "Authority" means the clean sustainable energy authority.
2. "Clean" means a technology or concept that reduces emissions to the air, water, or land and meets or exceeds state and federal environmental regulations.
3. "Commission" means the industrial commission.
4. "Fund" means the clean sustainable energy fund.
5. "Program" means the clean sustainable energy program.
6. "Sustainable" means a technology or concept that allows the use of a natural resource to be maintained or enhanced through increased efficiency and life cycle benefits while either increasing or not adversely impacting energy security, affordability, reliability, resilience, or national security.

Clean sustainable energy authority - Purpose.

There is created the clean sustainable energy authority to support research, development, and technological advancements through partnerships and financial support for the large scale development and commercialization of projects, processes, activities, and technologies that reduce environmental impacts and increase sustainability of energy production and delivery. The purpose of the financial support is to enhance the production of clean sustainable energy, to make the state a world leader in the production of clean sustainable energy, and to diversify and grow the state's economy.

Clean sustainable energy authority - Membership - Meetings.

1. The clean sustainable energy authority consists of sixteen members, including eight voting members and eight nonvoting technical advisors.

¹¹ Section 54-09-05 was also amended by section 4 of House Bill No. 1002, chapter 2; section 54-63.1-05 was created by section 29 of House Bill No. 1015, chapter 15.

¹² Section 54-63.1-07 was created by section 3 of House Bill No. 1452, chapter 448.

2. The eight voting members consist of:
 - a. One member appointed by the legislative management to serve as chairman;
 - b. Two members appointed by the lignite research council;
 - c. Two members appointed by the oil and gas research council;
 - d. Two members appointed by the renewable energy council; and
 - e. One member appointed by the western Dakota energy association.
3. The eight nonvoting technical advisors consist of:
 - a. One member appointed by the North Dakota outdoor heritage fund advisory board;
 - b. The commissioner of commerce or the commissioner's designee;
 - c. The director of the department of environmental quality or the director's designee;
 - d. The director of mineral resources or the director's designee;
 - e. The director of the North Dakota pipeline authority or the director's designee;
 - f. The director of the North Dakota transmission authority or the director's designee;
 - g. The director of the state energy research center or the director's designee; and
 - h. The president of the Bank of North Dakota or the president's designee; and
4. The term of office for the chairman is two years. The term of office for the other voting members is four years, and the other voting members may not serve more than two consecutive terms. The terms of office for the voting members commence on July first. The initial terms for the voting members of the authority must be staggered following a method determined by the authority.
5. The authority shall meet at least semiannually. The chairman shall call a meeting upon written request from three voting members of the authority. Five voting members is a quorum at any meeting.
6. The authority may not forward a recommendation to the commission unless the recommendation fulfills the purposes of this chapter and is approved by a majority of the voting members of the authority.

Clean sustainable energy authority - Duties - Report.

1. The authority shall make recommendations to the commission for program guidelines, including eligibility criteria for entities to receive funding under this chapter.

2. The nonvoting technical advisors shall develop a process to review and evaluate projects to determine the technical merits and feasibility of any application, including potential benefits of the development of low-emission technology, the expansion of the development of the state's natural resources or energy production, and the contribution to the economic diversity in the state.
3. The authority may develop a loan program or a loan guarantee program under the clean sustainable energy fund. The Bank of North Dakota shall administer the loan program or loan guarantee program. The interest rate of a loan under this program may not exceed two percent per year. The maximum term of a loan under this section must be approved by the commission based on a recommendation from the authority. The Bank shall review applications for loans or loan guarantees and shall consider the business plan, financial statements, and other information necessary to evaluate the application. To be eligible for a loan or loan guarantee, an entity shall agree to provide the Bank of North Dakota with information as requested. The Bank of North Dakota may develop policies for loan participation with local financial institutions.
4. The authority shall make recommendations to the commission for grant awards, loan approvals, or other financial assistance to provide funding to support research, development, and technological advancements for the large scale development and commercialization of projects, processes, activities, and technologies that reduce environmental impacts and increase sustainability of energy production and delivery in accordance with this chapter. Any projects, processes, activities, and technologies selected by the commission for funding must have been recommended by the authority, must demonstrate feasibility based on a technical review conducted by the nonvoting technical advisors of the authority, must have other sources of financial support, and must achieve the priorities and purposes of the program. At the request of the authority, the Bank of North Dakota shall provide a recommendation regarding the economic feasibility of a project, process, activity, or technology under consideration by the authority. The Bank shall review the business plan, financial statements, and other information necessary to provide a recommendation.
5. The authority may consult with any other state agency necessary to carry out the purposes under this chapter.
6. Each biennium, the authority shall provide a written report to the legislative management regarding its activities and the program's financial impact on state revenues and the state's economy.

Clean sustainable energy program - Powers and duties of the commission.

1. The commission is granted all the powers necessary to carry out the purposes of this chapter, including the power to:
 - a. Provide grants, loans, or other forms of financial assistance to qualified entities for the research, demonstration, development, and commercialization of projects, processes, activities, and technologies that reduce environmental impacts and use energy sources derived from within the state. Other forms of financial assistance include venture capital investments and interest rate buydowns. The commission must require an entity to provide assurance of financial and other types of support that demonstrate a commitment to the project, process, activity, or technology.

The commission may develop policies for the approval of loans or loan guarantees issued from the clean sustainable energy fund.

- b. Enter into contracts or agreements to carry out the purposes of this chapter, including contracting for the administration of the program.
 - c. Keep accurate records of all financial transactions performed under this chapter.
 - d. Cooperate with any private, local, state, or national organization to make contracts and agreements for programs that advance the mission of the program.
 - e. Accept loan repayments, donations, grants, contributions, or gifts from any public or private source to carry out the purposes of this chapter, which must be deposited in the clean sustainable energy fund.
 - f. Make guidelines necessary to carry out the purposes of this chapter, including guidelines relating to the ownership of intellectual property.
 - g. Borrow from the Bank of North Dakota, as authorized by the legislative assembly, to make loans or loan guarantees under a loan program or loan guarantee program developed by the clean sustainable energy authority.
2. The commission may acquire, purchase, hold, use, lease, license, sell, transfer, or dispose of any interest in an asset necessary for clean sustainable energy technology development to facilitate the production, transportation, distribution, or delivery of clean energy commodities produced in the state as a purchases of last resort.
 3. The commission shall provide administrative support to the authority for the operation of the program, including the preparation of forms, review of applications, and ongoing review of any contracts. The commission may contract with a public or private entity to provide technical assistance necessary to implement the purposes of this chapter.
 4. The commission is not subject to the reporting requirements under chapter 54-60.1.

Clean sustainable energy program - Access to records.

1. To the extent the commission or authority determines the materials or data consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying to or contracting with the commission or receiving commission services under this chapter, materials and data submitted to, made by, or received by the commission or authority, are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota, and are subject to section 44-04-18.4.
2. A person or entity may file a request with the commission to have material designated as confidential under subsection 1. The request must contain any information required by the commission and must include at least the following:
 - a. A general description of the nature of the information sought to be protected.

- b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.
 - c. An explanation of why the information is not readily ascertainable by proper means of other persons.
 - d. A general description of any person that may obtain economic value from disclosure or use of the information, and how the person may obtain this value.
 - e. A description of the efforts used to maintain the secrecy of the information.
3. Any request under subsection 2 is confidential. The commission shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the commission determines the information is either not relevant or not a trade secret, the commission shall notify the requester and the requester may ask for the return of the information and the request within ten days of the notice. If no return is sought, the information and request are public record.
 4. The names or identities of independent technical reviewers on a project or program are confidential, may not be disclosed by the commission, and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota.

Clean sustainable energy fund - Continuing appropriation - Line of credit - Loans - Repayments.

1. There is created in the state treasury the clean sustainable energy fund. The fund consists of all moneys transferred to the fund by the legislative assembly; loan proceeds; interest upon moneys in the fund; principal and interest payments to the fund; and donations, grants, and other contributions received by the commission for deposit in the fund. All moneys in the fund are appropriated to the commission on a continuing basis to provide grants, loans, and other financial assistance and for administrative and operating costs of the authority and program pursuant to the provisions under this chapter.
2. Any bond proceeds deposited in the fund must be used for loans or loan guarantees. The Bank of North Dakota shall deposit in the fund all principal and interest paid on the loans made from the fund. The Bank may use a portion of the interest paid on the outstanding loans as a servicing fee to pay for administrative costs, not to exceed one-half of one percent of the amount of the interest payment. The Bank shall contract with a certified public accounting firm to audit the fund annually if the fund has any outstanding loans. The cost of the audit must be paid from the fund.
3. The Bank of North Dakota shall extend a line of credit to the industrial commission to support loans or loan guarantees issued from the clean sustainable energy fund. The line of credit may not exceed two hundred fifty million dollars, and the interest rate associated with the line of credit must be the prevailing interest rate charged to North Dakota governmental entities. The industrial commission shall repay the line of credit from moneys available in the clean sustainable energy fund derived from payments received on loans issued under this chapter or other sources. If the moneys available from the clean sustainable energy fund on June 30, 2025, are not sufficient to repay

the line of credit, the industrial commission shall request from the legislative assembly a deficiency appropriation to repay the line of credit or the industrial commission may repay the line of credit from other funds, as appropriated by the legislative assembly.

4. The industrial commission may access the line of credit to the extent needed through June 30, 2025, to provide funding as authorized by the legislative assembly to support loans or loan guarantees issued from the clean sustainable energy fund. Any moneys borrowed from the Bank of North Dakota pursuant to this section must be transferred to the clean sustainable energy fund to support loans or loan guarantees.

SECTION 30. A new subsection to section 54-44-04 of the North Dakota Century Code is created and enacted as follows:

Shall prepare and submit a quarterly report to the legislative management of each executive branch agency that gives any full-time state employee salary increases between April 1, 2021, and June 30, 2023, which cumulatively are fifteen percent or more over the employee's base salary as of March 31, 2021. The report must include the name of each employee receiving the increase and any relevant salary information.

SECTION 31. AMENDMENT. Subsection 3 of section 54-44-11 of the North Dakota Century Code is amended and reenacted as follows:

3. The office of management and budget shall establish a state personnel training and development operating fund to be used for the coordination of employee training and career development data, supplies, equipment, and services and for providing or arranging necessary training and development programs to state departments and agencies. Funds in the state personnel training and development operating fund are appropriated on a continuing basis to the office of management and budget and may be spent for the purposes identified in this subsection. Any surplus in this fund in excess of ~~twenty-five~~one hundred thousand dollars on June thirtieth of each year must be transferred to the state general fund.

SECTION 32. AMENDMENT. Section 54-44.1-18 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-18. Searchable database of expenditures.

1. The director of the budget shall develop and make publicly available an aggregate and searchable budget database website that includes the following information for the biennium:
 - a. Each budget unit making expenditures.
 - b. The amount of funds expended.
 - c. The source of the funds expended.
 - d. The budget program of the expenditure.
 - e. Any other information determined relevant by the director of the budget.

2. The director of the budget shall include the name and city of the recipient of each expenditure in the budget database website after the director has completed implementation of a business intelligence component to the state's financial reporting system.
3. The director of the budget may not include in the database any information that is confidential or exempt under state or federal law.
4. The director of the budget may update the budget database website as new data becomes available. Each state agency shall provide to the director of the budget any data required to be included in the budget database website no later than thirty days after the data becomes available to the agency.
5. By January first of each even-numbered year, the director of the budget shall add data for the previous biennium to the budget database website. The director of the budget shall ensure that all data added to the budget database website remains accessible to the public for a minimum of ten years.
6. The budget database website may not redirect users to any other government website, unless the website has information from all budget units and each category of information required can be searched electronically by field in a single search.
- ~~7. The governing body of each political subdivision may submit the annual budget adopted by the governing body to the director of the budget. The director of the budget shall include on the office of management and budget website any information submitted by a participating governing body of a political subdivision. The official who submits the annual budget to the director of the budget may not submit any information that is confidential under state or federal law. In lieu of submitting the annual budget adopted by the governing body to the director, any participating governing body may provide to the director a publicly accessible internet link on which the annual budget adopted by the participating governing body is available.~~

SECTION 33. AMENDMENT. Section 54-44.4-07 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-07. Procurement of environmentally preferable products.

1. The office of management and budget, the institutions of higher education, and any other state agency or institution that has authority to purchase products are encouraged to purchase environmentally preferable products.
 - a. ~~Where~~When practicable, specifications for purchasing newsprint printing services should specify the use of soybean-based ink. The North Dakota soybean council and the agriculture commissioner shall assist the office of management and budget in locating suppliers of soybean-based inks and in collecting data on the purchase of soybean-based inks.
 - b. ~~In requesting bids for paper products, the office of management and budget must request information on the recycled content of such products.~~
 - c. ~~Where~~When practicable, biobased products should be specified.

2. The office of management and budget, in coordination with the state board of higher education, shall develop guidelines for a biobased procurement program.

SECTION 34. AMENDMENT. Section 54-44.4-08 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-08. Purchase of recycled paper products.

~~The~~When practicable, the office of management and budget, and any state agency or institution that has authority to purchase products, ~~shall ensure that at least twenty percent of the total volume of paper and paper products being purchased for state agencies and institutions contain, should specify~~ at least twenty-five percent recycled material. ~~The office of management and budget shall implement a methodology to track compliance with this section.~~

¹³ **SECTION 35. AMENDMENT.** Section 57-51.1-07.5 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-07.5. State share of oil and gas taxes - Deposits.

From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium in the following order:

1. The first two hundred million dollars into the state general fund;
2. The next two hundred million dollars into the tax relief fund;
3. The next seventy-five million dollars into the budget stabilization fund, but not in an amount that would bring the balance in the fund to more than the limit in section 54-27.2-01;
4. The next two hundred million dollars into the state general fund;
5. The next ten million dollars into the lignite research fund;
6. The next ~~fifteen~~twenty million dollars into the state disaster relief fund, but not in an amount that would bring the unobligated balance in the fund to more than ~~fifteen~~twenty million dollars;
7. ~~The next thirty million three hundred seventy-five thousand dollars, or the amount necessary to provide for the distributions under subsection 2 of section 57-51.1-07.7, into the municipal infrastructure fund;~~
8. The next four hundred million dollars into the strategic investment and improvements fund;
9. ~~An amount equal to the deposit under subsection 7 into the county and township infrastructure fund;~~
8. The next fifty-nine million seven hundred fifty thousand dollars, or the amount necessary to provide for twice the amount of the distributions under subsection 2 of section 57-51.1-07.7, into the funds designated for

¹³ Section 57-51.1-07.5 was also amended by section 1 of Senate Bill No. 2249, chapter 482.

infrastructure development in non-oil-producing counties under sections 57-51.1-07.7 and 57-51.1-07.8 with fifty percent deposited into the municipal infrastructure fund and fifty percent deposited into the county and township infrastructure fund;

~~40-9.~~ The next one hundred ~~sixty-ninseventy~~ million two hundred fifty thousand dollars or the amount necessary to provide a total of two hundred thirty million dollars into the funds designated for infrastructure development in non-oil-producing counties under sections 57-51.1-07.7 and 57-51.1-07.8 with fifty percent deposited into the municipal infrastructure fund and fifty percent deposited into the county and township infrastructure fund;

~~44-10.~~ The next twenty million dollars into the airport infrastructure fund; and

~~42-11.~~ Any additional revenues into the strategic investment and improvements fund.

¹⁴ **SECTION 36. AMENDMENT.** Subsection 2 of section 57-51.1-07.7 of the North Dakota Century Code is amended and reenacted as follows:

2. Within forty days after the fund balance is greater than or equal to the amount needed for the grants under this subsection or by September thirtieth of each odd-numbered year, whichever is earlier, the state treasurer shall distribute moneys in the fund as grants to cities for essential infrastructure projects. The state treasurer shall distribute the grants only if the fund balance is at least ten percent of the amount needed for distributions under this subsection based on the following:
 - a. Two million five hundred thousand dollars to each city with a population of at least five thousand;
 - b. Five hundred thousand dollars to each city with a population of at least two thousand but less than five thousand; and
 - c. One hundred twenty-five thousand dollars to each city with a population of at least one thousand but less than two thousand.
 - d. If, at the time of the distributions, the moneys in the fund are less than the amount needed for the grants under this subsection, the state treasurer shall distribute the grants under this subsection on a pro rata basis.
 - e. For the purposes of determining the city's population under this subsection, the state treasurer shall use the most recent actual or estimated census data published by the United States census bureau.

¹⁵ **SECTION 37. AMENDMENT.** Subsection 3 of section 57-51.1-07.7 of the North Dakota Century Code is amended and reenacted as follows:

3. Within sixty days after the fund receives its statutory limit of oil and gas tax allocations under section 57-51.1-07.5 or by September thirtieth of each odd-numbered year, whichever is earlier, the state treasurer shall distribute

¹⁴ Section 57-51.1-07.7 was also amended by section 37 of House Bill No. 1015, chapter 15.

¹⁵ Section 57-51.1-07.7 was also amended by section 36 of House Bill No. 1015, chapter 15.

the moneys in the fund as grants to cities for essential infrastructure projects. The state treasurer shall distribute the grants only if the fund balance is at least ten percent of the amount needed for distributions under this subsection based on the following:

- a. One hundred fifty dollars per person of the city's population.
- b. In addition to the amounts in subdivision a, for a city with a positive average of the annual percentage increase in population from three years prior, a dollar amount equal to the product of the following:
 - (1) The amount calculated in subdivision a; and
 - (2) The average of the annual percentage increase in population from three years prior, multiplied by ten.
- c. In addition to the amounts in subdivisions a and b, for a city with a positive average of the annual percentage increase in taxable property values from three years prior, a dollar amount equal to the average of the annual property valuation percentage increase for the three most recent years, multiplied by twenty-five thousandths.
- d. Grants may be distributed under this subdivision only if the grant distributions under subsection 2 are completed. If the moneys in the fund are insufficient to provide for the grants, the state treasurer shall distribute the grants under this subsection on a pro rata basis. If any moneys remain in the fund after the distribution of grants under this subsection, the state treasurer shall distribute any remaining moneys in the fund in proportion to the combined total distributed to each city under this section relative to the combined total distributed to all the cities under this section.
- e. For the purposes of determining the city's population under this subsection, the state treasurer shall use the most recent actual or estimated census data published by the United States census bureau.
- f. For the purposes of determining taxable property values, the state treasurer shall use the most recent data published by the tax commissioner in the tax levy report.

SECTION 38. AMENDMENT. Subsection 2 of section 57-51.1-07.8 of the North Dakota Century Code is amended and reenacted as follows:

2. Within sixty days after the fund receives its statutory limit of oil and gas tax allocations under section 57-51.1-07.5 or by September thirtieth of each odd-numbered year, whichever is earlier, the state treasurer shall distribute moneys in the fund as grants to counties for road and bridge infrastructure projects. The state treasurer shall distribute the grants only if the fund balance is at least ten percent of the amount needed for distributions under this section.

SECTION 39. REPEAL. Section 54-06-25 of the North Dakota Century Code is repealed.

SECTION 40. EXEMPTION - FISCAL MANAGEMENT. The amount appropriated for the fiscal management division, as contained in section 1 of chapter 40 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any

unexpended funds from this appropriation are available for continued development and operating costs of the statewide systems, including accounting, management, and payroll, during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 41. EXEMPTION - STATE STUDENT INTERNSHIP PROGRAM. The amount of \$250,000 appropriated in section 1, identified in section 2, and transferred in section 8 of chapter 40 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the office of management and budget for the state student internship program during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 42. EXEMPTION - ASSESSMENT OF STATE LANDS AND FACILITIES. The amount of \$500,000 appropriated from the strategic investment and improvements fund in section 1 and identified in section 2 of chapter 40 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the office of management and budget to continue the assessment of state lands and facilities during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 43. LEGISLATIVE MANAGEMENT STUDY - SPACE NEEDS AT STATE CAPITOL.

1. During the 2021-22 interim, the legislative management shall consider studying space needs of the executive, judicial, and legislative branches at the state capitol. The study must include:
 - a. A review of each branch's employee work location policies;
 - b. An assessment of the space needs of each branch to fulfill their constitutional and statutory responsibilities;
 - c. An evaluation of state agency leases of space from private and other governmental entities in Bismarck, amounts being paid for these leases, and state agency rental payments being made to the office of management and budget from special and federal funds;
 - d. Consideration of the feasibility and desirability of the office of management and budget charging rent to agencies receiving funding from the general fund; and
 - e. The development of a space utilization plan for the capitol complex.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 44. LEGISLATIVE MANAGEMENT STUDY - STATE EMPLOYEE COMPENSATION. During the 2021-22 interim, the legislative management shall consider studying the classified state employee compensation system, including a review of the development and determination of pay grades and classifications. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 45. LEGISLATIVE MANAGEMENT STUDY - BIOLOGIC MANUFACTURING SALES TAX EXEMPTION. During the 2021-22 interim, the

legislative management shall consider studying the fiscal impact of providing a sales tax exemption for raw materials critical to the manufacturing process used to support biologic product generation, product impurity removal, chemical or physical product alteration, and analysis of in-process to final deliverable products. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 46. EMERGENCY. The following are declared to be an emergency measure:

1. Sections 3, 6, 9, and 13 of this Act;
2. Section 3 of House Bill No. 1349, as approved by the sixty-seventh legislative assembly;
3. \$12,000,000 appropriated from the federal coronavirus relief fund, of which \$6,565,432 is in the operating expenses line item and \$5,434,568 is in the grants line item in section 1 and identified in sections 2 and 8 of Senate Bill No. 2018, as approved by the sixty-seventh legislative assembly;
4. \$100,000 appropriated from the general fund for a motion picture production and recruitment grant in the grants line item in section 1 and identified in section 2 of Senate Bill No. 2018, as approved by the sixty-seventh legislative assembly;
5. Senate Bill No. 2140, as approved by the sixty-seventh legislative assembly; and
6. Senate Bill No. 2317, as approved by the sixty-seventh legislative assembly.

Approved May 10, 2021

Filed May 10, 2021

CHAPTER 16

HOUSE BILL NO. 1016

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the office of the adjutant general; to amend and reenact section 37-17.1-14.6 of the North Dakota Century Code, relating to the northern emergency management assistance compact; to provide an exemption; to provide a report; to provide legislative intent; to provide for a transfer; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the office of the adjutant general for the purpose of defraying the expenses of the office of the adjutant general, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

Subdivision 1.

NATIONAL GUARD

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$6,833,766	\$316,723	\$7,150,489
Operating expenses	2,767,321	1,280,992	4,048,313
Capital assets	224,046	21,500,000	21,724,046
Grants	210,916	0	210,916
Civil air patrol	305,134	3,991	309,125
Tuition, recruiting, and retention	4,782,072	(1,739,837)	3,042,235
Air guard contract	8,571,129	(80,968)	8,490,161
Army guard contract	46,940,013	1,683,460	48,623,473
Veterans' cemetery	1,151,906	174,092	1,325,998
Reintegration program	<u>1,051,168</u>	<u>(125,644)</u>	<u>925,524</u>
Total all funds	\$72,837,471	\$23,012,809	\$95,850,280
Less estimated income	<u>54,214,657</u>	<u>24,901,907</u>	<u>79,116,564</u>
Total general fund	\$18,622,814	(\$1,889,098)	\$16,733,716

Subdivision 2.

DEPARTMENT OF EMERGENCY SERVICES

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$10,986,431	\$1,245,809	\$12,232,240
Operating expenses	8,060,574	(1,458,240)	6,602,334
Capital assets	0	660,000	660,000
Grants	16,273,425	(1,723,425)	14,550,000
Disaster costs	<u>36,555,085</u>	<u>14,930,651</u>	<u>51,485,736</u>
Total all funds	\$71,875,515	\$13,654,795	\$85,530,310

Less estimated income	<u>63,108,132</u>	<u>16,043,662</u>	<u>79,151,794</u>
Total general fund	\$8,767,383	(\$2,388,867)	\$6,378,516

Subdivision 3.

SECTION 1 TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$27,390,197	(\$4,277,965)	\$23,112,232
Grand total special funds	<u>117,322,789</u>	<u>40,945,569</u>	<u>158,268,358</u>
Grand total all funds	\$144,712,986	\$36,667,604	\$181,380,590
Full-time equivalent positions	222.00	0.00	222.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Fraine Barracks automation system	\$0	\$320,000
Emergency response equipment and supplies	0	100,000
Fargo readiness center equipment	0	100,000
Dickinson readiness center project	0	15,500,000
Bridge training site	0	6,000,000
Deferred maintenance	0	1,000,000
Emergency response equipment	660,000	0
Camp Grafton expansion	600,000	0
Uninterruptible power supply battery replacement	20,000	0
Computer-aided dispatch equipment	516,000	0
Message switch system upgrade	335,000	0
Dispatching service fee shortfall	<u>1,212,253</u>	<u>0</u>
Total all funds	\$3,343,253	\$23,020,000
Total other funds	<u>3,162,253</u>	<u>22,790,000</u>
Total general fund	\$181,000	\$230,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The adjutant general shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION - TRANSFER - NATIONAL GUARD TRAINING AREA AND FACILITY DEVELOPMENT TRUST FUND - ONE-TIME FUNDING.

There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,750,000, which the office of management and budget shall transfer to the national guard training area and facility development trust fund, the sum of which is appropriated to the adjutant general for the expansion of camp Grafton, for the biennium beginning July 1, 2021, and ending June 30, 2023. The funding provided in this section is considered a one-time funding item.

SECTION 4. APPROPRIATION - NORTH DAKOTA MILITARY MUSEUM. The adjutant general may accept up to \$10,000,000 from other funds, including private and federal funds, the sum of which is appropriated to the adjutant general for the construction of a North Dakota military museum during the period beginning with the effective date of this Act, and ending June 30, 2023. The adjutant general, with the approval of the governor, may enter into an agreement with the director of the parks

and recreation department or the state historical society for the construction of a new facility, the renovation of an existing property, and the operations and maintenance of a military museum. The funding provided in this section is considered a one-time funding item.

SECTION 5. VETERANS' CEMETERY MAINTENANCE FUND - APPROPRIATION. In addition to the amount appropriated to the adjutant general in the veterans' cemetery line item in subdivision 1 of section 1 of this Act, there is appropriated any additional funds that are received and deposited in the veterans' cemetery maintenance fund pursuant to sections 37-03-14 and 39-04-10.10 for the operation of the North Dakota veterans' cemetery for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 6. FIRE EMERGENCY - WILDFIRE RESPONSE MUTUAL AID - BANK OF NORTH DAKOTA LOAN AUTHORIZATION. The office of the adjutant general may borrow from the Bank of North Dakota the sum of \$2,500,000, or so much of the sum as may be necessary, for fire emergency and wildfire response mutual aid, for the period beginning with the effective date of this Act and ending June 30, 2023. The proceeds of the loan are appropriated to the adjutant general in the disaster costs line item in subdivision 2 of section 1 of this Act, for personnel, equipment, materials, supplies, and intrastate and interstate mutual aid reimbursement for wildfire response, including compensation for the fire response personnel mandatory days off and mandatory quarantine and isolation periods for COVID-19 close contact and positive test results in accordance with federal centers for disease control and prevention, state department of health, and federal department of defense guidelines. The department of emergency services, in consultation with the North Dakota forest service, may create an intrastate wildfire mutual aid reimbursement program for the purpose of reimbursing the costs of mutual aid response by fire departments. The department of emergency services shall define rules and eligibility for wildfire intrastate mutual aid reimbursement. The office of the adjutant general shall request from the sixty-eighth legislative assembly a deficiency appropriation from the state disaster relief fund sufficient for the repayment of the amount borrowed plus interest.

SECTION 7. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - NATIONAL GUARD - DEFERRED MAINTENANCE. The estimated income and the operating expenses line items in subdivision 1 of section 1 of this Act include the sum of \$1,000,000 from the strategic investment and improvements fund for national guard deferred maintenance projects.

SECTION 8. AMENDMENT. Section 37-17.1-14.6 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-14.6. Northern emergency management assistance compact.

The northern emergency management assistance compact is entered with all jurisdictions legally joining the compact in the form substantially as follows:

ARTICLE I - NAME AND SCOPE

1. This compact is established as directed by the state and province emergency management assistance memorandum of agreement and brought into force by congressional consent on September 14, 2012, by the 112th Congress of the United States of America.

2. The object of this compact shall be to facilitate cross-border emergency management assistance through mutual aid.

ARTICLE II - MEMBERSHIP

1. Membership in this compact shall be open to the states and provinces having signed the state and province emergency management assistance memorandum of agreement, hereinafter referred to as party jurisdictions.
2. Representatives from the nonsignatory states and provinces as well as the national governments of Canada and the United States shall be nonvoting members.

ARTICLE III - BOARD

1. The policies and direction of this compact shall be directed and controlled by a board of directors, which shall consist of the directors of emergency management or measures, or their designated official substitute from the party jurisdictions. The designated official substitute shall be specified either on the jurisdiction's compact contact sheet or in writing to the compact co-chairs.
2. The board may invite representatives from other governments, subject matter experts, and such other individuals as they may deem appropriate to attend the compact meetings as nonvoting participants.

ARTICLE IV - GOVERNMENT

1. The board of directors shall act as the governing body of this compact.
2. The following shall be the officers:
 - a. A co-chair elected from the participating states; and
 - b. A co-chair elected from the participating provinces.
3. The co-chairs shall be elected ~~biannually~~biennially in alternate years.
4. In the event a co-chair is unable to fulfill the co-chair's term, a special election shall be held at the next meeting, regular or special, to fill the remainder of the co-chair's term.

ARTICLE V - SUBCOMMITTEES AND WORKING GROUPS

1. The compact board of directors may appoint subcommittees and working groups as needed.
2. Each subcommittee and working group shall be co-chaired by a representative of a Canadian and a United States party jurisdiction.
3. The subcommittees and working groups shall report to this compact through the co-chairs and the co-chairs are ex officio members of all subcommittees and working groups.

ARTICLE VI - MEETINGS

1. This compact shall meet at least once a year at locations to be determined by the board of directors.
2. Special meetings may be held at any time by order of the co-chairs.
3. Meetings may be held by conference call or other communication facilities that permit all persons participating in the meeting to communicate with each other, and all persons participating in the meeting by such means are deemed to be present.
4. A jurisdiction may participate at its own cost in any meeting by telephone or other communication facilities that permit all persons participating in the meeting to communicate with each other, and a person participating in a meeting by such means is deemed to be present at the meeting.
5. The newest co-chair shall be responsible for creating a record of decisions for each meeting.
6. The newest co-chair shall be responsible for distributing meeting agendas, records of decisions, and any documents slated for discussion at a meeting to the board of directors.
7. A meeting agenda and any documents slated for discussion at a meeting should be circulated to the board of directors a minimum of thirty days prior to the meeting.
8. All meetings shall follow a form agreed to by the co-chairs.
9. A quorum shall consist of a simple majority of party jurisdictions that consists of at least one party jurisdiction from Canada and one party jurisdiction from the United States of America. Jurisdictions participating by proxy shall not count towards a quorum.

ARTICLE VII - VOTING

1. Each party jurisdiction shall have only one vote on any motion or election.
2. Motions may only be introduced or seconded by members of the board of directors present or represented by proxy.
3. Motions arising at any meeting shall be determined by consensus. In the absence of consensus a two-thirds majority is required from each of the Canadian and United States of America party jurisdictions either present or represented by proxy. A vote given in accordance with the terms of a proxy shall be valid.
4. If the director or designated official substitute of a party jurisdiction cannot attend a meeting of the northern emergency management assistance compact, the party jurisdiction may give a proxy to another jurisdiction. A proxy shall be in writing under the hand of the director or designated official substitute. The proxy shall be delivered to one of the co-chairs before or at the meeting. A proxy is valid for one meeting.

ARTICLE VIII - SIGNING AUTHORITY

Documents or other instruments requiring the signature of the compact shall be signed by both co-chairs.

ARTICLE IX - AMENDMENTS

These bylaws may be amended by a two-thirds vote at any meeting of the compact provided that thirty days' notice in writing be given of such meeting to the voting member of each party jurisdiction and that the notice contains the text, or the general nature, of any proposed amendments.

ARTICLE X - OPERATIONS MANUAL AND BYLAWS

1. The most recent past co-chair shall be responsible for updating and storing a copy of the most recent version of the operations manual and bylaws.
2. Any party jurisdiction may request that amendments be made to the operations manual and bylaws.
3. All requests for amendments to the operations manual and bylaws shall be submitted to the past co-chair responsible for the operations manual and bylaws.
4. Amendments to the operations manual and bylaws shall come into force on the date that the operations manual or bylaws, respectively, are approved by the board of directors or a later date as decided by the board of directors.

ARTICLE XI - TRAINING

The senior co-chair shall be responsible for coordinating delivery of the compact training and exercises to party jurisdictions.

SECTION 9. EXEMPTION - MAINTENANCE AND REPAIRS - TRANSFERS.

Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer up to \$500,000 of appropriation authority to the operating expenses and capital assets line items contained in section 1 of this Act from the various other line items contained in section 1 of this Act, as requested by the adjutant general to provide for the maintenance and repair of state-owned armories in this state during the biennium beginning July 1, 2021, and ending June 30, 2023. The adjutant general shall notify the legislative council of any transfers made pursuant to this section.

SECTION 10. EXEMPTION. Any amounts continued from the strategic investment and improvements fund pursuant to section 14 of chapter 41 of the 2019 Session Laws, which are unexpended as of June 30, 2021, are not subject to section 54-44.1-11 and any unexpended funds from this appropriation may be used to complete the mobile repeaters and programming radios, and for technology upgrade costs required to implement the statewide interoperable radio network during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 11. EXEMPTION. The amount appropriated in the tuition, recruiting, and retention line item in subdivision 1 of section 1 of chapter 41 of the 2019 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this appropriation may be used to provide tuition assistance, recruiting, and retention incentives to eligible members of the North Dakota national guard during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 12. EXEMPTION. The sum of \$450,000 from the strategic investment and improvements fund and \$66,000 from the general fund appropriated for computer-aided dispatch equipment in subdivision 2 of section 1 of chapter 41 of the 2019 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this appropriation may be used for computer-aided dispatch equipment during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 13. EXEMPTION. The sum of \$240,000 from the strategic investment and improvements fund and \$95,000 from the general fund appropriated for the message switch upgrade in subdivision 2 of section 1 of chapter 41 of the 2019 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this appropriation may be used to complete the message switch upgrade project during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 14. EXEMPTION. The amount of \$600,000 from the strategic investment and improvements fund appropriated in the camp Grafton expansion line item in subdivision 1 of section 1 of chapter 41 of the 2019 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this appropriation may be used to continue the expansion of camp Grafton during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 15. LEGISLATIVE INTENT - CAMP GRAFTON EXPANSION. It is the intent of the sixty-seventh legislative assembly that:

1. The adjutant general contract for the purchase or long-term lease of land for the camp Grafton expansion, including the purchase of no more than one thousand six hundred acres and the long-term lease of the remainder, not to exceed six thousand acres in total.
2. The adjutant general not use eminent domain for the expansion of camp Grafton.

SECTION 16. BUDGET SECTION REPORT - CAMP GRAFTON EXPANSION. During the 2021-22 interim, the adjutant general shall report to the budget section regarding any land purchased for the expansion of camp Grafton.

SECTION 17. EMERGENCY. Sections 4 and 6 and the disaster costs line item in subdivision 2 of section 1 of this Act are declared to be an emergency measure.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 17

HOUSE BILL NO. 1017

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the game and fish department; to provide a report; to provide for a transfer; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the game and fish fund in the state treasury, not otherwise appropriated, and from other special funds derived from federal funds and other income, to the game and fish department for the purpose of defraying the expenses of the game and fish department, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$31,497,736	\$2,243,856	\$33,741,592
Operating expenses	15,949,169	327,613	16,276,782
Capital assets	5,917,891	1,658,379	7,576,270
Grants - game and fish	8,547,165	376,178	8,923,343
Land habitat and deer depredation	17,660,009	2,320,588	19,980,597
Noxious weed control	725,000	0	725,000
Missouri River enforcement	288,068	8,931	296,999
Grants, gifts, and donations	533,732	136,401	670,133
Nongame wildlife conservation	100,000	0	100,000
Lonetree reservoir	1,834,862	(16,453)	1,818,409
Wildlife services	500,000	0	500,000
Shooting sports grant program	250,000	0	250,000
Aquatic nuisance species program	<u>1,500,000</u>	<u>9,009</u>	<u>1,509,009</u>
Total special funds	\$85,303,632	\$7,064,502	\$92,368,134
Full-time equivalent positions	165.00	(1.00)	164.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Additional PLOTS payments	\$0	\$1,485,000
Red River basin wildlife and water quality program	0	500,000
State radio equipment	<u>0</u>	<u>801,500</u>
Total special funds	\$0	\$2,786,500

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The game and fish department shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of

this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. GRANTS, GIFTS, AND DONATIONS LINE ITEM. The grants, gifts, and donations line item in section 1 of this Act includes up to \$100,000 received by the game and fish department for surface damage, easements, or reclamation on department-owned or managed properties as a result of mineral exploration and extraction activities.

SECTION 4. EXEMPTION - LINE ITEM TRANSFERS. Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer up to \$2,000,000 of appropriation authority between the operating expenses, capital assets, and grants - game and fish line items in section 1 of this Act as requested by the game and fish department during the biennium beginning July 1, 2021, and ending June 30, 2023. The game and fish department shall notify the legislative council of any transfers made pursuant to this section.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 18

HOUSE BILL NO. 1018

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the state historical society; to create and enact a new section to chapter 55-01 of the North Dakota Century Code, relating to artifacts located at the Lewis and Clark interpretive center; to provide for a legislative management study; to provide for a report; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state historical society for the purpose of defraying the expenses of the state historical society, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$14,295,816	\$1,495,808	\$15,791,624
Operating expenses	3,941,585	557,078	4,498,663
Capital assets	1,225,542	4,225,473	5,451,015
Grants	600,000	0	600,000
Cultural heritage grants	500,000	0	500,000
Total all funds	\$20,562,943	\$6,278,359	\$26,841,302
Less estimated income	<u>3,194,252</u>	<u>4,235,700</u>	<u>7,429,952</u>
Total general fund	\$17,368,691	\$2,042,659	\$19,411,350
Full-time equivalent positions	75.00	3.75	78.75

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Historical site and extraordinary repairs	\$1,000,000	\$4,200,000
Exhibit and collections care	372,000	0
Auditorium chairs	160,000	0
Pioneer village grant	150,000	0
State archives digital repository upgrade	0	25,000
Total all funds	\$1,682,000	\$4,225,000
Total special funds	<u>85,000</u>	<u>4,200,000</u>
Total general fund	\$1,597,000	\$25,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The state historical society shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. REVOLVING FUND - APPROPRIATION. All fees collected by the state historical society and deposited in the revolving fund established pursuant to section 55-03-04 are appropriated to the state historical society for the purposes provided in chapter 55-03, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 4. GIFTS, GRANTS, AND BEQUESTS - APPROPRIATION. All gifts, grants, devises, bequests, donations, and assignments received by the state historical society and deposited with the state treasurer pursuant to section 55-01-04 are appropriated to the state historical society for the purposes provided in section 55-01-04, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 5. ESTIMATED INCOME - FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND - ONE-TIME FUNDING. The estimated income line item in section 1 of this Act includes the sum of \$4,200,000 from federal funds derived from the federal coronavirus capital projects fund for the purpose of providing funding for capital project planning and historic site and extraordinary repairs. The federal funding provided under this section may be spent only to the extent the director of the office of management and budget, in consultation with the budget section, determines the use of the funding complies with federal guidance for the federal coronavirus capital projects fund.

SECTION 6. ESTIMATED INCOME - DEPARTMENT OF TRANSPORTATION GRANT. The estimated income line item in section 1 of this Act includes \$100,000 of grant funding from the department of transportation for the purpose of defraying expenses for the Lewis and Clark interpretive center.

SECTION 7. A new section to chapter 55-01 of the North Dakota Century Code is created and enacted as follows:

State historical society responsible for the Lewis and Clark interpretive center.

The society shall display, maintain, and protect the Lewis and Clark artifacts included in the transfer of the Lewis and Clark interpretive center from the parks and recreation department to the society at the Lewis and Clark interpretive center. A climate-controlled environment must be maintained to protect the artifacts as necessary.

SECTION 8. LEGISLATIVE MANAGEMENT STUDY - ADVISORY BOARDS. During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of creating local advisory boards to the state historical society. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 9. EMERGENCY. The \$4,200,000 from the federal coronavirus capital projects fund included in the capital assets line item in section 1 of this Act is declared to be an emergency measure.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 19

HOUSE BILL NO. 1019

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the parks and recreation department; to provide for a transfer; to amend and reenact section 10 of chapter 44 of the 2019 Session Laws, relating to International Peace Garden capital projects; to repeal section 12 of chapter 44 of the 2019 Session Laws, relating to International Peace Garden capital projects; to provide for the conveyance of real property; to provide for a legislative management study; to provide for application; to provide for an exemption; to provide for a report; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the parks and recreation department for the purpose of defraying the expenses of the parks and recreation department and the Lewis and Clark interpretive center and for providing a grant to the International Peace Garden, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

Subdivision 1.

PARKS AND RECREATION DEPARTMENT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Administration	\$2,604,999	\$410,071	\$3,015,070
Park operations and maintenance	20,914,593	8,140,930	29,055,523
Recreation	<u>9,023,560</u>	<u>3,735,402</u>	<u>12,758,962</u>
Total all funds	\$32,543,152	\$12,286,403	\$44,829,555
Less estimated income	<u>20,046,609</u>	<u>12,085,784</u>	<u>32,132,393</u>
Total general fund	\$12,496,543	200,619	\$12,697,162
Full-time equivalent positions	61.50	(3.75)	57.75

Subdivision 2.

INTERNATIONAL PEACE GARDEN

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
International Peace Garden	\$876,329	\$3,000,000	\$3,876,329
Total all funds	\$876,329	\$3,000,000	\$3,876,329
Less estimated income	<u>0</u>	<u>3,000,000</u>	<u>3,000,000</u>
Total general fund	\$876,329	\$0	\$876,329

Subdivision 3.

LEWIS AND CLARK INTERPRETIVE CENTER

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Lewis and Clark interpretive center	\$1,304,375	(\$1,304,375)	\$0
Total all funds	\$1,304,375	(\$1,304,375)	\$0
Less estimated income	334,118	(334,118)	0
Total general fund	\$970,257	(\$970,257)	\$0

Subdivision 4.

TOTAL - SECTION 1

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$14,343,129	(\$769,638)	\$13,573,491
Grand total special funds	20,380,727	14,751,666	35,132,393
Grand total all funds	\$34,723,856	\$13,982,028	\$48,705,884

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Extraordinary repairs and capital projects	\$634,126	\$7,900,000
Capital projects	1,755,000	0
International Peace Garden capital projects	5,000,000	3,000,000
Parks matching grant program	0	1,632,800
Additional equipment	622,000	0
State park survey	150,000	0
Recreation mapping	75,000	0
Traffic counters	75,000	0
Trail lease renewals	0	200,000
Fort Abraham Lincoln viewshed lease	0	50,000
Total all funds	\$8,311,126	\$12,782,800
Less estimated income	8,311,126	12,532,800
Total general fund	\$0	\$250,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The parks and recreation department shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. ADDITIONAL INCOME - APPROPRIATION - REPORTING. In addition to the amounts appropriated in section 1 of this Act, any additional income from federal or other funds that become available are appropriated to the parks and recreation department for the biennium beginning July 1, 2021, and ending June 30, 2023. The department shall report any additional income under this section to the office of management and budget and the legislative council.

SECTION 4. GAME AND FISH OPERATING FUND - TRANSFER - BOAT RAMP OPERATION AND MAINTENANCE. The sum of \$122,000, or so much of the sum as may be necessary, included in the park operations and maintenance line item in subdivision 1 of section 1 of this Act, is from the game and fish operating fund, or federal or other funds available to the game and fish department, and must be transferred to the parks and recreation department as requested by the director of the

parks and recreation department for maintenance, operating, and extraordinary repairs expenses relating to boat ramps at state parks for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 5. CONVEYANCE OF LAND AND BUILDINGS - LEWIS AND CLARK INTERPRETIVE CENTER - APPLICATION. The state of North Dakota, by and through the parks and recreation department, shall convey ownership of the Lewis and Clark interpretive center and surrounding real property to the state historical society. Sections 54-01-05.2 and 54-01-05.5 do not apply to this conveyance.

SECTION 6. DEFERRED MAINTENANCE AND CAPITAL PROJECTS - FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND. The park operations and maintenance line item in subdivision 1 of section 1 of this Act includes \$7,900,000 from federal funds derived from the federal coronavirus capital projects fund for deferred maintenance and capital projects for the biennium beginning July 1, 2021, and ending June 30, 2023. The funding provided under this section may be spent only to the extent the director of the office of management and budget, in consultation with the budget section, determines the use of the funding complies with federal guidance for the federal coronavirus capital projects fund. The funding provided under this section is considered a one-time funding item.

SECTION 7. PARKS MATCHING GRANT PROGRAM - FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND. The recreation line item in subdivision 1 of section 1 of this Act includes \$1,632,800, of which \$816,400 is from federal funds derived from the federal coronavirus capital projects fund and \$816,400 is matching funds from nonstate sources for a matching grant program for the biennium beginning July 1, 2021, and ending June 30, 2023. The parks and recreation department may spend these funds for capital project improvements at state parks, subject to the department obtaining matching funds from nonstate sources for each project on a dollar-for-dollar basis. The federal funding provided under this section may be spent only to the extent the director of the office of management and budget, in consultation with the budget section, determines the use of the funding complies with federal guidance for the federal coronavirus capital projects fund. The funding provided under this section is considered a one-time funding item.

SECTION 8. INTERNATIONAL PEACE GARDEN - FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND. The International Peace Garden line item in subdivision 2 of section 1 of this Act includes the sum of \$3,000,000, from federal funds derived from the federal coronavirus capital projects fund for International Peace Garden capital projects or the repayment of any outstanding loan from the Bank of North Dakota authorized in section 12 of chapter 44 of the 2019 Session Laws, for the period beginning with the effective date of this Act, and ending June 30, 2023. Expenditure of the funds appropriated for this purpose is subject to the province of Manitoba providing funding equal to fifty percent of the total cost of any project paid with the funding referenced in this section. The funding provided under this section may be spent only to the extent the director of the office of management and budget, in consultation with the budget section, determines the use of the funding complies with federal guidance for the federal coronavirus capital projects fund. The funding provided under this section is considered a one-time funding item.

SECTION 9. AMENDMENT. Section 10 of chapter 44 of the 2019 Session Laws is amended and reenacted as follows:

SECTION 10. REQUIREMENTS - MATCHING FUNDS - INTERNATIONAL PEACE GARDEN CAPITAL PROJECTS. The International Peace Garden line item in subdivision 2 of section 1 of this Act includes

~~\$2,000,000 for capital projects. Expenditure of these funds appropriated for this purpose is subject to one-to-one matching funds being raised from nonstate sources the province of Manitoba providing funding equal to fifty percent of the total cost of any project paid with funding referenced in this section. The parks and recreation department shall review and accept engineering proposals and specifications before committing funds to projects and shall assist with bidding and construction of any work associated with this section. The International Peace Garden shall report quarterly to the parks and recreation department regarding the expenditure of these funds along with the the source of the matching funds. The funds appropriated in this section are not subject to section 54-44.1-11, and may be continued into the biennium beginning July 1, 2021, and ending June 30, 2023, for capital projects.~~

SECTION 10. REPEAL. Section 12 of chapter 44 of the 2019 Session Laws is repealed.

SECTION 11. EXEMPTION - INTERNATIONAL PEACE GARDEN - REQUIREMENTS. Any funds remaining in the International Peace Garden line item for repair of the peace tower in section 30 of chapter 15 of the 2013 Session Laws are not subject to section 54-44.1-11, and any unexpended funds are available for capital projects during the biennium beginning July 1, 2021, and ending June 30, 2023. Funding available for use by the International Peace Garden in this section is subject to the International Peace Garden raising one-to-one matching funds from nonstate sources of North Dakota sources consistent with the 2013 North Dakota legislative language. The parks and recreation department shall review and accept engineering proposals and specifications before committing additional funds to the project and shall assist with bidding and construction of any work associated with this section.

SECTION 12. EXEMPTION - PARK ENHANCEMENTS. Any funds remaining for park enhancements in subdivision 1 of section 1 of chapter 53 of the 2015 Session Laws are not subject to section 54-44.1-11, and any unexpended funds are available for park enhancement projects during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 13. EXEMPTION - EXTRAORDINARY REPAIRS. Of the funds appropriated in the parks operation and maintenance line item for extraordinary repairs, \$675,000 in subdivision 1 of section 1 of chapter 18 of the 2017 Sessions Laws is not subject to section 54-44.1-11, and any unexpended funds are available for extraordinary repairs during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 14. LEGISLATIVE MANAGEMENT STUDY - PARKS MATCHING GRANT PROGRAM. During the 2021-22 interim, the legislative management shall consider studying the effectiveness of the parks matching grant program created in section 7 of this Act and the feasibility and desirability of creating a parks and recreation foundation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 15. EMERGENCY. The \$3,000,000 from federal funds derived from the federal coronavirus capital projects fund appropriated for the International Peace Garden in subdivision 2 of section 1 of this Act and sections 8, 9, and 10 of this Act are declared to be an emergency measure.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 20

HOUSE BILL NO. 1020

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the state water commission; to create and enact a new section to chapter 61-02 and a new section to chapter 61-40 of the North Dakota Century Code, relating to reporting requirements for carryover projects and bonding authority of the western area water supply; to amend and reenact section 61-02-79 of the North Dakota Century Code, relating to the authorization of a Bank of North Dakota line of credit; to provide for an exemption; to provide for a legislative management study; to provide for a report to legislative management; to provide for a statement of legislative intent; to provide for a pilot project; to provide for application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from federal funds and other income, to the state water commission for the purpose of defraying the expenses of the state water commission, for the period beginning with the effective date of this Act, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$19,831,986	\$705,881	\$20,537,867
Operating expenses	43,855,753	(489,203)	43,366,550
Capital assets	105,938,758	42,528,679	148,467,437
Project carryover	308,333,818	(308,333,818)	0
Water supply - grants	128,000,000	(3,000,000)	125,000,000
Rural water supply - grants	37,200,000	22,400,000	59,600,000
Flood control projects	0	48,000,000	48,000,000
Fargo area flood control, including the Fargo-Moorhead diversion	66,500,000	(66,500,000)	0
Mouse River flood control	82,500,000	(82,500,000)	0
Flood control projects other than Fargo area flood control, including the Fargo-Moorhead diversion	48,000,000	(48,000,000)	0
General water - grants	27,093,776	(12,866,501)	14,227,275
Basinwide plan implementation	0	1,100,000	1,100,000
Total special funds	\$867,254,091	(\$406,954,962)	\$460,299,129
Full-time equivalent positions	90.00	0.00	90.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Line of credit - Bank of North Dakota	\$75,000,000	\$50,000,000

Basinwide plan implementation	0	1,100,000
Payoff of outstanding debt	<u>25,900,000</u>	<u>0</u>
Total special funds	\$100,900,000	\$51,100,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The state water commission shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. ADDITIONAL INCOME - APPROPRIATION - BUDGET SECTION APPROVAL. In addition to the amounts appropriated in section 1 of this Act, any additional amounts in the resources trust fund which become available are appropriated, subject to budget section approval, to the state water commission for the purpose of defraying the expenses of that agency, for the period beginning with the effective date of this Act, and ending June 30, 2023. Before approving any request, the budget section shall determine:

1. Approving additional appropriations will not negatively affect the sixty-seventh legislative assembly's ability to address water-related needs;
2. The proposed use of the additional income complies with legislative intent; and
3. The proposed use of the additional income will not result in future funding commitments.

SECTION 4. APPROPRIATION - RESOURCES TRUST FUND - STATE WATER COMMISSION DISCRETIONARY FUNDING. There is appropriated out of any moneys in the resources trust fund in the state treasury, not otherwise appropriated, the sum of \$6,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing discretionary funds for water project grants, for the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered to be a one-time funding item.

SECTION 5. EXEMPTION - GRANTS - APPLICATION - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY. Section 54-44.1-11 does not apply to funding of \$22,000,000 in the capital assets line item relating to state-owned projects and \$295,363,183 in the project carryover line item in section 1 of chapter 45 of the 2019 Session Laws. Any unspent funds from these appropriations may be continued into the 2021-23 biennium. Any funds continued may be expended only for the purpose for which it was originally appropriated. The state water commission may seek emergency commission and budget section approval under section 54-16-04.2 to increase carryover spending authority of funds appropriated in the 2019-21 biennium into the 2021-23 biennium.

SECTION 6. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

Carryover projects - Reporting requirements to the legislative management.

1. The state water commission shall report quarterly to a legislative committee designated by the legislative management:
 - a. Each project the state water commission has designated as a carryover project that has had a cost-share agreement in place for at least four years;

- b. The amount of funds still committed for each carryover project included in the report;
 - c. The total amount of funds reallocated or made available from carryover projects included in a previous report to other projects since the commission's preceding report; and
 - d. The status of each carryover project for which the committee has made a recommendation under subsection 2 since the commission's preceding report.
2. The legislative committee designated by the legislative management to receive the state water commission's reports may make a recommendation to the state water commission that a carryover project included in a report be terminated under section 61-02-14.3 and any funds remaining for the carryover project be reallocated and made available for projects with the same general purpose as the carryover project.

SECTION 7. AMENDMENT. Section 61-02-79 of the North Dakota Century Code is amended and reenacted as follows:

61-02-79. Bank of North Dakota - Line of credit.

The Bank of North Dakota shall extend a line of credit not to exceed ~~seventy-five~~^{fifty} million dollars at a rate of one and one-half percent over the three month London interbank offered rate, but may not exceed three percent to the state water commission. The state water commission shall repay the line of credit from funds available in the resources trust fund, water development trust fund, or other funds, as appropriated by the legislative assembly. The state water commission may access the line of credit, as necessary, to provide funding as authorized by the legislative assembly for ~~water supply projects approved before June 30, 2021, and flood control projects that have approval for funding before the northwest area water supply project during the biennium beginning July 1, 2021, and ending June 30, 2024~~²⁰²³.

SECTION 8. A new section to chapter 61-40 of the North Dakota Century Code is created and enacted as follows:

Revenue bonds and bonds exempt from taxation.

1. The authority shall have the power and authority to issue revenue bonds, to include refunding bonds, for the purpose of financing construction of projects and incidental facilities authorized by this chapter. Revenue bonds issued under this section must be issued as provided in chapter 61-35, and are not subject to section 61-35-15.
2. Issuance of revenue bonds must be approved by a majority of the members of the board of directors of the authority.
3. The authority shall pledge sufficient revenue from any revenue-producing facility or other revenue sources, excluding industrial water sales, for the payment of principal and interest on the bonds and shall establish rates for the facilities at a sufficient level, together with any other available funds, to provide for the operation of the facilities and for the bond payments in the manner provided by section 61-40-11.

4. Revenue bonds may not be a general obligation of any participating member entity or the state and may not be secured by property taxes.
5. The revenue bonds may be issued and sold at public or private sale on the terms and conditions determined by the board of directors.
6. Bonds issued under this section and their income are exempt from taxation by the state.

SECTION 9. PILOT PROJECT - BASINWIDE WATER PLAN IMPLEMENTATION - REPORT TO LEGISLATIVE MANAGEMENT. Of the \$1,100,000 in the basinwide plan implementation line item in section 1 of this Act, up to \$100,000 may be provided as a grant to reimburse water resource districts for costs incurred in the development of a basinwide water plan, and up to \$1,000,000 may be used to provide grants for the pilot project authorized in this section, for the period beginning with the effective date of this Act, and ending June 30, 2023. These funds are not subject to state water commission cost-share policies. Water resource districts and joint water resource districts in a basin may develop a basinwide water plan identifying water conveyance, flood control, and other water projects to be undertaken in the basin, and may jointly apply to the state water commission for a grant of up to \$1,000,000 for implementation of the plan. The state water commission may select a basinwide plan submitted under this section for funding and enter into one cooperative agreement with the water resource districts and joint water resource districts that submitted the plan. The cooperative agreement must include the amount of funding the state water commission will provide, a prohibition on using funds granted for implementation of the plan for planning or any purpose other than implementation of the basinwide plan, and the obligations of the state water commission and each water resource district and joint water resource district in implementing the basinwide plan. The agreement also must provide for monitoring and oversight of the basinwide plan's implementation. The state water commission shall report to the legislative management on the results of this pilot project no later than August 1, 2022.

SECTION 10. STATE WATER COMMISSION - FARGO FLOOD CONTROL PROJECT FUNDING LIMIT - LEGISLATIVE INTENT. The state water commission may not approve state funding for Fargo flood control projects, including constructing a federally authorized Fargo flood control project, in excess of a total of \$850,000,000, which includes \$414,500,000 provided through June 30, 2021, without legislative approval. It is the intent of the sixty-seventh legislative assembly that the remaining \$435,500,000 is provided from bond proceeds during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 11. STATE WATER COMMISSION - MOUSE RIVER FLOOD CONTROL PROJECT FUNDING - LEGISLATIVE INTENT. Excluding the funding provided for Mouse River flood control projects prior to the 2021-23 biennium, the state water commission may not approve state funding for the Mouse River flood control project in excess of a total of \$604,000,000 without legislative approval. It is the intent of the sixty-seventh legislative assembly that of the \$604,000,000, \$74,500,000 is provided from the resources trust fund through bond proceeds used to repay outstanding loans of the resources trust fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 12. LEGISLATIVE INTENT - RURAL WATER SUPPLY. It is the intent of the sixty-seventh legislative assembly that, in addition to any funds approved for the project by the state water commission in previous bienniums, up to \$1,600,000 of the funding appropriated in the rural water supply - grants line item be made available

during the 2021-23 biennium to the system 4 connection to system 1 rural water supply project sponsored by all seasons water district.

SECTION 13. LEGISLATIVE MANAGEMENT STUDY - RED RIVER VALLEY WATER SUPPLY MANAGEMENT STUDY - REPORT TO LEGISLATIVE MANAGEMENT. During the 2021-22 interim, the legislative management, with input from the state water commission and from stakeholders of the Red River valley water supply project, shall consider studying the management and operation of the Red River valley water supply project. The study must include consideration of the appropriate entity to own, manage, and operate the project. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 14. LEGISLATIVE MANAGEMENT STUDY - NORTHWEST AREA WATER SUPPLY. During the 2021-23 interim, the legislative management with input from the state water commission shall consider studying the northwest area water supply project. The study must include consideration of an entity, other than the state, to own, manage, and operate the project. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 15. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 27, 2021

Filed April 28, 2021

CHAPTER 21

HOUSE BILL NO. 1021

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of workforce safety and insurance; and to provide for a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from the workforce safety and insurance fund in the state treasury, not otherwise appropriated, to workforce safety and insurance, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Workforce safety and insurance operations	\$60,887,842	\$12,299,086	\$73,186,928
Total special funds	\$60,887,842	\$12,299,086	\$73,186,928
Full-time equivalent positions	260.14	0.00	260.14

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Claims and policy system replacement project	\$7,010,000	\$7,500,000
MyWSI extranet enhancement project	850,000	3,050,000
Building upgrades	0	514,000
Total special funds	\$7,860,000	\$11,064,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. Workforce safety and insurance shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 22

HOUSE BILL NO. 1022

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the retirement and investment office; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys from special funds derived from income, to the retirement and investment office for the purpose of defraying the expenses of the retirement and investment office, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$4,928,230	\$125,747	\$5,053,977
Operating expenses	888,934	359,594	1,248,528
Contingencies	<u>52,000</u>	<u>48,000</u>	<u>100,000</u>
Total special funds	\$5,869,164	\$533,341	\$6,402,505
Full-time equivalent positions	20.00	(1.00)	19.00

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Pension administration system project	<u>\$9,000,000</u>	<u>\$0</u>
Total special funds	\$9,000,000	\$0

SECTION 3. EXEMPTION. The amount of \$9,000,000 appropriated in section 1 of chapter 47 of the 2019 Session Laws for the pension administration system project is not subject to section 54-44.1-11 and any unexpended funds are available for completing the project during the biennium beginning July 1, 2021, and ending June 30, 2023.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 23

HOUSE BILL NO. 1023

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the public employees retirement system; to provide for a report; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys from special funds from income to the public employees retirement system for the purpose of defraying the expenses of the public employees retirement system, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$6,652,604	\$556,456	\$7,209,060
Operating expenses	2,443,592	57,144	2,500,736
Capital assets	0	257,600	257,600
Contingencies	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Total special funds	\$9,346,196	\$871,200	\$10,217,396
Full-time equivalent positions	34.50	1.00	35.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Information technology risk assessment	\$40,000	\$0
Upgrade business system software	190,000	0
Upgrade benefit enrollment system	0	104,500
Upgrade PERSLink business system	<u>0</u>	<u>257,600</u>
Total special funds	\$230,000	\$362,100

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The public employees retirement system shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - HEALTH INSURANCE FERTILITY BENEFITS. During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of expanding fertility benefits under the public employees retirement system uniform group insurance health benefits as a precursor under section 54-03-28 to mandating the fertility benefits for health insurance in the private market. The study must include a public employees retirement system actuarial study of the cost of expanding the fertility benefits of the

state health plan and must include consideration of the positive and negative aspects of mandating fertility benefits for health insurance in the private market. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 24

HOUSE BILL NO. 1024

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the ethics commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the ethics commission for the purpose of defraying the expenses of the ethics commission, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Ethics commission	\$517,155	\$106,829	\$623,984
Total general fund	\$517,155	\$106,829	\$623,984
Full-time equivalent positions	2.00	(1.00)	1.00

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 25

HOUSE BILL NO. 1025

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of various state departments and institutions; to provide for payment of court-ordered judgments; to provide for a transfer; to provide a statement of legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund and state disaster relief fund in the state treasury, not otherwise appropriated to the state departments and institutions of the state of North Dakota for the purpose of defraying their expenses for the period beginning with the effective date of this Act, and ending June 30, 2021, as follows:

Subdivision 1.

TAX COMMISSIONER

Homestead tax credit	\$1,310,000
Disabled veterans' tax credit	<u>2,730,000</u>
Total general fund	\$4,040,000

Subdivision 2.

ADJUTANT GENERAL

Loan repayment - disaster costs	\$3,130,540
Loan interest repayment - law enforcement costs	<u>750,000</u>
Total state disaster relief fund	\$3,880,540

Subdivision 3.

BANK OF NORTH DAKOTA

Loan repayment - Theodore Roosevelt presidential library endowment fund	<u>\$17,500,000</u>
Total general fund	\$17,500,000

Subdivision 4.

TOTAL - SECTION 1

Grand total general fund	\$21,540,000
Grand total state disaster relief fund	<u>3,880,540</u>
Grand total all funds	\$25,420,540

SECTION 2. PAYMENT OF COURT-ORDERED JUDGMENTS. From the litigation funding pool line item in section 1 of chapter 40 of the 2019 Session Laws, the office of management and budget shall make payments for court-ordered

judgments in accordance with section 32-12-04, during the period beginning with the effective date of this Act and ending June 30, 2021, on behalf of the following:

Secretary of state	\$97,587
Office of management and budget	596,893
Attorney general	<u>181,152</u>
Total payments	\$875,632

SECTION 3. LEGISLATIVE INTENT - COST REIMBURSEMENTS - LOAN REPAYMENTS. It is the intent of the sixty-seventh legislative assembly that the attorney general seek reimbursement from the federal government for the costs of responding to unlawful activity associated with the construction of the Dakota access pipeline. It is further the intent of the sixty-seventh legislative assembly that these reimbursements be used to repay the Bank of North Dakota loans authorized by the emergency commission and the legislative assembly which were obtained to provide the funding necessary to respond to the unlawful activity associated with the construction of the Dakota access pipeline. It is further the intent of the sixty-seventh legislative assembly that the provisions of section 54-16-13 apply to the loans, except that emergency commission approval does not apply.

SECTION 4. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION. Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority between line items within subdivisions 1, 2, and 3 of section 1 of chapter 37 of the 2019 Session Laws, upon the request of the department of human services for the continuation of the community behavior health program payments under subsection 2 of section 54-23.3-10.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 26

HOUSE BILL NO. 1141

(Representatives Nathe, Bosch, Howe, Lefor, Mock, O'Brien, Sanford)
(Senators Bekkedahl, Hogue, Kreun, J. Roers)

AN ACT to provide a transfer to the innovation loan fund to support technology advancement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO INNOVATION LOAN FUND TO SUPPORT TECHNOLOGY ADVANCEMENT. The office of management and budget shall transfer the sum of \$15,000,000 from the strategic investment and improvements fund to the innovation loan fund to support technology advancement for the purpose of providing innovation technology loans, for the biennium beginning July 1, 2021, and ending June 30, 2023.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 27

HOUSE BILL NO. 1394

(Representatives Delzer, Boschee, Pollert)
(Senators Heckaman, Holmberg, Wardner)

AN ACT to provide an appropriation for costs related to COVID-19 and other services; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds to the state departments and institutions of the state of North Dakota for the purpose of defraying COVID-19 and other expenses for the period beginning with the effective date of this Act, and ending June 30, 2021, as follows:

Subdivision 1.

OFFICE OF MANAGEMENT AND BUDGET

Governor's emergency education relief fund	<u>\$2,732,339</u>
Total federal funds	\$2,732,339

Subdivision 2.

ATTORNEY GENERAL

COVID-19 - Justice assistance grants	<u>\$2,082,871</u>
Total federal funds	\$2,082,871

Subdivision 3.

DEPARTMENT OF PUBLIC INSTRUCTION

Elementary and secondary school emergency education relief - schools	\$144,603,071
Elementary and secondary school emergency education relief - state	13,661,117
Governor's emergency education relief fund	<u>3,998,745</u>
Total federal funds	\$162,262,933

Subdivision 4.

STATE DEPARTMENT OF HEALTH

COVID-19 response	<u>\$173,532,232</u>
Total federal funds	\$173,532,232

Subdivision 5.

VETERANS' HOME

CARES Act funding	<u>\$975,000</u>
Total federal funds	\$975,000

Subdivision 6.

DEPARTMENT OF HUMAN SERVICES

COVID-19 operating expenses	\$12,270,566
COVID-19 grants	280,814,929
COVID-19 grants - Medical assistance	<u>16,000,000</u>
Total federal funds	\$309,085,495

Subdivision 7.

ADJUTANT GENERAL

COVID-19 response	\$148,666,667
Total federal funds	\$148,666,667

Subdivision 8.

DEPARTMENT OF COMMERCE

CARES Act funding	\$11,393,078
Total federal funds	\$11,393,078

Subdivision 9.

DEPARTMENT OF AGRICULTURE

COVID-19 stress assistance program operating expenses	\$500,000
COVID-19 specialty crop block grants	<u>5,000,000</u>
Total federal funds	\$5,500,000

Subdivision 10.

DEPARTMENT OF TRANSPORTATION

COVID-19 enhanced mobility services	\$115,202
COVID-19 surface transportation grants	<u>61,584,858</u>
Total federal funds	\$61,700,060

Subdivision 11.

TOTAL - SECTION 1

Grand total federal funds	\$877,930,675
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SECTION 2. EXEMPTION. The funding appropriated in section 1 of this Act is not subject to the provisions of section 54-44.1-11 and may be continued into the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 28

HOUSE BILL NO. 1395

(Representatives Delzer, Boschee, Pollert)
(Senators Heckaman, Holmberg, Wardner)

AN ACT to adjust state agency spending authority approved by the emergency commission and budget section; to provide a statement of legislative intent; to provide an appropriation; to provide an exemption; to provide for retroactive application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. EMERGENCY COMMISSION AUTHORIZATION ADJUSTMENTS - APPROPRIATION. The amounts identified in the emergency commission authorization column below represent the federal coronavirus relief fund spending authority approved for each agency or institution by the emergency commission and budget section under section 54-16-04.1 for the biennium ending June 30, 2021. The director of the office of management and budget shall adjust the federal coronavirus relief fund spending authorization amount for each agency and institution to the amounts shown in the appropriation column which are appropriated from federal funds derived from the federal coronavirus relief fund to the agency or institution listed for the purpose of defraying expenses relating to the COVID-19 pandemic for the period beginning May 15, 2020, and ending June 30, 2021.

Emergency Commission			
<u>Agency or Institution</u>	<u>Authorization</u>	<u>Adjustment</u>	<u>Appropriation</u>
Governor	\$18,083	\$0	\$18,083
Secretary of state	49,216	0	49,216
Office of management and budget	7,003,055	18,315	7,021,370
Information technology department	61,868,226	0	61,868,226
State auditor	10,866	0	10,866
State treasurer	122,757,062	523,194	123,280,256
Tax commissioner	28,601	0	28,601
Office of administrative hearings	522	0	522
Legislative assembly	3,100,000	0	3,100,000
Legislative council	100,000	0	100,000
Judicial branch	312,212	360,000	672,212
Department of public instruction	64,316,217	0	64,316,217
Department of trust lands	94,135	1,505	95,640
North Dakota university system office	1,468,787	0	1,468,787
Bismarck state college	4,210,745	0	4,210,745
Lake region state college	880,813	0	880,813
Williston state college	1,712,364	0	1,712,364
University of North Dakota	20,984,766	0	20,984,766
North Dakota state university	18,671,414	(52,750)	18,618,664
North Dakota state college of science	5,107,897	0	5,107,897
Dickinson state university	2,346,239	0	2,346,239
Mayville state university	2,206,656	0	2,206,656
Minot state university	2,454,439	0	2,454,439

Valley City state university	740,353	0	740,353
Dakota college at Bottineau	804,631	0	804,631
Department of career and technical education	470,980	0	470,980
State department of health	174,115,929	(72,542,160)	101,573,769
Department of environmental quality	745,000	0	745,000
Veterans' home	462,040	0	462,040
Indian affairs commission	20,915	0	20,915
Department of veterans' affairs	2,860	0	2,860
Department of human services	61,103,911	(548,937)	60,554,974
Job service North Dakota	372,381,213	(1,427,906)	370,953,307
Industrial commission	65,476,513	6,000,000	71,476,513
Bank of North Dakota	70,000,000	(1,322,817)	68,677,183
Mill and elevator association	116,690	0	116,690
Workforce safety and insurance	1,018,052	0	1,018,052
Highway patrol	13,919,094	(11,091)	13,908,003
Department of corrections and rehabilitation	11,170,709	(1,505)	11,169,204
Adjutant general	16,148,260	(4,951,480)	11,196,780
Department of commerce	109,179,000	(27,000,000)	82,179,000
Agriculture commissioner	13,556,000	(148,450)	13,407,550
State seed department	6,117	0	6,117
Upper great plains transportation institute	45,095	(3,477)	41,618
Branch research centers	831,007	0	831,007
North Dakota state university extension service	855,400	0	855,400
Northern crops institute	115,586	0	115,586
North Dakota state university main research center	1,164,967	0	1,164,967
State fair association	105,272	0	105,272
Racing commission	1,000	0	1,000
State historical society	20,000	(1,000)	19,000
Council on the arts	800,000	0	800,000
Parks and recreation department	250,985	0	250,985
Department of transportation	14,670,106	0	14,670,106
Total	\$1,250,000,000	(\$101,108,559)	\$1,148,891,441

SECTION 2. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds to the state departments and institutions of the state of North Dakota listed below for the purpose of defraying COVID-19 and other expenses for the period beginning with the effective date of this Act, and ending June 30, 2023, as follows:

Subdivision 1.

STATE TREASURER

Local fiscal relief fund allocations	<u>\$50,160,000</u>
Total federal funds	\$50,160,000

Subdivision 2.

DEPARTMENT OF PUBLIC INSTRUCTION

Elementary and secondary school emergency education relief	\$305,266,879
Emergency education relief homeless children and youth program	1,999,661
Assistance to nonpublic schools	4,151,371
Individuals with disabilities education act grant	<u>8,632,569</u>
Total federal funds	\$320,050,480

Subdivision 3.

STATE LIBRARY

COVID-19 salaries and wages	\$86,669
COVID-19 operating expenses	1,580,057
COVID-19 grants	<u>500,000</u>
Total federal funds	\$2,166,726

Subdivision 4.

STATE DEPARTMENT OF HEALTH

COVID-19 response	<u>\$87,290,597</u>
Total federal funds	\$87,290,597

Subdivision 5.

VETERANS' HOME

COVID-19 response	<u>\$1,300,000</u>
Total federal funds	\$1,300,000

Subdivision 6.

DEPARTMENT OF HUMAN SERVICES

COVID-19 operating expenses	\$16,863,309
COVID-19 grants	<u>224,826,531</u>
Total federal funds	\$241,689,840

Subdivision 7.

ADJUTANT GENERAL

COVID-19 response	<u>\$887,873</u>
Total federal funds	\$887,873

Subdivision 8.

DEPARTMENT OF COMMERCE

COVID-19 response	<u>\$56,234,176</u>
Total federal funds	\$56,234,176

Subdivision 9.

COUNCIL ON THE ARTS

COVID-19 funding	<u>\$759,060</u>
Total federal funds	\$759,060

Subdivision 10.

DEPARTMENT OF TRANSPORTATION

COVID-19 grants	\$1,609,357
COVID-19 capital assets	<u>317,000,000</u>
Total federal funds	\$318,609,357

Subdivision 11.

TOTAL - SECTION 2

Grand total federal funds	\$1,079,148,109
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SECTION 3. LEGISLATIVE INTENT - STATE FISCAL RECOVERY FUND AND CORONAVIRUS CAPITAL PROJECTS FUND. It is the intent of the sixty-seventh legislative assembly that state fiscal recovery funds and any unexpended federal coronavirus capital projects funds received through H.R. 1319 of the 117th Congress, also known as the federal American Rescue Plan Act, be appropriated by the legislative assembly during future regular and special legislative sessions and that funding for one-time initiatives and projects that improve the well-being of the state's citizens be given consideration for use of this funding.

SECTION 4. EXEMPTION. The funding appropriated in section 1 of this Act is not subject to the provisions of section 54-44.1-11 and may be continued into the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 5. RETROACTIVE APPLICATION. Section 1 of this Act applies retroactively to May 15, 2020.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved May 7, 2021

Filed May 10, 2021

CHAPTER 29

SENATE BILL NO. 2001

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the legislative branch of state government; to amend and reenact sections 54-03-20 and 54-35-10 of the North Dakota Century Code, relating to legislative compensation; to provide for a report; to provide for application, transfer, and cancellation of unexpended appropriations; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from the insurance regulatory trust fund, not otherwise appropriated, to the legislative branch of state government for the purpose of defraying the expenses of the legislative branch of state government, for the fiscal period beginning with the effective date of this Act and ending June 30, 2023, as follows:

Subdivision 1.

SIXTY-SEVENTH AND SIXTY-EIGHTH LEGISLATIVE ASSEMBLIES AND BIENNIUM

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$11,190,844	\$472,420	\$11,663,264
Operating expenses	3,847,478	3,904,389	7,751,867
Capital assets	6,000	0	6,000
National conference of state legislatures	263,433	7,900	271,333
Total general fund	\$15,307,755	\$4,384,709	\$19,692,464

Subdivision 2.

LEGISLATIVE MANAGEMENT AND LEGISLATIVE COUNCIL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,965,717	\$2,725,263	\$12,690,980
Operating expenses	2,988,601	254,829	3,243,430
Capital assets	6,000	0	6,000
Total all funds	\$12,960,318	\$2,980,092	\$15,940,410
Less estimated income	70,000	0	70,000
Total general fund	\$12,890,318	\$2,980,092	\$15,870,410
Full-time equivalent positions	36.00	8.00	44.00

Subdivision 3.

TOTAL - SECTION 1

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$28,198,073	\$7,364,801	\$35,562,874
Grand total special funds	<u>70,000</u>	<u>0</u>	<u>70,000</u>
Grand total all funds	\$28,268,073	\$7,364,801	\$35,632,874

SECTION 2. LEGISLATIVE ASSEMBLY ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation for the legislative assembly in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Digital signage replacement	\$40,000	\$0
Voting system upgrades	100,000	0
Computer and iPad replacement	517,760	0
Redistricting session	0	316,284
Information technology expansion	0	<u>1,450,000</u>
Total all funds	\$657,760	\$1,766,284
Less estimated income	<u>140,000</u>	<u>0</u>
Total general fund	\$517,760	\$1,766,284

The 2021-23 biennium one-time funding amounts are not part of the entity's base budget for the 2023-25 biennium. The legislative assembly shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. LEGISLATIVE MANAGEMENT AND LEGISLATIVE COUNCIL ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation for legislative management and legislative council in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Redistricting equipment	\$22,400	\$0
Computer replacement	124,856	0
Council of state governments conference	7,500	0
Information technology expansion	0	48,000
Public website design	0	<u>150,000</u>
Total general fund	\$154,756	\$198,000

The 2021-23 biennium one-time funding amounts are not part of the entity's base budget for the 2023-25 biennium. The legislative council shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 4. EXEMPTION - TRANSFERS. Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority between line items of the legislative management and legislative council as may be requested by the chairman of the legislative management or the director of the legislative council upon the finding by the chairman or the director that the nature of studies and duties assigned to the legislative management or legislative council requires the transfers in properly carrying on the legislative management's and legislative council's functions and duties. The director of the office of management and budget shall similarly make transfers of appropriation authority between the line

items for the sixty-seventh and sixty-eighth legislative assemblies, upon request by the chairman of the legislative management or the director of the legislative council upon the finding by the chairman or director that the transfers are required for the legislative assembly to carry on its functions and duties.

SECTION 5. APPLICATION, TRANSFER AUTHORITY, AND CANCELLATION OF UNEXPENDED APPROPRIATIONS. Sections 54-16-04 and 54-44.1-11 do not apply to chapter 1 of the 2019 Session Laws. The director of the office of management and budget shall make transfers of appropriation authority between the line items and the agencies of the legislative branch within section 1 of that chapter as requested by the chairman of the legislative management or the director of the legislative council. The office of management and budget shall cancel unexpended appropriations for the legislative assembly and legislative council enacted prior to the 2019-21 biennium as directed by the chairman of the legislative management or the director of the legislative council.

SECTION 6. AMENDMENT. Section 54-03-20 of the North Dakota Century Code is amended and reenacted as follows:

54-03-20. Compensation and expense reimbursement of members of the legislative assembly.

1. Each member of the legislative assembly is entitled to receive as compensation for services the sum of ~~one hundred eighty-six~~ one hundred eighty-nine dollars ~~through June 30, 2022, and one hundred ninety-three dollars thereafter~~ for each calendar day during any organizational, special, or regular legislative session and for each day that member attends a meeting of a legislative committee between the organizational session and the regular session as authorized by legislative rule.
2. a. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed per calendar month the amount established under this subdivision by the director of the office of management and budget for lodging in state and which may not exceed the rate provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session. On August first of each even-numbered year, the director of the office of management and budget shall set the maximum monthly reimbursement for the subsequent two-year period at an amount equal to thirty times seventy percent of the daily lodging reimbursement in effect on that date as provided under subdivision d of subsection 2 of section 44-08-04.
- b. Notwithstanding subdivision a:
 - (1) A member of the legislative assembly may elect to be reimbursed for less than the amount to which the legislator is entitled under this subsection by claiming the lesser amount on a voucher submitted with the receipt required by section 44-08-04.
 - (2) The legislative management may establish guidelines that may result in a reduced maximum reimbursement for a single dwelling in which two or more legislators share lodging and the total rent for that dwelling exceeds the amount to which a legislator is entitled under subdivision a.

3. a. Members of the legislative assembly who receive reimbursement for lodging are also entitled to reimbursement for travel for not to exceed one round trip taken during any calendar week, or portion of a week, the legislative assembly is in session, between their residences and the place of meeting of the legislative assembly, at the rate provided for state employees with the additional limitation that reimbursement for travel by common carrier may be only at the cost of coach fare and may not exceed one and one-half times the amount the member would be entitled to receive as mileage reimbursement for travel by motor vehicle.
- b. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed the maximum monthly reimbursement allowed under subdivision a of subsection 2.
4. The amount to which each legislator is entitled must be paid following the organizational session in December and each month upon submission of a voucher and appropriate documentation during a regular or special session, consistent with section 26 of article XI of the constitution of North Dakota.
5. If during a special session, the legislative assembly adjourns for more than three days, a member of the legislative assembly is entitled to receive compensation during those days only while in attendance at a standing committee if the legislator is a member of that committee, a majority or minority leader, or a legislator who is not on that committee but who has the approval of a majority or minority leader to attend.
6. A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session or a legislative committee meeting must be included as a calendar day during a legislative session or as a day of a legislative committee meeting for the purposes of this section.
7. a. In addition, each member is entitled to receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of five hundred eighteen five hundred twenty-six dollars through June 30, 2022, and five hundred thirty-seven dollars thereafter a month, paid monthly.
- b. If a member dies or resigns from office during the member's term, the member may be paid only the allowances provided for in this section for the period for which the member was actually a member.
- c. The majority and minority leaders of the house and senate and the chairman of the legislative management, if the chairman is not a majority or minority leader, are each entitled to receive as compensation, in addition to any other compensation or expense reimbursement provided by law, the sum of three hundred seventy-one three hundred

seventy-seven dollars through June 30, 2022, and three hundred eighty-five dollars thereafter per month during the biennium for their execution of public duties.

8. Attendance at any organizational, special, or regular session of the legislative assembly by any member is a conclusive presumption of entitlement as set out in this section and compensation and expense allowances must be excluded from gross income for income tax purposes to the extent permitted for federal income tax purposes under section 127 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 162(i)].
9. Before each regular legislative session, the legislative management shall make recommendations and submit any necessary legislation to adjust legislative compensation amounts.

SECTION 7. AMENDMENT. Section 54-35-10 of the North Dakota Century Code is amended and reenacted as follows:

54-35-10. Compensation of members and leadership.

1. The members of the legislative management and the members of any committee of the legislative management are entitled to be compensated for the time spent in attendance at sessions of the legislative management and of its committees at the rate of one hundred eighty-six one hundred eighty-nine dollars through June 30, 2022, and one hundred ninety-three dollars thereafter per day and must also be paid for expenses incurred in attending said meetings and in the performance of their official duties in the amounts provided by law for other state officers.
2. In addition to the compensation provided in subsection 1, the chairman of the legislative management is entitled to receive an additional five dollars for each day spent in attendance at sessions of the legislative management and of its committees, and the chairman of each of the legislative management's committees is entitled to receive five dollars for each day spent in attendance at sessions of the legislative management or of the committee which the person chairs.

SECTION 8. EMERGENCY. Sections 1 through 5 of this Act are declared to be an emergency measure.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 30

SENATE BILL NO. 2002

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the judicial branch; to amend and reenact sections 14-08.1-08, 14-09-08.1, 14-09-08.2, 14-09-09.29, 14-09-26, 27-02-02, and 27-05-03, and subsection 2 of section 50-09-02.1 of the North Dakota Century Code, and section 50-25.1-11.1 of the North Dakota Century Code, as amended in section 2 of Senate Bill No. 2131, as approved by the sixty-seventh legislative assembly, relating to clerk of court responsibilities regarding child support, salaries of justices of the supreme court, salaries of district court judges, and criminal history record checks for children's advocacy centers; to provide for a report; to provide a statement of legislative intent; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the judicial branch for the purpose of defraying the expenses of the judicial branch for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

Subdivision 1.

SUPREME COURT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$11,338,720	(\$135,814)	\$11,202,906
Operating expenses	2,705,762	(355,668)	2,350,094
Guardianship monitoring program	<u>283,042</u>	<u>3,055</u>	<u>286,097</u>
Total all funds	\$14,327,524	(\$488,427)	\$13,839,097
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
Total general fund	\$14,327,524	(\$488,427)	\$13,839,097

Subdivision 2.

DISTRICT COURTS

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$73,242,268	\$2,853,541	\$76,095,809
Operating expenses	20,396,902	(449,529)	19,947,373
Capital assets	0	2,000,000	2,000,000
Judges' retirement	<u>280,332</u>	<u>(143,086)</u>	<u>137,246</u>
Total all funds	\$93,919,502	\$4,260,926	\$98,180,428
Less estimated income	<u>1,659,596</u>	<u>(902,633)</u>	<u>756,963</u>
Total general fund	\$92,259,906	\$5,163,559	\$97,423,465

Subdivision 3.

JUDICIAL CONDUCT COMMISSION AND DISCIPLINARY BOARD

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Judicial conduct commission and disciplinary board	<u>\$1,250,962</u>	<u>\$66,519</u>	<u>\$1,317,481</u>
Total all funds	\$1,250,962	\$66,519	\$1,317,481
Less estimated income	<u>482,701</u>	<u>19,799</u>	<u>502,500</u>
Total general fund	\$768,261	\$46,720	\$814,981

Subdivision 4.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$107,355,691	\$4,721,852	\$112,077,543
Grand total special funds	<u>2,142,297</u>	<u>(882,834)</u>	<u>1,259,463</u>
Grand total all funds	\$109,497,988	\$3,839,018	\$113,337,006
Full-time equivalent positions	363.00	(1.00)	362.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Juvenile case management system	\$0	\$2,000,000
Copy machines	82,500	0
Audio and visual equipment	64,852	0
Law library remodel	<u>970,000</u>	<u>0</u>
Total all funds	\$1,117,352	\$2,000,000
Less estimated income	<u>970,000</u>	<u>0</u>
Total general fund	\$147,352	\$2,000,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The supreme court shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION. There are appropriated any funds received by the supreme court, district courts, and judicial conduct commission and disciplinary board, not otherwise appropriated, pursuant to federal acts and private gifts, grants, and donations for the purpose as designated in the federal acts or private gifts, grants, and donations for the period beginning July 1, 2021, and ending June 30, 2023.

SECTION 4. EXEMPTION - TRANSFERS. Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority between line items in section 1 of this Act as requested by the supreme court upon a finding by the court that the nature of the duties of the court and its staff requires the transfers to carry on properly the functions of the judicial branch of government.

SECTION 5. AMENDMENT. Section 14-08.1-08 of the North Dakota Century Code is amended and reenacted as follows:

14-08.1-08. Certification of records.

~~The clerk of court and any~~An authorized agent of the child support agency, in any circumstance or proceeding requiring proof of the contents of the official records of the state regarding any information maintained in the state case registry of the automated data processing system established under section 50-09-02.1, may certify the content of those records. A certification provided under this section is prima facie evidence of the contents of those records.

SECTION 6. AMENDMENT. Section 14-09-08.1 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.1. Support payments - Payment to state disbursement unit - Transfer of proceedings for enforcement of decree - Procedures upon failure to pay.

1. In any action in which a court orders that payments for child support be made, the court shall provide in its order that the payments be paid to the state disbursement unit for remittance to the obligee.
2. a. Each party subject to the order shall immediately inform the state disbursement unit of the party's:
 - (1) Social security number;
 - (2) Residential and mailing addresses and any change of address;
 - (3) Telephone number;
 - (4) Motor vehicle operator's license number;
 - (5) Employer's name, address, and telephone number;
 - (6) Electronic mail address; and
 - (7) Change of any other condition which may affect the proper administration of this chapter.
- b. Each order for payment of child support must notify each party of the requirements in subdivision a and require the party to provide the information within ten days from the date of the order or ten days after any change in the information.
- c. In any subsequent child support enforcement or modification action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of a party, the court shall deem due process requirements for notice and service to have been met, with respect to the noticed party, by delivery of written notice to the most recent residential or employer address provided by the noticed party pursuant to this subsection.

- d. The requirements of this subsection continue in effect until all child support obligations have been satisfied with respect to each child subject to the order.
3. Whenever there is failure to make the payments as required, the clerk of court ~~may, and~~ upon request of the obligee or child support agency, shall, send notice of the arrears by first-class mail, with affidavit of service, to the person required to make the payments, or request a district judge of the judicial district to issue a citation for contempt of court against the person who has failed to make the payments. The citation may be served on that person by first-class mail with affidavit of service to the person's last-known address.
4. The court of its own motion or on motion of the child support agency or the state's attorney of the county of venue, the county of the recipient's residence, or the county of the obligor's residence may cause a ~~certified copy of any~~ support order in the action to be transcribed and filed with the clerk of the district court of any county in this state in which the obligee or the obligor may reside from time to time. Thereafter, this section applies as if the support order were issued by the district court of the county to which the support order is transcribed. No fee may be charged for transcribing or filing a ~~certified copy of any~~ support order under this section.

SECTION 7. AMENDMENT. Section 14-09-08.2 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.2. Support for children after majority - Retroactive application.

1. A judgment or order requiring the payment of child support until the child attains majority continues as to the child until the end of the month during which the child is graduated from high school or attains the age of nineteen years, whichever occurs first, if:
 - a. The child is enrolled and attending high school and is eighteen years of age ~~prior to~~before the date the child is expected to be graduated; and
 - b. The child resides with the person to whom the duty of support is owed.
2. A judgment or order may require payment of child support after majority under substantially the circumstances described in subsection 1.
3. The person to whom the duty of support is owed under either subsection 1 or 2 may file an affidavit with the district court ~~and provide a copy to the child support agency~~ stating that the requirements of subsection 1 are met, the school in which the child is enrolled, and the anticipated date of the child's graduation. Upon filing of the affidavit, the child support resumes pursuant to subsection 1 or pursuant to the terms of a judgment or order described in subsection 2. A fee may not be charged for filing such an affidavit.
4. ~~The clerk of court~~child support agency shall serve the affidavit by first-class mail upon the person owing the duty of support. If at any time thereafter the person owing the duty of support files a motion with the court, supported by that person's affidavit that the child is no longer enrolled in or attending high school or is no longer residing with the person to whom the duty of support is owed, the court shall determine if the child is enrolled in and attending high school and residing with the person to whom the duty of support is owed and shall enter an order accordingly.

5. This section applies to child support orders concerning children described in subsection 1 or 2, regardless of the date of entry of the order.
6. This section does not preclude the entry of an order for child support which continues after the child reaches age eighteen, if the parties agree, or if the court determines the support to be appropriate.
7. For purposes of this section:
 - a. A child is treated as being in school during summer vacation if the child was enrolled in and attending school and did not graduate from high school at the end of the school period immediately preceding the summer vacation; and
 - b. A child who is currently enrolled in school is not considered to have graduated, even if all required coursework and examinations have been completed, until the ceremony is held by the school to commemorate the child's graduation.

SECTION 8. AMENDMENT. Section 14-09-09.29 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.29. Coordination of income withholding activities and child support case management.

The child support agency ~~shall assume responsibility~~ is responsible for administration of income withholding, managing accrual and termination dates and payment ledger adjustments on the automated system established under section 50-09-02.1, and the receipt and disbursement of child support payments. This section also applies to an order that does not require the payment of child support but requires the payment of spousal support, if the court orders the spousal support be paid through the state disbursement unit or be enforced through income withholding.

SECTION 9. AMENDMENT. Section 14-09-26 of the North Dakota Century Code is amended and reenacted as follows:

14-09-26. Modification of existing child support orders.

1. A child support order issued under any provision of this code and in effect on October 1, 1998, is deemed to require payment to the state disbursement unit after September 30, 1998.
2. A child support order issued under any provision of this code after September 30, 1998, must require payment to the state disbursement unit.
3. ~~A payment of child support received by a clerk of court after September 30, 1998, is deemed to be a payment to the state disbursement unit. A clerk of court receiving such child support payment after September 30, 1998, shall promptly remit or transfer that payment to the state disbursement unit.~~

SECTION 10. AMENDMENT. Section 27-02-02 of the North Dakota Century Code is amended and reenacted as follows:

27-02-02. Salaries of justices of supreme court.

The annual salary of each justice of the supreme court is ~~one hundred fifty-nine thousand four hundred nine dollars through June 30, 2020~~ one hundred sixty-five

~~thousand eight hundred forty-five dollars through June 30, 2022, and one hundred sixty-three thousand three hundred ninety-four~~ one hundred sixty-nine thousand one hundred sixty-two dollars thereafter. The chief justice of the supreme court is entitled to receive an additional four thousand five hundred eight dollars per annum through June 30, 2020 four thousand six hundred ninety dollars per annum through June 30, 2022, and four thousand six hundred twenty-one four thousand seven hundred eighty-four dollars per annum thereafter.

SECTION 11. AMENDMENT. Section 27-05-03 of the North Dakota Century Code is amended and reenacted as follows:

27-05-03. Salaries and expenses of district judges.

~~The annual salary of each district judge is one hundred forty-six thousand two hundred sixty-nine dollars through June 30, 2020~~ one hundred fifty-two thousand one hundred seventy-five dollars through June 30, 2022, and one hundred forty-nine thousand nine hundred twenty-six one hundred fifty-five thousand two hundred nineteen dollars thereafter. Each district judge is entitled to travel expenses, including mileage and subsistence while engaged in the discharge of official duties outside the city in which the judge's chambers are located. The salary and expenses are payable monthly in the manner provided by law. A presiding judge of a judicial district is entitled to receive an additional four thousand one hundred fifty-six dollars per annum through June 30, 2020 four thousand three hundred twenty-four dollars per annum through June 30, 2022, and four thousand two hundred sixty four thousand four hundred ten dollars thereafter.

SECTION 12. AMENDMENT. Subsection 2 of section 50-09-02.1 of the North Dakota Century Code is amended and reenacted as follows:

2. The state agency shall establish a statewide automated data processing system designed to conform to requirements imposed by or under title IV-D. ~~The state agency must make that system available for the use of clerks of court in carrying out their duties under section 14-09-08.1.~~ The official records of the state regarding all child support amounts owed, collected, and distributed must be maintained in that system. Notwithstanding section 14-08.1-05, any record of a child support obligation that is currently being enforced in another jurisdiction and not by a child support agency, that is owed by an obligor who is deceased, or that is owed to a deceased obligee for whom disbursement of any collections could not occur under section 14-09-25, may be removed indefinitely from the statewide automated data processing system until a request is received from a party to the child support case to restore those records.

¹⁶ **SECTION 13. AMENDMENT.** Section 50-25.1-11.1 of the North Dakota Century Code, as amended in section 2 of Senate Bill No. 2131, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

50-25.1-11.1. Children's advocacy centers - Confidentiality of records - Criminal history record checks.

1. Records and digital media in the possession of a children's advocacy center relating to a forensic medical examination, forensic interview, or therapy are confidential and may be released only to a person other than a law enforcement agency, the department or the department's authorized agent, or

¹⁶ Section 50-25.1-11.1 was also amended by section 2 of Senate Bill No. 2131, chapter 378.

a medical or mental health professional when the child comes before the medical or mental health professional in that person's professional capacity, upon service of a subpoena signed by a judge.

2. ~~Upon receipt of a request by a children's advocacy center, the~~The department may submit a request for a criminal history record check under section 12-60-24. ~~Under this subsection, a children's advocacy center may require the following individuals to submit to a criminal history record check:~~
 - a. ~~An~~ on an employee, final applicant for employment, contractor, multidisciplinary team member, or volunteer; of a children's advocacy center who has contact with a child at or through a children's advocacy center; and
 - b. ~~An individual a children's advocacy center determines requires a criminal history record check to participate in services at a center.~~

SECTION 14. LEGISLATIVE INTENT - INFORMATION TECHNOLOGY PROJECTS. It is the intent of the sixty-seventh legislative assembly that the judicial branch pursue the use of federal funds from the coronavirus relief fund to defray the cost of remote video equipment and district court wi-fi access points.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 31

SENATE BILL NO. 2003

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the North Dakota university system; to create and enact a new chapter to title 15 of the North Dakota Century Code, relating to a university system capital building fund; to amend and reenact subdivision c of subsection 1 of section 15-10-48, subdivision k of subsection 1 of section 15-18.2-02, sections 15-18.2-03, 15-18.2-05, and 54-44.1-11 of the North Dakota Century Code and section 2 of chapter 53 of the 2019 Session Laws, relating to matching grants for the advancement of academics, the higher education funding formula, the cancellation of unexpended appropriations, and appropriations for higher education capital projects; to repeal subdivision d of subsection 1 of section 15-10-48 and section 15-18.2-04 of the North Dakota Century Code, relating to the eligibility of the university of North Dakota school of medicine and health sciences to receive a matching grant for the advancement of academics and the institutional size factor of the higher education funding formula; to provide for a transfer; to provide for a report; to provide an exemption; to provide for a study; to provide a statement of legislative intent; to provide a continuing appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state board of higher education and to the entities and institutions under the supervision of the board, for the purpose of defraying the expenses of the state board of higher education and the entities and institutions under the control of the board, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

Subdivision 1.

NORTH DAKOTA UNIVERSITY SYSTEM

	Base Level	Adjustments or Enhancements	Appropriation
Capital assets - bond payments	\$4,959,448	\$8,425,816	\$13,385,264
Competitive research programs	5,685,750	0	5,685,750
System governance	8,737,867	(132,297)	8,605,570
Core technology services	62,286,128	676,689	62,962,817
Student financial assistance grants	23,917,306	0	23,917,306
Professional student exchange program	3,699,342	0	3,699,342
Academic and CTE scholarships	12,016,749	4,200,000	16,216,749
Scholars program	1,807,115	0	1,807,115
Native American scholarship	555,323	0	555,323
Tribally controlled community college grants	1,000,000	0	1,000,000
Education incentive programs	260,000	0	260,000

Student mental health	284,400	0	284,400
Veterans' assistance grants	277,875	0	277,875
Shared campus services	500,000	300,000	800,000
Nursing education consortium	0	1,356,000	1,356,000
Math pathways	0	150,000	150,000
NASA EPSCoR	<u>342,000</u>	<u>0</u>	<u>342,000</u>
Total all funds	\$126,329,303	\$14,976,208	\$141,305,511
Less estimated income	<u>24,002,206</u>	<u>254,829</u>	<u>24,257,035</u>
Total general fund	\$102,327,097	\$14,721,379	\$117,048,476
Full-time equivalent positions	148.90	9.93	158.83

Subdivision 2.

BISMARCK STATE COLLEGE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$98,743,682	\$1,827,705	\$100,571,387
Capital assets	<u>1,922,561</u>	<u>0</u>	<u>1,922,561</u>
Total all funds	\$100,666,243	\$1,827,705	\$102,493,948
Less estimated income	<u>69,598,016</u>	<u>811,877</u>	<u>70,409,893</u>
Total general fund	\$31,068,227	\$1,015,828	\$32,084,055
Full-time equivalent positions	323.93	8.97	332.90

Subdivision 3.

LAKE REGION STATE COLLEGE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$37,559,127	\$1,591,786	\$39,150,913
Capital assets	<u>362,667</u>	<u>363,000</u>	<u>725,667</u>
Total all funds	\$37,921,794	\$1,954,786	\$39,876,580
Less estimated income	<u>24,976,514</u>	<u>657,914</u>	<u>25,634,428</u>
Total general fund	\$12,945,280	\$1,296,872	\$14,242,152
Full-time equivalent positions	118.10	(2.34)	115.76

Subdivision 4.

WILLISTON STATE COLLEGE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$32,596,060	\$1,448,244	\$34,044,304
Capital assets	<u>1,261,968</u>	<u>0</u>	<u>1,261,968</u>
Total all funds	\$33,858,028	\$1,448,244	\$35,306,272
Less estimated income	<u>23,790,285</u>	<u>229,250</u>	<u>24,019,535</u>
Total general fund	\$10,067,743	\$1,218,994	\$11,286,737
Full-time equivalent positions	100.48	0.81	101.29

Subdivision 5.

UNIVERSITY OF NORTH DAKOTA

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$888,106,266	\$15,164,018	\$903,270,284

Capital assets	<u>4,411,566</u>	<u>0</u>	<u>4,411,566</u>
Total all funds	\$892,517,832	\$15,164,018	\$907,681,850
Less estimated income	<u>744,185,677</u>	<u>11,472,094</u>	<u>755,657,771</u>
Total general fund	\$148,332,155	\$3,691,924	\$152,024,079
Full-time equivalent positions	2,132.17	(72.19)	2,059.98

Subdivision 6.

NORTH DAKOTA STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$743,775,571	\$12,398,750	\$756,174,321
Capital assets	<u>7,799,104</u>	<u>0</u>	<u>7,799,104</u>
Total all funds	\$751,574,675	\$12,398,750	\$763,973,425
Less estimated income	<u>618,859,692</u>	<u>6,557,408</u>	<u>625,417,100</u>
Total general fund	\$132,714,983	\$5,841,342	\$138,556,325
Full-time equivalent positions	1,870.16	(40.73)	1,829.43

Subdivision 7.

NORTH DAKOTA STATE COLLEGE OF SCIENCE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$95,725,411	(\$177,946)	\$95,547,465
Capital assets	<u>1,012,379</u>	<u>0</u>	<u>1,012,379</u>
Total all funds	\$96,737,790	(\$177,946)	\$96,559,844
Less estimated income	<u>60,195,768</u>	<u>649,284</u>	<u>60,845,052</u>
Total general fund	\$36,542,022	(\$827,230)	\$35,714,792
Full-time equivalent positions	310.73	0.88	311.61

Subdivision 8.

DICKINSON STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$48,560,994	\$2,265,066	\$50,826,060
Capital assets	<u>409,078</u>	<u>0</u>	<u>409,078</u>
Total all funds	\$48,970,072	\$2,265,066	\$51,235,138
Less estimated income	<u>30,577,009</u>	<u>415,399</u>	<u>30,992,408</u>
Total general fund	\$18,393,063	\$1,849,667	\$20,242,730
Full-time equivalent positions	213.26	(37.76)	175.50

Subdivision 9.

MAYVILLE STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$47,719,555	\$2,883,721	\$50,603,276
Capital assets	<u>358,992</u>	<u>0</u>	<u>358,992</u>
Total all funds	\$48,078,547	\$2,883,721	\$50,962,268
Less estimated income	<u>31,657,931</u>	<u>624,509</u>	<u>32,282,440</u>
Total general fund	\$16,420,616	\$2,259,212	\$18,679,828
Full-time equivalent positions	209.27	21.08	230.35

Subdivision 10.

MINOT STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$102,325,073	\$1,829,704	\$104,154,777
Capital assets	<u>1,099,620</u>	<u>0</u>	<u>1,099,620</u>
Total all funds	\$103,424,693	\$1,829,704	\$105,254,397
Less estimated income	<u>63,528,000</u>	<u>519,767</u>	<u>64,047,767</u>
Total general fund	\$39,896,693	\$1,309,937	\$41,206,630
Full-time equivalent positions	407.58	(4.54)	403.04

Subdivision 11.

VALLEY CITY STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$48,176,928	\$1,906,472	\$50,083,400
Capital assets	<u>455,823</u>	<u>0</u>	<u>455,823</u>
Total all funds	\$48,632,751	\$1,906,472	\$50,539,223
Less estimated income	<u>25,973,818</u>	<u>404,028</u>	<u>26,377,846</u>
Total general fund	\$22,658,933	\$1,502,444	\$24,161,377
Full-time equivalent positions	180.68	22.09	202.77

Subdivision 12.

DAKOTA COLLEGE AT BOTTINEAU

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$21,440,606	\$2,199,449	\$23,640,055
Capital assets	<u>114,007</u>	<u>4,000,000</u>	<u>4,114,007</u>
Total all funds	\$21,554,613	\$6,199,449	\$27,754,062
Less estimated income	<u>13,813,787</u>	<u>4,402,413</u>	<u>18,216,200</u>
Total general fund	\$7,740,826	\$1,797,036	\$9,537,862
Full-time equivalent positions	82.29	9.57	91.86

Subdivision 13.

UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH
SCIENCES

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$213,244,364	\$3,911,740	\$217,156,104
Health care workforce initiative	<u>10,676,150</u>	<u>0</u>	<u>10,676,150</u>
Total all funds	\$223,920,514	\$3,911,740	\$227,832,254
Less estimated income	<u>159,037,011</u>	<u>1,769,238</u>	<u>160,806,249</u>
Total general fund	\$64,883,503	\$2,142,502	\$67,026,005
Full-time equivalent positions	485.32	7.35	492.67

Subdivision 14.

NORTH DAKOTA FOREST SERVICE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$15,223,336	\$119,729	\$15,343,065
Capital assets	<u>118,728</u>	<u>0</u>	<u>118,728</u>
Total all funds	\$15,342,064	\$119,729	\$15,461,793
Less estimated income	<u>10,665,400</u>	<u>3,915</u>	<u>10,669,315</u>
Total general fund	\$4,676,664	\$115,814	\$4,792,478
Full-time equivalent positions	27.00	1.00	28.00

Subdivision 15.

TOTAL - SECTION 1

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$648,667,805	\$37,935,721	\$686,603,526
Grand total special funds	<u>1,900,861,114</u>	<u>28,771,925</u>	<u>1,929,633,039</u>
Grand total all funds	\$2,549,528,919	\$66,707,646	\$2,616,236,565

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Capital projects - other funds	\$408,500,000	\$4,363,000
North Dakota state university settlement agreement	0	125,000
Math pathways	0	150,000
Education challenge grants	9,400,000	0
School of law matching grants	250,000	0
Tier II and tier III capital building funds	29,000,000	0
Theodore Roosevelt digitization	200,000	0
University of North Dakota campus network upgrades	1,500,000	0
North Dakota state university campus network upgrades	<u>1,500,000</u>	<u>0</u>
Total all funds	\$450,350,000	\$4,638,000
Total other funds	<u>438,500,000</u>	<u>4,363,000</u>
Total general fund	\$11,850,000	\$275,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The institutions and entities under the control of the state board of higher education shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION - VALLEY CITY STATE UNIVERSITY - PURCHASE OF LAND AUTHORIZED. The state board of higher education, acting for and through Valley City state university, is authorized to purchase two parcels of land in Barnes County, described as the south half of the east one-third of lot one, block four, of Andrus and Sifton's addition to the city of Valley City, and the south one hundred feet of the west one-third of the east half and the east one-third of the west half of lot one, block four, in Andrus and Sifton's addition to the city of Valley City, from the Valley City state university foundation for the use and betterment of Valley City state university. There is appropriated from other funds the sum of \$309,000, or so much of the sum as may be necessary, to Valley City state university for the purposes of this section for the period beginning with the effective date of this Act and ending

June 30, 2023. The funding provided in this section is considered a one-time funding item.

SECTION 4. ADDITIONAL FEDERAL, PRIVATE, AND OTHER FUNDS - APPROPRIATION. All funds, in addition to those appropriated in section 1 of this Act, from federal, private, and other sources for competitive grants or other funds that the legislative assembly has not indicated the intent to reject, including tuition revenue, received by the state board of higher education and the institutions and entities under the control of the state board of higher education, are appropriated to the board and those institutions and entities, for the biennium beginning July 1, 2021, and ending June 30, 2023. All additional funds received under the North Dakota-Minnesota reciprocity agreement during the biennium beginning July 1, 2021, and ending June 30, 2023, are appropriated to the state board of higher education for reimbursement to institutions under the control of the board.

SECTION 5. TRANSFER - UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH SCIENCES OPERATIONS. The operations line item in subdivision 5 of section 1 of this Act includes a funding allocation from the higher education per student credit-hour funding formula attributable to inflation during the biennium beginning July 1, 2021, and ending June 30, 2023. Based on the recommendation of the commissioner of higher education, a portion of the allocation may be transferred by the state board of higher education between the university of North Dakota school of medicine and health sciences and the university of North Dakota.

SECTION 6. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - UNIVERSITY SYSTEM CAPITAL BUILDING FUND. The office of management and budget shall transfer \$19,000,000 from the strategic investment and improvements fund to the university system capital building fund during the period beginning with the effective date of this Act, and ending June 30, 2023, as requested by the commissioner of higher education. Funding transferred pursuant to this section is to be allocated to each institution as follows:

	<u>Tier II</u>	<u>Tier III</u>	<u>Total</u>
Bismarck state college	\$425,693	\$500,000	\$925,693
Lake Region state college	177,375	500,000	677,375
Williston state college	137,947	500,000	637,947
University of North Dakota	4,361,801	2,250,000	6,611,801
North Dakota state university	2,899,596	2,250,000	5,149,596
North Dakota state college of science	500,695	500,000	1,000,695
Dickinson state university	268,862	500,000	768,862
Mayville state university	240,029	500,000	740,029
Minot state university	572,801	500,000	1,072,801
Valley City state university	309,137	500,000	809,137
Dakota college at Bottineau	<u>106,064</u>	<u>500,000</u>	<u>606,064</u>
Total	\$10,000,000	\$9,000,000	\$19,000,000

SECTION 7. CAPITAL BUILDING FUNDS - USES. The institutions listed may use funding from the respective institution's university system capital building fund allocation for the following projects authorized by the sixty-sixth and sixty-seventh legislative assemblies:

North Dakota state university - Dunbar Hall	\$51,200,000
North Dakota state university - agriculture products development center	85,000,000
Lake Region state college - parking lot and infrastructure repair	250,000
Mayville state university - natural gas boiler	1,600,000

Williston state college - parking lot and infrastructure repair	850,000
Minot state university - Hartnett hall renovation	25,231,000
North Dakota state college of science - Hektner student center improvements	7,210,455
Dickinson state university - Dickinson sports center	7,000,000
Bismarck state college - cybersecurity technology center addition	3,200,000
Dakota college at Bottineau - Old main renovation	4,000,000
University of North Dakota - Merrifield hall and Twamley hall renovation	79,000,000
University of North Dakota - Business school	70,000,000
Total	\$334,541,455

SECTION 8. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - LAKE REGION STATE COLLEGE - DAKOTA COLLEGE AT BOTTINEAU - CAPITAL PROJECTS. The appropriation in subdivision 3 of section 1 of this Act includes the sum of \$363,000 from the strategic investment and improvements fund for the Lake Region state college Curtis and Annette Hofstad agricultural center project. The appropriation in subdivision 12 of section 1 of this Act includes the sum of \$2,500,000 from the strategic investment and improvements fund for the Dakota college at Bottineau old main renovation project.

SECTION 9. USE OF EXTRAORDINARY REPAIRS FUNDING - MATCHING FUNDS. The capital assets line items in subdivisions 2 through 12 of section 1 of this Act include funding from the general fund for institution extraordinary repairs. An institution shall provide two dollars of matching funds from operations or other sources for each one dollar of extraordinary repairs funding used for a project.

¹⁷ **SECTION 10. AMENDMENT.** Subdivision c of subsection 1 of section 15-10-48 of the North Dakota Century Code is amended and reenacted as follows:

- c. The board may award up to one million seven hundred thousand dollars in matching grants to each institution to the university of North Dakota and North Dakota state university, and up to one million five hundred thousand dollars in matching grants for projects at the university of North Dakota school of medicine and health sciences.

SECTION 11. AMENDMENT. Subdivision k of subsection 1 of section 15-18.2-02 of the North Dakota Century Code is amended and reenacted as follows:

- k. The ~~factor~~factors for credits completed in career and technical education is ~~2.0~~are:

(1) 3.0 for lower division credits; and

(2) 5.0 for upper division credits.

SECTION 12. AMENDMENT. Section 15-18.2-03 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-03. Credit completion factor - Determination.

¹⁷ Section 15-10-48 was also amended by section 17 of Senate Bill No. 2003, chapter 31, section 2 of Senate Bill No. 2030, chapter 130, section 3 of Senate Bill No. 2030, chapter 130, and section 6 of Senate Bill No. 2030, chapter 130.

1. Except as provided in subsections 2 and 3 of this section, for each institution under its control, the state board of higher education shall multiply the product determined under section 15-18.2-02 by a factor of:
 - a. 1.00 if the number of credit-hours is at least 240,000;
 - b. 1.05 if the number of credit-hours is at least 180,000 but less than 240,000;
 - c. 1.10 if the number of credit-hours is at least ~~120,000~~135,000 but less than 180,000;
 - d. 1.15 if the number of credit-hours is at least ~~90,000~~130,000 but less than ~~120,000~~135,000;
 - e. 1.20 if the number of credit-hours is at least ~~80,000~~120,000 but less than ~~90,000~~130,000;
 - f. 1.30 if the number of credit-hours is at least 70,000 but less than ~~80,000~~120,000;
 - g. 1.40 if the number of credit-hours is at least 60,000 but less than 70,000;
 - h. 1.50 if the number of credit-hours is at least 50,000 but less than 60,000;
 - i. 1.60 if the number of credit-hours is at least 40,000 but less than 50,000;
 - j. 1.70 if the number of credit-hours is at least 30,000 but less than 40,000; and
 - k. 1.80 if the number of credit-hours is less than 30,000.
2. ~~If the square footage of an institution, when divided by the institution's weighted credit-hours results in a quotient greater than 5.00, the state board of higher education shall multiply the product determined under section 15-18.2-02 by a factor of 1.00. For purposes of this subsection, the square footage of an institution includes real property as determined by the state board of higher education in accordance with section 15-18.2-04.~~
3. ~~If the number of credit-hours completed by an institution causes~~would cause a decrease in the credit completion factor for that institution, ~~the new credit completion factor shall not be in effect for calculation purposes for the first two fiscal years following the change compared to the credit completion factor the institution was entitled to receive during the 2017-19 biennium.~~ the state board of higher education shall multiply the product determined under section 15-18.2-02 by a credit growth factor of 1.0 for credits in excess of the factor the institution was entitled to receive during the 2017-19 biennium. Any weighted credit-hours multiplied by a credit growth factor under this section must have a weight of 1.0 under section 15-18.2-02. The state board of higher education shall multiply the remaining weighted credits by the credit completion factor the institution was entitled to receive during the 2017-19 biennium.

- ~~4.3.~~ For purposes of this section, the number of credit-hours must be those determined by the state board of higher education in accordance with section 15-18.2-01.

¹⁸ **SECTION 13. AMENDMENT.** Section 15-18.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-05. Base funding - Determination of state aid.

1. Except as provided under ~~subsection 2, in ordersubsections 2 and 3,~~ to determine the state aid payment to which each institution under its control is entitled, the state board of higher education shall multiply the product determined under section ~~15-18.2-04~~15-18.2-03 by a base amount of:
 - a. ~~\$60.87~~\$61.81 in the case of North Dakota state university and the university of North Dakota;
 - b. ~~\$90.98~~\$92.60 in the case of Dickinson state university, Mayville state university, Minot state university, and Valley City state university; and
 - c. ~~\$97.06~~\$98.84 in the case of Bismarck state college, Dakota college at Bottineau, Lake Region state college, North Dakota state college of science, and Williston state college.
2. ~~An institution is entitled to an amount equal to seventy-five percent of the product determined under subsection 1 for credits completed by students receiving a tuition waiver pursuant to section 54-12-35. For institutions under subdivision b of subsection 1, the state board of higher education shall multiply the product determined under section 15-18.2-03 for credits completed in instructional programs under subdivision k of subsection 1 of section 15-18.2-02 by the base amount under subdivision c of subsection 1.~~
3. For institutions under subdivision c of subsection 1, the state board of higher education shall multiply the product determined under section 15-18.2-03 for upper division credits completed in instructional programs under subdivisions a through j of subsection 1 of section 15-18.2-02 by the base amount under subdivision b of subsection 1.

¹⁹ **SECTION 14.** A new chapter to title 15 of the North Dakota Century Code is created and enacted as follows:

University system capital building fund - Creation - Continuing appropriation.

There is created in the state treasury the university system capital building fund. The university system capital building fund consists of moneys transferred to the fund and any interest and earnings of the fund. The state board of higher education may

- ¹⁸ Section 15-18.2-05 was also amended by section 1 of Senate Bill No. 2032, chapter 132.
- ¹⁹ Section 15-54.1-01 was also created by section 1 of Senate Bill No. 2033, chapter 134; section 15-54.1-02 was also created by section 1 of Senate Bill No. 2033, chapter 134; section 15-54.1-03 was also created by section 1 of Senate Bill No. 2033, chapter 134; section 15-54.1-04 was also created by section 1 of Senate Bill No. 2033, chapter 134; section 15-54.1-05 was also created by section 1 of Senate Bill No. 2033, chapter 134.

provide for the fund to be invested under the supervision of the state investment board. Moneys in the fund are appropriated to the state board of higher education on a continuing basis for allocations to the institutions under the control of the state board of higher education for capital projects as directed by the legislative assembly and in accordance with this chapter. Any interest or earnings of the fund must be allocated to the capital building fund pool within the university system capital building fund.

Capital building funds - Uses - Reports.

Subject to tier II and tier III capital building fund matching requirements under this chapter, each institution may use its allocation of funds from the university system capital building fund for projects specifically authorized by the legislative assembly to use university system capital building fund moneys. In addition, after an institution has matched and committed seventy-five percent of the funding appropriated for the institution's tier I extraordinary repairs and subject to state board of higher education approval and matching requirements under this chapter, each institution may use its allocation of funds from the university system capital building fund for extraordinary repairs and deferred maintenance projects that do not increase the overall square footage of a building. The state board of higher education shall report biennially to the legislative management and to the appropriations committees of the legislative assembly on the use of funding in the university system capital building fund, the source of matching funds, and each institution's five-year plan for capital construction spending.

Tier II capital building funds - Matching requirements.

The state board of higher education may allocate tier II capital building fund moneys to an institution for a project only after the institution provides one dollar of matching funds from operations or other sources for each one dollar from the university system capital building fund for the project. An institution may not use tier I extraordinary repairs funding, tier III capital building fund moneys, or state funding appropriated for a specific capital project as matching funds under this section.

Tier III capital building funds - Matching requirements.

The state board of higher education may allocate tier III capital building fund moneys to an institution only after the institution provides two dollars of matching funds from operations or other sources for each one dollar from the university system capital building fund for the project. An institution may not use tier I extraordinary repairs funding, tier II capital building fund moneys, or state funding appropriated for a specific capital project as matching funds under this section.

Capital building fund pool.

If the state board of higher education has not allocated capital building fund moneys to an institution by January first of the third biennium after the funding was appropriated or transferred to the fund, the board shall reallocate the funds to a pool within the university system capital building fund. Any institution under the control of the state board of higher education that has fully matched and committed its university system capital building fund allocation may apply for and be allocated funding from the capital building fund pool, subject to state board of higher education approval and tier III capital building fund matching requirements under this chapter.

SECTION 15. AMENDMENT. Section 54-44.1-11 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-11. Office of management and budget to cancel unexpended appropriations - When they may continue. (Effective through July 31, 2024~~2023~~)

Except as otherwise provided by law, the office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the state historical society are not subject to this section and the state historical society shall report on the amounts and uses of funds carried over from one biennium to the appropriations committees of the next subsequent legislative assembly. Unexpended appropriations for the North Dakota university system are not subject to this section and the North Dakota university system shall report on the amounts and uses of funds carried over from one biennium to the next to subsequent appropriations committees of the legislative assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Purchases by the department of transportation of roadway maintenance equipment costing more than ten thousand dollars per unit if the equipment was ordered during the first twenty-one months of the biennium in which the funds were appropriated.
6. Authorized ongoing information technology projects.

Office of management and budget to cancel unexpended appropriations - When they may continue. (Effective after July 31, 2024~~2023~~) The office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the state historical society are not subject to this section and the state historical society shall report on the amounts and uses of funds carried over from one biennium to the appropriations committees of the next subsequent legislative assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.

3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Purchases by the department of transportation of roadway maintenance equipment costing more than ten thousand dollars per unit if the equipment was ordered during the first twenty-one months of the biennium in which the funds were appropriated.
6. Authorized ongoing information technology projects.

SECTION 16. AMENDMENT. Section 2 of chapter 53 of the 2019 Session Laws is amended and reenacted as follows:

SECTION 2. APPROPRIATION - CAPITAL PROJECTS - EXEMPTION.

1. Subject to the provisions of this section, the funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the following institutions for the identified capital projects, for the period beginning with the effective date of this Act, and ending June 30, 2019, as follows:

Bismarck state college Nursing Building	\$8,900,000
Dakota college at Bottineau dining hall and other projects	1,000,000
Lake Region state college precision agriculture project	1,000,000
North Dakota state university agriculture products development center project	20,000,000
North Dakota state university Dunbar Hall project	8,000,000
University of North Dakota Gamble Hall project	9,000,000
Valley City state university Communications and Fine Arts Building project	<u>2,000,000</u>
Total general fund	\$49,900,000

In accordance with section 54-44.1-11, any unaccepted funds from these appropriations may be continued into the biennium beginning July 1, 2019, and ending June 30, 2021.

2. The appropriation for the agriculture products development center project must be continued into the biennium beginning July 1, 2019, and ending June 30, 2021, ~~and is available only if North Dakota state university certifies to the industrial commission and the director of the office of management and budget that \$20,000,000 of local and other funds has been obtained for the project or if North Dakota state university receives approval for a change in project scope from the legislative assembly or budget section pursuant to section 48-01.2-25.~~
3. The appropriation for the Gamble Hall project must be continued into the biennium beginning July 1, 2019, and ending June 30, 2021, and is available only if the university of North Dakota certifies to the industrial commission and the director of the office of management and budget that \$55,000,000 of local and other funds has been obtained for the project or if the university of North Dakota receives approval for a change in project

scope from the legislative assembly or budget section pursuant to section 48-01.2-25.

20 SECTION 17. REPEAL. Subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code is repealed.

SECTION 18. REPEAL. Section 15-18.2-04 of the North Dakota Century Code is repealed.

SECTION 19. CAMPUS CAPITAL PROJECTS - PROJECT MANAGEMENT. During the period beginning with the effective date of this Act, and ending June 30, 2023, each capital project authorized by the state board of higher education must have adequate project management oversight by either an institution official or a representative of an external entity. An institution may seek assistance from the North Dakota university system office for project management oversight of a capital project.

SECTION 20. UNIVERSITY OF NORTH DAKOTA - TECHNOLOGY ACCELERATOR BUILDING REFINANCING. The state board of higher education, acting for and through the university of North Dakota, may enter into a refinancing agreement with a private entity for the technology accelerator building during the period beginning with the effective date of this Act and ending June 30, 2023.

SECTION 21. TRANSFER OF DAKOTA INSTITUTE INVENTORY. Bismarck state college may transfer any rights, titles, interests, copyrights, and inventory of any of the Dakota institute's publications, books, or other documents or productions, regardless of format, to the author or producer of the document or production for the period beginning with the effective date of this Act, and ending June 30, 2023.

SECTION 22. EXEMPTION - TRANSFER AUTHORITY - LEGISLATIVE MANAGEMENT REPORT. Notwithstanding section 54-16-04, the office of management and budget shall transfer appropriation authority from the operations to the capital assets line items within subdivisions 2 through 14 of section 1 of this Act as requested by the state board of higher education for the biennium beginning July 1, 2021, and ending June 30, 2023. The board shall report any transfer of funds under this section to the legislative management.

SECTION 23. EXEMPTION - FULL-TIME EQUIVALENT POSITION ADJUSTMENTS. Notwithstanding any other provisions of law, the state board of higher education may adjust full-time equivalent positions as needed, subject to the availability of funds, for institutions and entities under its control during the biennium beginning July 1, 2021, and ending June 30, 2023. The North Dakota university system shall report any adjustments to the office of management and budget as part of the submission of the 2023-25 biennium budget request.

SECTION 24. EXEMPTION - PROJECT AUTHORIZATIONS. Any unexpended amounts remaining from the \$49,900,000 appropriated from the general fund for capital projects at institutions under the control of the state board of higher education in section 2 of chapter 53 of the 2019 Session Laws are not subject to section 54-44.1-11 and any unexpended funds from the appropriations are available to the respective institutions to complete the projects during the biennium beginning July 1, 2021, and ending June 30, 2023.

20 Section 15-10-48 was also amended by section 10 of Senate Bill No. 2003, chapter 130, section 2 of Senate Bill No. 2030, chapter 31, section 3 of Senate Bill No. 2030, chapter 130, and section 6 of Senate Bill No. 2030, chapter 130.

SECTION 25. LEGISLATIVE MANAGEMENT STUDY - STUDENT AFFORDABILITY. During the 2021-22 interim, the legislative management shall study higher education student affordability, including all forms of financial assistance available for students enrolled at institutions of higher education in the state. The study must include a review of available scholarships, student loan programs, waivers, grants, and any other forms of student financial assistance available for students enrolled at institutions of higher education in the state. The study must also include a review of the eligibility requirements and other criteria relating to each program, and their impact on the financial cost and utilization of each program. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 26. LEGISLATIVE MANAGEMENT STUDY - HIGHER EDUCATION FUNDING STABILIZATION. During the 2021-22 interim, the legislative management shall consider studying higher education funding mechanisms, including private-public partnerships and distributions from permanent funds. The study must include potential mechanisms to stabilize funding for higher education, including funding mechanisms used in other states. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 27. LEGISLATIVE MANAGEMENT STUDY - HIGHER EDUCATION FUNDING FORMULA. During the 2021-22 interim, the legislative management shall consider studying the higher education funding formula, including instructional program classification factors. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 28. LEGISLATIVE INTENT - UNIVERSITY OF NORTH DAKOTA - NURSING EDUCATION CONSORTIUM. It is the intent of the sixty-seventh legislative assembly that the university of North Dakota discontinue making payments to other institutions of higher education for costs relating to nursing education simulation laboratories.

SECTION 29. LEGISLATIVE INTENT - WEIGHTED CREDIT-HOURS - INSTRUCTIONAL PROGRAM CLASSIFICATION FACTORS. It is the intent of the sixty-seventh legislative assembly that:

1. Veterinary medicine courses remain under the health sciences instructional program classification within the higher education funding formula;
2. Computer and information sciences and support services courses be transferred to the engineering instructional program classification within the higher education funding formula; and
3. Lineworker; plumbing; powersports technology; heating, ventilating, air conditioning, and refrigeration technology; diesel technology; mechanical systems; and machine tooling courses be placed in an upper division under the career and technical education instructional program classification within the higher education funding formula.

SECTION 30. EMERGENCY. Sections 3, 6, 7, 8, 14, 16, 19, 20, and 21 of this Act and the capital assets line items in section 1 of this Act are declared to be an emergency measure.

Approved April 26, 2021

Filed April 26, 2021

CHAPTER 32

SENATE BILL NO. 2004

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the state department of health; to amend and reenact sections 23-01-02, 54-27-25, 61-02.1-02.1, and 61-02.1-04 of the North Dakota Century Code and section 510 of House Bill No. 1247, as approved by the sixty-seventh legislative assembly, relating to compensation of members of the health council, the tobacco settlement trust fund, statewide water development project funding, bonds payable, and the transfer of appropriation authority to the department of health and human services; to repeal sections 54-27-25.1 and 61-02.1-05 of the North Dakota Century Code, relating to water development trust fund expenditures and the water development trust fund; to provide for a transfer; to provide a statement of legislative intent; to provide for a report; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state department of health for the purpose of defraying the expenses of the state department of health, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$37,719,574	\$3,643,394	\$41,362,968
Operating expenses	32,398,526	(820,983)	31,577,543
Capital assets	2,164,813	481,580	2,646,393
Grants	53,257,292	1,991,853	55,249,145
Tobacco prevention	12,902,064	507,958	13,410,022
Women, infants, and children food payments	19,780,000	120,000	19,900,000
Statewide health strategies	0	3,000,000	3,000,000
COVID-19	0	13,722,107	13,722,107
Total all funds	\$158,222,269	\$22,645,909	\$180,868,178
Less estimated income	<u>121,951,679</u>	<u>15,094,783</u>	<u>137,046,462</u>
Total general fund	\$36,270,590	\$7,551,126	\$43,821,716
Full-time equivalent positions	204.00	6.50	210.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Microbiology laboratory capital improvements	\$1,220,000	\$0
Microbiology laboratory technology upgrades	483,000	0

Women, infants, and children system upgrade	354,554	0
Vital records system technology updates	0	275,000
Statewide health strategies initiative	0	3,000,000
COVID-19 response	0	9,262,341
Forensic examiner upgrades	0	910,000
Total all funds	\$2,057,554	\$13,447,341
Less estimated income	<u>1,967,554</u>	<u>7,919,065</u>
Total general fund	\$90,000	\$5,528,276

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The state department of health shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. CONTINGENT FUNDING - STATEWIDE HEALTH STRATEGIES.

One-time funding of \$1,500,000 appropriated from the community health trust fund for statewide health strategies in section 1 of this Act is contingent on the state department of health securing dollar-for-dollar matching funds.

SECTION 4. TRANSFER OF APPROPRIATION AUTHORITY. Section 1 of this Act includes appropriation authority for the state department of health for the biennium beginning July 1, 2021, and ending June 30, 2023. On September 1, 2022, in accordance with provisions of House Bill No. 1247, as approved by the sixty-seventh legislative assembly, the office of management and budget shall transfer remaining appropriation authority contained in section 1 of this Act, and any remaining appropriation authority for the state department of health in other bills approved by the sixty-seventh legislative assembly, to the department of health and human services. The appropriation authority in section 1 of this Act and appropriation authority for the state department of health from any other bill that is transferred to the department of health and human services must be maintained and reported separately from other appropriation authority transferred to the department of health and human services.

SECTION 5. ESTIMATED INCOME - INSURANCE TAX DISTRIBUTION FUND.

The estimated income line item in section 1 of this Act includes the sum of \$1,125,000 from the insurance tax distribution fund for rural emergency medical services grants.

SECTION 6. ESTIMATED INCOME - COMMUNITY HEALTH TRUST FUND. The estimated income line item in section 1 of this Act includes the sum of \$20,837,620 from the community health trust fund for the following programs:

Behavioral risk factor survey	\$200,000
Behavioral health loan repayment	234,500
Domestic violence prevention	300,000
Women's way	329,500
Dentists' loan repayment	360,000
Local public health state aid	525,000
Cancer programs	580,324
Forensic examiner contract	1,000,000
Statewide health strategies initiative	1,500,000
Local public health pandemic response grants	4,515,296
Tobacco prevention and control	5,043,000
Tobacco prevention and control grants to local public health units	
<u>6,250,000</u>	
Total community health trust fund	\$20,837,620

SECTION 7. TRANSFER TOBACCO PREVENTION AND CONTROL TRUST FUND TO COMMUNITY HEALTH TRUST FUND. The office of management and budget shall transfer any moneys remaining in the tobacco prevention and control trust fund to the community health trust fund on July 1, 2021.

SECTION 8. AMENDMENT. Section 23-01-02 of the North Dakota Century Code is amended and reenacted as follows:

23-01-02. Health council - Members, terms of office, vacancies, compensation, officers, meetings.

The health council consists of nine members appointed by the governor including four persons from the health care field, and five persons representing consumer interests. The governor may select members to the council from recommendations submitted by trade, professional, and consumer organizations. On the expiration of the term of any member, the governor, in the manner provided by this section, shall appoint for a term of three years, persons to take the place of members whose terms on the council are about to expire. The officers of the council must be elected annually. Any state agency may serve in an advisory capacity to the health council at the discretion of the council. The council shall meet at least twice each year and at other times as the council or its chairman may direct. The health council shall have as standing committees any committees the council may find necessary. The chairman of the council shall select the members of these committees. The members of the council are entitled to receive ~~sixty-two dollars and fifty cents as~~ compensation per day at the rate set for a member of the legislative assembly under subsection 1 of section 54-03-20 and their necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 while attending council meetings or in the performance of any special duties as the council may direct. The per diem and expenses must be audited and paid in the manner in which the expenses of state officers are audited and paid. The compensation provided for in this section may not be paid to any member of the council who received salary or other compensation as a regular employee of the state, or any of its political subdivisions, or any institution or industry operated by the state.

SECTION 9. AMENDMENT. Section 54-27-25 of the North Dakota Century Code is amended and reenacted as follows:

54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.

- 4- There is created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under subsection IX(c)(1) of the master settlement agreement and consent agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Except as provided in subsection 2, moneys received by the state under subsection IX(c)(1) must be deposited in the fund. Moneys in the fund must be transferred within thirty days of receipt by the state to a community health trust fund. Moneys in the fund may be appropriated for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state.
- 2- ~~There is created in the state treasury a tobacco prevention and control trust fund. The fund consists of the tobacco settlement dollars obtained by the state under section IX(c)(2) of the agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in~~

~~State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Interest earned on the fund must be credited to the fund and deposited in the fund. Moneys received into the fund are to be used as appropriated by the legislative assembly.~~

SECTION 10. AMENDMENT. Section 61-02.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

61-02.1-02.1. Funding - Statewide water development projects - Bond issuance amount.

1. The priorities for the statewide water development program include municipal, rural, and industrial projects; irrigation projects; general water management projects, including rural flood control, snagging and clearing, channel improvement, recreation, and planning studies; flood control projects; and weather modification projects, which are authorized and declared to be in the public interest. The state water commission may provide the funds necessary to construct these projects from money appropriated to the state water commission from the resources trust fund, ~~the water development trust fund,~~ or by issuing bonds in an amount not to exceed sixty million dollars plus the costs of issuance of the bonds, capitalized interest, and reasonably required reserves. The proceeds of any bonds issued under the authority provided in this section are appropriated to the state water commission for the purposes set forth in this section.
2. If the state water commission determines it is appropriate to do so, it may, in lieu of issuing or in combination with the issuance of bonds pursuant to this section or section 61-02.1-01, for all or part of the state's cost share for the projects set forth in those provisions, use funds appropriated to it from the resources trust fund ~~or the water development trust fund.~~

SECTION 11. AMENDMENT. Section 61-02.1-04 of the North Dakota Century Code is amended and reenacted as follows:

61-02.1-04. Bonds payable from appropriations and other revenues.

1. Principal and interest on bonds issued for flood control or reduction projects as provided in this chapter are payable from transfers to be made and appropriated by the legislative assembly from ~~the water development trust fund as provided in section 61-02.1-05, then from transfers to be made and appropriated by the legislative assembly from revenues in the resources trust fund other than revenues from state taxes, then from appropriations of other available revenues in the then current biennium, and then from any other revenues the state water commission makes available during the then current biennium for that purpose, including any federal moneys received by the state for the construction of flood control or reduction projects to pay bonds issued for that project. If sufficient funds from these sources are not available, then from transfers to be made and appropriated by the legislative assembly from the first available current biennial earnings of the Bank of North Dakota not to exceed six million five hundred thousand dollars per biennium prorated with any other bonds payable from transfers to be made and appropriated by the legislative assembly from the available current biennial earnings of the Bank of North Dakota, to be credited by the trustee to the fund established for paying principal and interest on the bonds under a trust indenture.~~

2. Principal and interest on bonds issued for continued construction of the southwest pipeline project are payable from transfers to be made and ~~appropriated by the legislative assembly from the water development trust fund as provided in section 61-02.1-05, then from transfers to be made and appropriated by the legislative assembly from revenues in the resources trust fund~~ other than revenues from state taxes, then from appropriations of other available revenues in the then current biennium, or from payment from the Perkins County rural water system, and then from any other revenues the state water commission makes available during the then current biennium for that purpose, including any federal moneys received by the state for the construction of the southwest pipeline project to pay bonds issued for the project. If sufficient funds from these sources are not available, then from transfers to be made and appropriated by the legislative assembly from the first available current biennial earnings of the Bank of North Dakota not to exceed six million five hundred thousand dollars per biennium prorated with any other bonds payable from transfers to be made and appropriated by the legislative assembly from the available current biennial earnings of the Bank of North Dakota, to be credited by the trustee to the fund established for paying principal and interest on the bonds under a trust indenture.
3. Principal and interest on bonds issued under subsection 7 of section 61-02.1-01 are payable from transfers to be made and appropriated by the legislative assembly from the ~~water development trust fund as provided in section 61-02.1-05, then from transfers to be made and appropriated by the legislative assembly from revenues in the resources trust fund~~ other than revenues from state taxes, then from appropriations of other available revenues in the then current biennium, and then from any other revenues the state water commission makes available during the then current biennium for that purpose, including any federal moneys received by the state for the construction of an outlet to Devils Lake to pay bonds issued for that project, or financing a statewide water development program to pay bonds issued for that project. If sufficient funds from these sources are not available, then from transfers to be made and appropriated by the legislative assembly from the first available current biennial earnings of the Bank of North Dakota not to exceed six million five hundred thousand dollars per biennium prorated with any other bonds payable from transfers to be made and appropriated by the legislative assembly from the available current biennial earnings of the Bank of North Dakota, to be credited by the trustee to the fund established for paying principal and interest on the bonds under a trust indenture.
4. Obligations issued as provided in this chapter do not constitute a debt, liability, or obligation of the state of North Dakota or a pledge of the faith and credit of the state of North Dakota, but are payable solely from the sources as described in this chapter.
5. The state water commission shall include in its submission to the governor for inclusion by the governor in the biennial executive budget of the state for each year of the respective biennium during the term of any bonds issued as provided in this chapter an amount fully sufficient to pay the principal and interest required to be paid in each year of the biennium, if any, from moneys from non-general fund sources. Provided, that should the governor not include in the executive budget for any reason the amounts required to be included by this section, the state water commission shall request independently that the legislative assembly amend the executive budget appropriation so as to include the amounts.

6. Principal and interest on bonds issued for projects authorized pursuant to section 61-02.1-02.1 are payable from transfers to be made and appropriated by the legislative assembly from the water development trust fund as provided in section 61-02.1-05, then from transfers to be made and appropriated by the legislative assembly from revenues in the resources trust fund other than revenues from state taxes, then from appropriations of other available revenues in the then current biennium, and then from any other revenues the state water commission makes available during the then current biennium for that purpose. If sufficient funds from these sources are not available, then from transfers to be made and appropriated by the legislative assembly from the first available current biennial earnings of the Bank of North Dakota not to exceed six million five hundred thousand dollars per biennium prorated with any other bonds payable from transfers to be made and appropriated by the legislative assembly from the available current biennial earnings of the Bank of North Dakota, to be credited by the trustee to the fund established for paying principal and interest on the bonds under a trust indenture.

SECTION 12. AMENDMENT. Section 510 of House Bill No. 1247, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

SECTION 510. LEGISLATIVE INTENT. It is the intent of the sixty-seventh legislative assembly that:

1. Effective September 1, 2022, the state department of health merge into the department of human services and both agencies be called the department of health and human services;
2. Effective September 1, 2022, the state department of health, including the state health officer, fall under the authority of the executive director of the department of human services, now known as the executive director of the department of health and human services;
3. During the 2021-23 biennium, the executive director of the former department of human services review and reorganize the structure of the former department of human services to incorporate the former state department of health and to find efficiencies in the newly formed department of health and human services;
4. The newly formed department of health and human services is not required to reduce the full time equivalent positions of the former state department of health and department of human services;
5. The office of management and budget transfer the state department of health's appropriation into the department of human services appropriation for the period beginning September 1, 2022, and ending June 30, 2023;
6. Section 1 of Senate Bill No. 2004, as approved by the sixty-seventh legislative assembly, shall transfer into subdivisions 1 and 2 of section 1 of House Bill No. 1012, as approved by the sixty-seventh legislative assembly, for the period beginning September 1, 2022, and ending June 30, 2023;
7. The combined budget of the department of human services and state department of health be referred to the budget of the department of health and human services; and

- 8-6. Department of health and human services is to be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the state department of health.

SECTION 13. REPEAL. Sections 54-27-25.1 and 61-02.1-05 of the North Dakota Century Code are repealed.

SECTION 14. LEGISLATIVE INTENT - FUNDING FOR COVID-19 RESPONSE. It is the intent of the sixty-seventh legislative assembly that the state department of health use federal COVID-19 funds or other available funds for defraying expenses related to local public health pandemic response grants before accessing \$4,515,296 appropriated from the community health trust fund in section 1 of this Act.

SECTION 15. LEGISLATIVE MANAGEMENT STUDY - STATE DEPARTMENT OF HEALTH. During the 2021-22 interim, the legislative management shall consider studying the roles of the state health officer, health council, medical advisory board, and governor as they relate to the administration of the state department of health. The study must include consideration of the role of the health council if the governor seeks to terminate the appointment of the state health officer or to adjust the salary of or take punitive action against the state health officer. Additionally, the study must include whether the orders of the state health officer regarding public health directives have primacy over orders issued by the governor. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 16. EMERGENCY. The sum of \$350,000, of which \$221,231 is from the general fund and \$128,769 is from federal funds, appropriated in section 1 of this Act for an electronic medical record system is declared to be an emergency measure.

Approved May 7, 2021

Filed May 10, 2021

CHAPTER 33

SENATE BILL NO. 2005

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the Indian affairs commission; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the Indian affairs commission for the purpose of defraying the expenses of the Indian affairs commission, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$870,079	\$40,027	\$910,106
Operating expenses	228,560	(42,951)	185,609
Total general fund	\$1,098,639	(\$2,924)	\$1,095,715
Full-time equivalent positions	4.00	0.00	4.00

SECTION 2. EXEMPTION - LINE ITEM TRANSFERS - 2019-21 BIENNIUM. Notwithstanding section 54-16-04, the office of management and budget may transfer up to \$15,000 of appropriation authority from the operating expenses line item to the salaries and wages line item in section 1 of chapter 5 of the 2019 Session Laws as requested by the Indian affairs commission.

SECTION 3. EMERGENCY. Section 2 of this Act is declared to be an emergency measure.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 34

SENATE BILL NO. 2006

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the North Dakota aeronautics commission; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the North Dakota aeronautics commission for the purpose of defraying the expenses of the North Dakota aeronautics commission, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,526,328	\$72,982	\$1,599,310
Operating expenses	2,004,754	62,923	2,067,677
Grants	25,800,000	1,750,000	27,550,000
Total all funds	\$29,331,082	\$1,885,905	\$31,216,987
Less estimated income	<u>28,831,082</u>	<u>1,910,905</u>	<u>30,741,987</u>
Total general fund	\$500,000	(\$25,000)	\$475,000
Full-time equivalent positions	7.00	0.00	7.00

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Airport grants	\$20,000,000	\$0
Total special funds	\$20,000,000	\$0

SECTION 3. ESTIMATED INCOME - AIRPORT INFRASTRUCTURE FUND - AIRPORT GRANTS - EXEMPTION. The estimated income line item in section 1 of this Act includes \$20,000,000 from the airport infrastructure fund for the aeronautics commission to provide grants to airports during the biennium beginning July 1, 2021, and ending June 30, 2023. Section 54-44.1-11 does not apply to this funding, and any additional funds not spent by June 30, 2023, must be continued into the biennium beginning July 1, 2023, and ending June 30, 2025, and may be expended only for providing grants to airports.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 35

SENATE BILL NO. 2007

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the veterans' home; to amend and reenact sections 54-59-05 and 54-59-22 of the North Dakota Century Code, relating to state agency information technology service requirements; to provide an exemption; to provide a statement of legislative intent; and to provide for a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the veterans' home for the purpose of defraying the expenses of the veterans' home, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$18,916,632	\$293,247	\$19,209,879
Operating expenses	5,083,731	480,602	5,564,333
Capital assets	<u>405,733</u>	<u>349,738</u>	<u>755,471</u>
Total all funds	\$24,406,096	\$1,123,587	\$25,529,683
Less estimated income	<u>18,751,772</u>	<u>972,268</u>	<u>19,724,040</u>
Total general fund	\$5,654,324	\$151,319	\$5,805,643
Full-time equivalent positions	120.72	(5.93)	114.79

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Equipment	\$99,400	\$16,700
Strategic plan	25,000	0
Skilled care flooring project	138,700	0
Thermostat replacements	0	131,500
Resident absences	0	25,000
Administrator's residence demolition	233,450	0
Security system upgrades	52,500	0
Memorial garden project	0	<u>200,000</u>
Total all funds	\$549,050	\$373,200
Less estimated income	<u>524,050</u>	<u>348,200</u>
Total general fund	\$25,000	\$25,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The veterans' home shall report to the

appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. ESTIMATED INCOME - SOLDIERS' HOME FUND - ADMINISTRATOR HOUSING STIPEND. The estimated income line item in section 1 of this Act includes the sum of \$48,000 from the soldiers' home fund for the purpose of providing a \$2,000 monthly housing stipend to the veterans' home administrator for housing costs off the veterans' home campus.

SECTION 4. RESIDENT LEAVE OF ABSENCE - LEGISLATIVE INTENT - ONE-TIME FUNDING. The operating expenses line item in section 1 of this Act includes the sum of \$25,000 from the general fund for defraying veterans' home resident costs while residents are absent from the veterans' home. This funding is considered a one-time funding item. It is the intent of the sixty-seventh legislative assembly that the veterans' home governing board increase the number of days a resident is authorized to be absent from the veterans' home without incurring a per diem cost from seven consecutive days to fourteen consecutive days. It is further the intent of the sixty-seventh legislative assembly that any future funding requests from the veterans' home for this purpose be requested from the Melvin Norgard memorial fund.

²¹ **SECTION 5. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is amended and reenacted as follows:

54-59-05. Powers and duties of department. (Effective through July 31, 2023)

The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education and the veterans' home.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. With the exception of agreements entered related to the statewide interoperable radio network, an agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one

²¹ Section 54-59-05 was also amended by section 1 of House Bill No. 1417, chapter 444, and section 6 of Senate Bill No. 2021, chapter 49.

million dollars, to the legislative assembly or the budget section if the legislative assembly is not in session before executing a financing agreement. Any request considered by the budget section must comply with section 54-35-02.9. If the legislative assembly or the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. With the exception of financing for the statewide interoperable radio network, the department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.

5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request and review information, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive branch agency. The department shall present the information to the information technology committee on request of the committee.
8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and five hundred thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.
9. Shall study emerging technology and evaluate its impact on the state's system of information technology.
10. Shall develop guidelines for reports to be provided by each agency of the executive, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, on information technology in those entities.
11. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.

12. Shall perform all other duties necessary to carry out this chapter.
13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003.
14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
15. Notwithstanding subsection 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.
16. Shall advise and oversee cybersecurity strategy for all executive branch state agencies, including institutions under the control of the state board of higher education, counties, cities, school districts, or other political subdivisions. For purposes of this subsection, the department shall consult with the attorney general and the veterans' home on cybersecurity strategy.
17. Shall advise and consult with the legislative and judicial branches regarding cybersecurity strategy.

Powers and duties of department. (Effective after July 31, 2023)

The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education and the veterans' home.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the legislative assembly or the budget section if the legislative assembly is not in

session before executing a financing agreement. Any request considered by the budget section must comply with section 54-35-02.9. If the legislative assembly or the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.

5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request and review information, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive branch agency. The department shall present the information to the information technology committee on request of the committee.
8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and five hundred thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.
9. Shall study emerging technology and evaluate its impact on the state's system of information technology.
10. Shall develop guidelines for reports to be provided by each agency of the executive, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, on information technology in those entities.
11. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.
12. Shall perform all other duties necessary to carry out this chapter.

13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003.
14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
15. Notwithstanding subsection 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.
16. Shall advise and oversee cybersecurity strategy for all executive branch state agencies, including institutions under the control of the state board of higher education, counties, cities, school districts, or other political subdivisions. For purposes of this subsection, the department shall consult with the attorney general and the veterans' home on cybersecurity strategy.
17. Shall advise and consult with the legislative and judicial branches regarding cybersecurity strategy.

SECTION 6. AMENDMENT. Section 54-59-22 of the North Dakota Century Code is amended and reenacted as follows:

54-59-22. Required use of electronic mail, file and print server administration, database administration, application server, and hosting services.

Each state agency and institution, excluding the legislative and judicial branches, the institutions under the control of the state board of higher education, the attorney general, the veterans' home, and any entity exempted by the office of management and budget after advisement by the information technology department, shall obtain electronic mail, file and print server administration, database administration, storage, application server, and hosting services through a delivery system established by the information technology department in conjunction with the office of management and budget. The office of management and budget, after receiving advice from the information technology department, shall establish policies and guidelines for the delivery of services, including the transition from existing systems to functional consolidation, with consideration given to the creation of efficiencies, cost-savings, and improved quality of service.

SECTION 7. EXEMPTION - SKILLED CARE FLOORING PROJECT. The \$138,700 appropriated from the soldiers' home fund for a skilled care flooring project in section 1 of chapter 7 of the 2019 Session Laws is not subject to section 54-44.1-11 and any unspent funds may be continued and is available for defraying the expenses of completing the project during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 8. EXEMPTION - EQUIPMENT. The amount of \$20,700 appropriated from the soldiers' home fund in the capital assets line item for a dryer in section 1 of chapter 7 of the 2019 Session Laws is not subject to section 54-44.1-11 and is

available for the purchase of a dryer for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 9. EXEMPTION - ADMINISTRATOR'S RESIDENCE - CAPITAL ASSETS. Of the \$233,450 appropriated from the soldiers' home fund in the administrator's residence line item for the demolition of the administrator's residence in section 1 of chapter 7 of the 2019 Session Laws, \$54,925 is not subject to section 54-44.1-11 and is available for the purpose of defraying capital assets costs of the veterans' home for the biennium beginning July 1, 2021, and ending June 30, 2023.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 36

SENATE BILL NO. 2008

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the department of financial institutions; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from other income, to the department of financial institutions for the purpose of defraying the expenses of the department of financial institutions, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$7,022,655	\$392,443	\$7,415,098
Operating expenses	1,641,912	29,497	1,671,409
Contingency	<u>20,000</u>	<u>0</u>	<u>20,000</u>
Total special funds	\$8,684,567	\$421,940	\$9,106,507
Full-time equivalent positions	31.00	0.00	31.00

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Website redesign	\$451,305	\$0
Total special funds	\$451,305	\$0

SECTION 3. EXEMPTION - LINE ITEM TRANSFERS. Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority among the line items in section 1 of this Act as requested by the commissioner of the department of financial institutions during the biennium beginning July 1, 2021, and ending June 30, 2023. The department of financial institutions shall notify the legislative council of any transfers made pursuant to this section.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 37

SENATE BILL NO. 2009

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the state fair association.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of moneys in the general fund in the state treasury, not otherwise appropriated, to the state fair association for the purpose of defraying the expenses of the state fair association, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Premiums	\$542,833	\$0	\$542,833
Total general fund	\$542,833	\$0	\$542,833

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 38

SENATE BILL NO. 2010

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the council on the arts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the council on the arts for the purpose of defraying the expenses of the council on the arts, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$968,858	\$113,761	\$1,082,619
Operating expenses	285,774	771	286,545
Grants	<u>2,090,494</u>	<u>(7,970)</u>	<u>2,082,524</u>
Total all funds	\$3,345,126	\$106,562	\$3,451,688
Less estimated income	<u>1,738,922</u>	<u>50,000</u>	<u>1,788,922</u>
Total general fund	\$1,606,204	\$56,562	\$1,662,766
Full-time equivalent positions	5.00	0.00	5.00

SECTION 2. APPROPRIATION - CULTURAL ENDOWMENT FUND. All income from the cultural endowment fund is appropriated to the council on the arts for the furthering of the cultural arts in the state for the biennium beginning July 1, 2021, and ending June 30, 2023.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 39

SENATE BILL NO. 2011

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the highway patrol; to provide a report; to repeal subdivision b of subsection 5 of section 39-08-13 of the North Dakota Century Code, relating to accident report forms; to provide for a transfer; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the highway patrol for the purpose of defraying the expenses of the highway patrol, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Highway patrol	\$59,586,945	\$4,224,469	\$63,811,414
Total all funds	\$59,586,945	\$4,224,469	\$63,811,414
Less estimated income	15,373,370	12,110,282	27,483,652
Total general fund	\$44,213,575	(\$7,885,813)	\$36,327,762
Full-time equivalent positions	197.00	(4.00)	193.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Aircraft engine overhaul	\$81,830	\$0
Drone purchase	96,228	0
Shooting range addition	1,729,100	0
Hard body armor	0	265,000
Body and in-car cameras	0	1,158,000
Commercial motor carrier system	0	275,000
Total all funds	\$1,907,158	\$1,698,000
Less estimated income	1,825,328	1,698,000
Total general fund	\$81,830	\$0

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The highway patrol shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION - 2019-21 BIENNIUM - FEDERAL CORONAVIRUS RELIEF FUND - SPENDING RESTRICTION. There is appropriated from federal funds derived from the federal coronavirus relief fund, not otherwise

appropriated, the sum of \$8,100,000, or so much of the sum as may be necessary, to the highway patrol for law enforcement officer payroll costs for the period beginning January 1, 2021, and ending June 30, 2021. The funding appropriated in this section replaces existing legislative appropriations. The highway patrol may not spend the funding appropriated from the general fund and highway tax distribution fund for law enforcement payroll costs during the period identified.

SECTION 4. ESTIMATED INCOME - FEDERAL CORONAVIRUS RELIEF FUND.

The estimated income line item in section 1 of this Act includes the sum of \$8,100,000, or so much of the sum as may be necessary, from the federal coronavirus relief fund for law enforcement officer payroll costs for the period beginning July 1, 2021, and ending December 31, 2021.

SECTION 5. ESTIMATED INCOME - TRANSFER - HIGHWAY TAX DISTRIBUTION FUND. The estimated income line item in section 1 of this Act includes the sum of \$9,346,781, or so much of the sum as may be necessary, from the state highway tax distribution fund which may be transferred at the direction of the superintendent of the highway patrol for defraying the expenses of the highway patrol during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 6. SALARY EQUITY. Section 1 of this Act includes the sum of \$2,092,500 for salary equity funding, on-call pay, and location incentive pay. This amount, along with any funding available from agency operational savings that may be reallocated, may be used for:

1. Salary equity adjustments that may not exceed \$1,532,000 in total for the biennium;
2. Law enforcement officer on-call pay that may not exceed 25 percent of the officer's hourly salary for regular on-call duties and may not exceed 50 percent of the officer's hourly salary for emergency on-call duties; and
3. Location incentive pay based on existing agency policies.

SECTION 7. ESTIMATED INCOME - MOTOR CARRIER ELECTRONIC PERMIT TRANSACTION FUND. The estimated income line item in section 1 of this Act includes \$3,147,244 from the motor carrier electronic permit transaction fund for defraying various expenses associated with the issuance of permits and other nonenforcement motor carrier and administrative activities.

SECTION 8. EXEMPTION. The sum of \$50,530 from the general fund appropriated in section 1 of chapter 11 of the 2019 Session Laws is not subject to section 54-44.1-11 and may be continued into the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 9. PAYMENTS TO HIGHWAY PATROL OFFICERS. Each patrol officer of the state highway patrol is entitled to receive from funds appropriated in section 1 of this Act an amount not to exceed \$200 per month for the biennium beginning July 1, 2021, and ending June 30, 2023. The payments are in lieu of reimbursement for meals and other expenses, except lodging, while in travel status within the state of North Dakota or while at the patrol officers' respective home stations. The amounts must be paid at the time and in the same manner as salaries are paid to members of the highway patrol and may be paid without the presentation of receipts or other memorandums.

SECTION 10. REPEAL. Subdivision b of subsection 5 of section 39-08-13 of the North Dakota Century Code is repealed.

SECTION 11. EMERGENCY. Sections 3 and 10 of this Act are declared to be an emergency measure.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 40

SENATE BILL NO. 2012

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the department of transportation; to create and enact section 24-02-02.5 of the North Dakota Century Code, relating to cooperative agreements for rest areas; to provide for a contingent loan authorization; to provide a contingent appropriation; to provide for transfers; to provide an exemption; to provide a statement of legislative intent; to provide for a report; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from federal funds and other income, to the department of transportation for the purpose of defraying the expenses of the department of transportation, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$197,827,038	\$6,282,547	\$204,109,585
Operating expenses	235,037,785	45,510,403	280,548,188
Capital assets	859,725,944	87,705,400	947,431,344
Grants	<u>95,854,637</u>	<u>22,230,973</u>	<u>118,085,610</u>
Total special funds	\$1,388,445,404	\$161,729,323	\$1,550,174,727
Full-time equivalent positions	982.00	0.00	982.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Driver's license system project	\$22,500,000	\$0
Minot and Williston driver's license facility maintenance	1,300,000	0
Short line railroad program	2,500,000	0
Contingent Bank of North Dakota loan	50,000,000	0
Infrastructure improvements	0	45,000,000
Management systems replacement	0	<u>9,660,000</u>
Total all funds \$76,300,000	\$54,660,000	
Less estimated income	<u>73,800,000</u>	<u>54,660,000</u>
Total general fund	\$2,500,000	\$0

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The department of transportation shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. EXEMPTION - LINE ITEM TRANSFERS. Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority among the salaries and wages, operating expenses, capital assets, and grants line items in section 1 of this Act as requested by the director of the department of transportation when it is cost-effective for construction and maintenance of highways. The department of transportation shall notify the legislative council of any transfers made pursuant to this section.

SECTION 4. APPROPRIATION - STATE DISASTER RELIEF FUND - DEPARTMENT OF TRANSPORTATION - EMERGENCY ROAD REPAIR GRANTS. There is appropriated out of any moneys in the state disaster relief fund in the state treasury, not otherwise appropriated, the sum of \$750,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of providing grants to townships for emergency township road repairs for the period beginning with the effective date of this Act, and ending June 30, 2023. To be eligible for a grant under this section, a township must certify to the department of transportation that the township does not have sufficient funds from any local source to complete emergency repairs to any of its roads. The department shall develop criteria for the application process. The funding provided in this section is considered a one-time funding item.

SECTION 5. FEDERAL FUNDS - TRAFFIC MANAGEMENT CENTER - AVAILABLE STATE FUNDS. Section 1 of this Act includes \$5,000,000 of federal funds for the creation of a traffic management center during the biennium beginning July 1, 2021, and ending June 30, 2023. If available, the department of transportation may use up to \$5,000,000 of state funds appropriated in section 1 of this Act for the creation of a traffic management center and to match the federal funds identified in this section.

SECTION 6. CONTINGENT LOAN AUTHORIZATION - CONTINGENT APPROPRIATION - HIGHWAY IMPROVEMENT PROJECTS. The department of transportation may borrow from the Bank of North Dakota, \$50,000,000, or so much of the sum as may be necessary, which is appropriated to the department of transportation for matching federal funds that may become available, for the biennium beginning July 1, 2021, and ending June 30, 2023. The funds authorized in this section may be borrowed and spent only upon certification by the director of the department of transportation to the director of the office of management and budget that the department has been awarded additional federal grants related to United States highway 85 during the biennium beginning July 1, 2021, and ending June 30, 2023, and that other state funds from bond proceeds are not available for this purpose. The department of transportation shall request from the sixty-eighth legislative assembly an appropriation to repay any outstanding loans authorized in this section. The appropriation in this section is considered a one-time funding item.

SECTION 7. EXEMPTION - ENHANCED STATE HIGHWAY INVESTMENT FUNDING. Section 54-44.1-11 does not apply to the remaining \$26,200,669 of the \$503,115,558 in the capital assets line item relating to enhanced state highway investments in section 1 of chapter 12 of the 2015 Session Laws. Any funds continued into the 2021-23 biennium but not spent by June 30, 2023, must be continued into the biennium beginning July 1, 2023, and ending June 30, 2025, and may be expended only for enhanced state highway investments.

SECTION 8. EXEMPTION - DRIVER'S LICENSE SYSTEM PROJECT. Section 54-44.1-11 does not apply to the \$22,500,000 in the operating expenses line item relating to the driver's license system project in section 1 of chapter 12 of the 2019 Session Laws and any unexpended funds must be continued into the biennium

beginning July 1, 2021, and ending June 30, 2023, and may be expended only for the driver's license system project.

SECTION 9. Section 24-02-02.5 of the North Dakota Century Code is created and enacted as follows:

24-02-02.5. Rest area cooperative agreement.

Notwithstanding any other provision of law, the director may enter a cooperative agreement with the Theodore Roosevelt national park painted canyon visitor center for the joint administration and operation of a rest area facility for use by the traveling public. The director may expend moneys from the state highway fund within the limits of legislative appropriations for administration and operational support of the rest area facility.

SECTION 10. LEGISLATIVE INTENT - DEPARTMENT OF TRANSPORTATION - BIOLOGICAL AND OTHER RENEWABLE PRODUCTS. It is the intent of the sixty-seventh legislative assembly that the department of transportation use gasoline fuel with fifteen percent ethanol and the highest compatible percentage of biodiesel or renewable diesel for all department and state fleet vehicles when these products are available and result in cost-savings. It is further the intent of the sixty-seventh legislative assembly that state fleet vehicles refueling at nonstate fuel sites use renewable fuels when available.

SECTION 11. EMERGENCY. Section 4 of this Act is declared to be an emergency measure.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 41

SENATE BILL NO. 2013

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the commissioner of university and school lands; to provide for distributions from permanent funds; to provide a report; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys from special funds derived from the state lands maintenance fund in the state treasury, to the commissioner of university and school lands for the purpose of defraying the expenses of the commissioner of university and school lands, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$5,725,379	\$747,748	\$6,473,127
Operating expenses	2,283,022	(53,150)	2,229,872
Capital assets	0	1,600,000	1,600,000
Contingencies	<u>100,000</u>	<u>0</u>	<u>100,000</u>
Total special funds	\$8,108,401	\$2,294,598	\$10,402,999
Full-time equivalent positions	28.00	2.00	30.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Oil and gas impact grants	\$2,000,000	\$0
Mineral valuation study	350,000	0
Information technology project	<u>0</u>	<u>1,600,000</u>
Total special funds	\$2,350,000	\$1,600,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The commissioner of university and school lands shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. DISTRIBUTIONS TO STATE INSTITUTIONS. Pursuant to article IX of the Constitution of North Dakota, the board of university and school lands shall distribute during the biennium beginning July 1, 2021, and ending June 30, 2023, the following amounts, from the permanent funds managed for the benefit of the following entities:

Common schools	\$421,020,000
North Dakota state university	6,620,000
University of North Dakota	5,084,000
Youth correctional center	2,228,000
School for the deaf	2,014,000
North Dakota state college of science	1,941,000
State hospital	1,673,000
Veterans' home	795,000
Valley City state university	1,178,000
North Dakota vision services - school for the blind	1,375,000
Mayville state university	742,000
Dakota college at Bottineau	285,000
Dickinson state university	285,000
Minot state university	<u>285,000</u>
Total	\$445,525,000

SECTION 4. EXEMPTION - OIL AND GAS IMPACT GRANT FUND. The amounts previously appropriated from the oil and gas impact grant fund and identified in sections 2 and 9 of chapter 13 of the 2019 Session Laws related to the oil and gas impact grant fund, including any grant awards returned to the fund, are not subject to section 54-44.1-11. Any unexpended amounts are available for grants and administrative expenses associated with the fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 5. EXEMPTION - INFORMATION TECHNOLOGY PROJECT - REPORT. The \$3,600,000 appropriated from the state lands maintenance fund in section 1 of chapter 38 of the 2017 Session Laws and identified in section 10 of chapter 13 of the 2019 Session Laws is not subject to section 54-44.1-11, and any unexpended funds are available to complete the information technology project during the biennium beginning July 1, 2021, and ending June 30, 2023. During the 2021-22 interim, the commissioner of university and school lands shall provide at least one report to the information technology committee regarding the status of the information technology project.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 42

SENATE BILL NO. 2014

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the industrial commission and the agencies under its control; to create and enact subsections 7 and 8 of section 54-17-07.3 of the North Dakota Century Code, relating to housing finance agency programs; to amend and reenact subsection 1 of section 6-09-49, as amended by section 1 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, section 6-09-49, the new section to chapter 6-09, as created by section 2 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, section 6-09.4-05.1, section 6-09.4-06, as amended by section 3 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, section 15-11-40, subsection 6 of section 17-05-08, subsection 1 of section 38-22-14, subsection 1 of section 38-22-15, and sections 54-17-40 and 57-51.1-07.9 of the North Dakota Century Code and section 7 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, relating to the infrastructure revolving loan fund, the water infrastructure revolving loan fund, the state energy research center, transmission authority projects, public finance authority bonding, carbon dioxide storage fees, the housing incentive fund, and a bond issue limitation; to repeal section 54-17-07.12 of the North Dakota Century Code, relating to the housing finance agency participating as a wholesale servicing mortgage lender; to provide for a transfer; to provide an exemption; to provide a statement of legislative intent; to provide for a study; to provide for a legislative management report; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the industrial commission and agencies under its control for the purpose of defraying the expenses of the industrial commission and the agencies under its control, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

Subdivision 1.

INDUSTRIAL COMMISSION

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$23,409,450	\$288,669	\$23,698,119
Operating expenses	5,830,227	(704,669)	5,125,558
Capital assets	0	100,660	100,660
Grants - bond payments	10,508,767	11,531,954	22,040,721
Contingencies	<u>229,544</u>	<u>(229,544)</u>	<u>0</u>
Total all funds	\$39,977,988	\$10,987,070	\$50,965,058
Less estimated income	<u>12,723,790</u>	<u>11,645,395</u>	<u>24,369,185</u>
Total general fund	\$27,254,198	(\$658,325)	\$26,595,873
Full-time equivalent positions	112.25	(4.00)	108.25

Subdivision 2.

BANK OF NORTH DAKOTA

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Bank of North Dakota operations	\$62,847,799	\$3,433,380	\$66,281,179
Capital assets	<u>1,510,000</u>	0	<u>1,510,000</u>
Total special funds	\$64,357,799	\$3,433,380	\$67,791,179
Full-time equivalent positions	181.50	(8.50)	173.00

Subdivision 3.

HOUSING FINANCE AGENCY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$8,509,015	\$1,047,257	\$9,556,272
Operating expenses	5,346,276	797,784	6,144,060
Capital assets	0	150,000	150,000
Grants	33,466,600	9,508,600	42,975,200
Housing finance agency contingencies	<u>100,000</u>	0	<u>100,000</u>
Total special funds	\$47,421,891	\$11,503,641	\$58,925,532
Full-time equivalent positions	44.00	5.00	49.00

Subdivision 4.

MILL AND ELEVATOR ASSOCIATION

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$46,447,824	\$4,112,385	\$50,560,209
Operating expenses	29,837,000	6,980,000	36,817,000
Contingencies	500,000	0	500,000
Agriculture promotion	<u>210,000</u>	<u>290,000</u>	<u>500,000</u>
Total special funds	\$76,994,824	\$11,382,385	\$88,377,209
Full-time equivalent positions	156.00	0.00	156.00

Subdivision 5.

TOTAL - SECTION 1

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$27,254,198	(\$658,325)	\$26,595,873
Grand total special funds	<u>201,498,304</u>	<u>37,964,801</u>	<u>239,463,105</u>
Grand total all funds	\$228,752,502	\$37,306,476	\$266,058,978

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Temporary employees	\$175,000	\$0
Rare earth elements study	160,000	0

Fracturing sand study	110,000	0
Oil database software upgrade	5,000,000	0
High-level radioactive fund	20,000	0
Housing finance agency - housing incentive fund	7,500,000	0
Housing finance agency - housing assessment	0	35,000
Paleontology and geological equipment	0	<u>106,206</u>
Total all funds	\$12,965,000	\$141,206
Less estimated income	<u>5,270,000</u>	<u>35,000</u>
Total general fund	\$7,695,000	\$106,206

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The industrial commission shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. BOND PAYMENTS. The amount of \$22,040,721 included in subdivision 1 of section 1 of this Act in the grants - bond payments line item must be paid from the following funding sources, during the biennium beginning July 1, 2021, and ending June 30, 2023:

North Dakota university system	\$17,204,639
North Dakota university system - energy conservation projects	415,114
Department of corrections and rehabilitation	492,354
Department of corrections and rehabilitation - energy conservation projects	8,181
State department of health	341,365
Job service North Dakota	230,600
Office of management and budget	564,515
Attorney general's office	648,055
State historical society	1,179,015
Parks and recreation department	66,165
Research and extension service	483,447
Veterans' home	<u>407,271</u>
Total	\$22,040,721

SECTION 4. APPROPRIATION - HOUSING FINANCE AGENCY - ADDITIONAL INCOME. In addition to the amount appropriated to the housing finance agency in subdivision 3 of section 1 of this Act, there is appropriated any additional income or unanticipated income from federal or other funds which may become available to the agency, for the biennium beginning July 1, 2021, and ending June 30, 2023. The housing finance agency shall notify the office of management and budget and the legislative council of any additional income or unanticipated income that becomes available to the agency resulting in an increase in appropriation authority.

SECTION 5. APPROPRIATION - GENERAL FUND - TRANSFER TO HOUSING INCENTIVE FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$9,500,000, which the office of management and budget shall transfer to the housing incentive fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 6. TRANSFER STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO OIL AND GAS RESEARCH FUND. The office of management and budget shall transfer the sum of \$9,500,000 from the strategic investment and improvements fund to the oil and gas research fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 7. TRANSFER - ENTITIES UNDER THE CONTROL OF THE INDUSTRIAL COMMISSION TO INDUSTRIAL COMMISSION FUND. The sum of \$1,214,768, or so much of the sum as may be necessary, included in the appropriation in subdivision 1 of section 1 of this Act, may be transferred from the entities within the control of the industrial commission or entities directed to make payments to the industrial commission fund for administrative services rendered by the commission. Transfers must be made during the biennium beginning July 1, 2021, and ending June 30, 2023, upon order of the commission. Transfers from the student loan trust fund must be made to the extent permitted by sections 54-17-24 and 54-17-25.

SECTION 8. TRANSFER - BANK OF NORTH DAKOTA PROFITS TO GENERAL FUND. The industrial commission shall transfer to the general fund \$140,000,000 from the current earnings and the accumulated profits of the Bank of North Dakota during the biennium beginning July 1, 2021, and ending June 30, 2023. The moneys must be transferred in the amounts and at the times requested by the director of the office of management and budget after consultation with the Bank of North Dakota president. For legislative council budget status reporting purposes, the transfer under this section is considered an ongoing revenue source.

SECTION 9. TRANSFER - PARTNERSHIP IN ASSISTING COMMUNITY EXPANSION. The Bank of North Dakota shall transfer the sum of \$26,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the partnership in assisting community expansion fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 10. TRANSFER - AGRICULTURE PARTNERSHIP IN ASSISTING COMMUNITY EXPANSION. The Bank of North Dakota shall transfer the sum of \$5,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the agriculture partnership in assisting community expansion fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 11. TRANSFER - BIOFUELS PARTNERSHIP IN ASSISTING COMMUNITY EXPANSION. The Bank of North Dakota shall transfer the sum of \$1,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the biofuels partnership in assisting community expansion fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 12. TRANSFER - BEGINNING FARMER REVOLVING LOAN FUND. The Bank of North Dakota shall transfer the sum of \$8,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the beginning farmer revolving loan fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 13. LIGNITE RESEARCH, DEVELOPMENT, AND MARKETING PROGRAM - LIGNITE MARKETING FEASIBILITY STUDY. The amount of \$4,500,000 from the lignite research fund, or so much of the amount as may be necessary, may be used for the purpose of contracting for an independent, nonmatching lignite marketing feasibility study or studies that determine those focused priority areas where near-term, market-driven projects, activities, or processes will generate matching private industry investment and have the most potential of preserving existing lignite production and industry jobs or that will lead to increased development of lignite and its products and create new lignite industry jobs and economic growth for the general welfare of this state. Moneys appropriated

pursuant to this section also may be used for the purpose of contracting for nonmatching studies and activities in support of advanced energy technology and other technology development programs; for litigation that may be necessary to protect and promote the continued development of lignite resources; for nonmatching externality studies and activities in externality proceedings; or other marketing, environmental, or transmission activities that assist with marketing of lignite-based electricity and lignite-based byproducts. Moneys needed for the purposes stated in this section are available to the industrial commission for funding projects, processes, or activities under the lignite research, development, and marketing program.

SECTION 14. OIL AND GAS RESEARCH FUND - UNDERGROUND ENERGY STORAGE STUDY - REPORT TO LEGISLATIVE MANAGEMENT. Pursuant to the continuing appropriation under section 57-51.1-07.3, the industrial commission shall use up to \$9,500,000, or so much of the sum as may be necessary, from the oil and gas research fund to contract with the energy and environmental research center for an underground energy storage study. The study must include consideration of the potential capacity of salt caverns in geological formations in North Dakota for the development of underground storage of energy resources, including natural gas, liquified natural gas, natural gas liquids, and hydrogen. The energy and environmental research center may collaborate with other entities as needed on the study. Prior to contracting with the energy and environmental research center, the commission must receive from at least one nonstate entity assurance of financial or other types of support that demonstrate a commitment to the study. During the 2021-22 interim, the energy and environmental research center shall provide quarterly reports to the industrial commission and at least one report to the legislative management regarding the results and recommendations of the study.

SECTION 15. OIL AND GAS RESEARCH FUND - EXEMPTION - ENERGY AND ENVIRONMENTAL RESEARCH CENTER - STUDY OF HYDROGEN. Pursuant to the continuing appropriation in section 57-51.1-07.3 and notwithstanding any policies developed by the oil and gas research council requiring matching funds, the industrial commission shall use \$500,000, or so much of the sum as may be necessary, from the oil and gas research fund to contract with the energy and environmental research center for a study regarding the development and implementation of hydrogen energy in the state. The study must include a plan for the development and implementation of hydrogen energy and must include consideration of existing resources, methods of production and delivery, and potential uses of hydrogen. The study may include estimates of the cost and timeline to develop infrastructure for hydrogen energy and the use of public and private partnerships to assist in the development of infrastructure for hydrogen energy. During the 2021-22 interim, the energy and environmental research center shall provide at least one report to the legislative management regarding the study.

22 SECTION 16. AMENDMENT. Subsection 1 of section 6-09-49 of the North Dakota Century Code, as amended by section 1 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

1. The infrastructure revolving loan fund is a special fund in the state treasury from which the Bank of North Dakota shall provide loans to political subdivisions, the Garrison Diversion Conservancy District, and the Lake Agassiz water authority for essential infrastructure projects. The Bank shall administer the infrastructure revolving loan fund. The maximum term of a loan made under this section is thirty years. A loan made from the fund under this

²² Section 6-09-49 was also amended by section 1 of House Bill No. 1431, chapter 80, and section 17 of Senate Bill No. 2014, chapter 42.

~~section must have an interest rate starting at two percent per year and increasing by one percent every five years, up to a maximum rate of five percent per year that does not exceed two percent per year.~~

²³ **SECTION 17. AMENDMENT.** Section 6-09-49 of the North Dakota Century Code is amended and reenacted as follows:

6-09-49. Infrastructure revolving loan fund - Continuing appropriation.

1. The infrastructure revolving loan fund is a special fund in the state treasury from which the Bank of North Dakota shall provide loans to political subdivisions, the Garrison Diversion Conservancy District, and the Lake Agassiz water authority for essential infrastructure projects. The Bank shall administer the infrastructure revolving loan fund. The maximum term of a loan made under this section is the lesser of thirty years or the useful life of the project. A loan made from the fund under this section must have an interest rate that does not exceed two percent per year.
2. For purposes of this section, "essential infrastructure projects" means capital construction projects ~~for to construct new infrastructure or replace existing infrastructure, which provide the fixed installations necessary for the function of a political subdivision. Capital construction projects exclude routine maintenance and repair projects, but include~~ the following:
 - a. The Red River valley water supply project;
 - b. ~~New or replacement of existing water~~ Water treatment plants;
 - c. ~~New or replacement of existing wastewater~~ Wastewater treatment plants;
 - d. ~~New or replacement of existing sewer lines and water lines~~ Sewerlines and waterlines, including lift stations and pumping systems; and
 - e. ~~New or replacement of existing storm water and transportation~~ Storm water infrastructure, including curb and gutter construction;
 - f. Water storage systems, including dams, water tanks, and water towers;
 - g. Road and bridge infrastructure, including paved and unpaved roads and bridges;
 - h. Airport infrastructure;
 - i. Electricity transmission infrastructure;
 - j. Natural gas transmission infrastructure;
 - k. Communications infrastructure;
 - l. Emergency services facilities, excluding hospitals; and
 - m. Critical political subdivision buildings and infrastructure.

²³ Section 6-09-49 was also amended by section 1 of House Bill No. 1431, chapter 80, and section 16 of Senate Bill No. 2014, chapter 42.

3. In processing political subdivision loan applications under this section, the Bank shall calculate the maximum outstanding loan amount for which ~~a per~~ qualified applicant may qualify, not to exceed fifteen million dollars per loan. A qualified applicant under this section may have a maximum combined total of forty million dollars in outstanding loans under this section and section 6-09-49.1. The Bank shall consider the applicant's ability to repay the loan when processing the application and shall issue loans only to applicants that provide reasonable assurance of sufficient future income to repay the loan.
4. The Bank shall deposit in the infrastructure revolving loan fund all payments of interest and principal paid under loans made from the infrastructure revolving loan fund. The Bank may use a portion of the interest paid on the outstanding loans as a servicing fee to pay for administrative costs which may not exceed one-half of one percent of the amount of the interest payment. All moneys transferred to the fund, interest upon moneys in the fund, and payments to the fund of principal and interest are appropriated to the Bank on a continuing basis for administrative costs and for loan disbursement according to this section.
5. The Bank may adopt policies and establish guidelines to administer this loan program in accordance with the provisions of this section and to supplement and leverage the funds in the infrastructure revolving loan fund. Additionally, the Bank may adopt policies allowing participation by local financial institutions.
6. If a political subdivision applies for a loan under this section for a county road or bridge project, the department of transportation shall review and approve the project before the Bank may issue a loan. If a political subdivision applies for a loan under this section for a water-related project, the state water commission shall review and approve the project before the Bank may issue a loan. The department of transportation and state water commission may develop policies for reviewing and approving projects under this section.

²⁴ **SECTION 18. AMENDMENT.** The new section to chapter 6-09 of the North Dakota Century Code, as created by section 2 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

Water infrastructure revolving loan fund - State water commission - Continuing appropriation.

1. There is created in the state treasury the water infrastructure revolving loan fund to provide loans for water supply, flood protection, or other water development and water management projects. The fund consists of moneys transferred into the fund, interest earned on moneys in the fund, and principal and interest payments to the fund. All moneys in the fund are appropriated to the Bank of North Dakota on a continuing basis for loan disbursements and administrative costs.
2. The state water commission shall approve eligible projects for loans from the water infrastructure loan fund. The state water commission shall consider the following when evaluating eligible projects:
 - a. A description of the nature and purposes of the proposed infrastructure project, including an explanation of the need for the project, the reasons

²⁴ Section 6-09-49.2 was created by section 2 of House Bill No. 1431, chapter 80.

- why the project is in the public interest, and the overall economic impact of the project.
- b. The estimated cost of the project, the amount of loan funding requested, and other proposed sources of funding.
 - c. The extent to which completion of the project will provide a benefit to the state or regions within the state.
3. Projects not eligible for the state revolving funds under chapters 61-28.1 and 61-28.2 must be given priority for loans from the water infrastructure revolving loan fund.
 4. In consultation with the state water commission, the Bank of North Dakota shall develop policies for the review and approval of loans under this section. Loans made under this section must be made at the same interest rate as the revolving loan funds established under chapters 61-28.1 and 61-28.2.
 5. The Bank of North Dakota shall manage and administer loans from the water infrastructure loan fund. The Bank shall deposit in the fund all principal and interest paid on loans made from the fund. Annually, the Bank may deduct ~~one-quarter~~one-half of one percent of the outstanding loan balance as a service fee for administering the water infrastructure revolving loan fund. The Bank shall contract with a certified public accounting firm to audit the fund. The cost of the audit must be paid from the fund.

SECTION 19. AMENDMENT. Section 6-09.4-05.1 of the North Dakota Century Code is amended and reenacted as follows:

6-09.4-05.1. Administrative agreements with state agencies.

The public finance authority and any state agency authorized by state or federal law to make an allocation of bonds or bonding authority or to make loans, or to issue bonds to obtain funds for the purpose of making loans, ~~to political subdivisions or grants,~~ may enter into an administrative agreement, which may authorize the public finance authority to administer the loan or bond program for the state agency. The agreement may delegate to the public finance authority the authority to make loans, or to issue bonds to obtain funds for the purpose of making loans, ~~to political subdivisions or grants.~~

²⁵ **SECTION 20. AMENDMENT.** Section 6-09.4-06 of the North Dakota Century Code, as amended by section 3 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

6-09.4-06. Lending and borrowing powers generally.

1. The public finance authority may lend money to political subdivisions or other contracting parties through the purchase or holding of municipal securities which, in the opinion of the attorney general, are properly eligible for purchase or holding by the public finance authority under this chapter or chapter 40-57 and for purposes of the public finance authority's capital financing program the principal amount of any one issue does not exceed five hundred thousand dollars. However, the public finance authority may lend money to political

²⁵ Section 6-09.4-06 was also amended by section 3 of House Bill No. 1431, chapter 80.

subdivisions through the purchase of securities issued by the political subdivisions through the capital financing program without regard to the principal amount of the bonds issued, if the industrial commission approves a resolution that authorizes the public finance authority to purchase the securities. The capital financing program authorizing resolution must state that the industrial commission has determined that private bond markets will not be responsive to the needs of the issuing political subdivision concerning the securities or, if it appears that the securities can be sold through private bond markets without the involvement of the public finance authority, the authorizing resolution must state reasons for the public finance authority's involvement in the bond issue. The public finance authority may hold such municipal securities for any length of time it finds to be necessary. The public finance authority, for the purposes authorized by this chapter or chapter 40-57, may issue its bonds payable solely from the revenues available to the public finance authority which are authorized or pledged for payment of public finance authority obligations, and to otherwise assist political subdivisions or other contracting parties as provided in this chapter or chapter 40-57.

2. The public finance authority may lend money to the Bank of North Dakota under terms and conditions requiring the Bank to use the proceeds to make loans for agricultural improvements that qualify for assistance under the revolving loan fund program established by chapter 61-28.2.
3. The public finance authority may transfer money to the Bank of North Dakota for allocations to infrastructure projects and programs. Bonds issued for these purposes are payable in each biennium solely from amounts the legislative assembly may appropriate for debt service for any biennium or from a reserve fund established for the bonds. ~~This section may not be construed to require the state to appropriate funds sufficient to make debt service payments with respect to the bonds or to replenish a related reserve fund. The bonds are not a debt of the Bank of North Dakota or the state. The full faith, credit, and taxing powers of the state are not pledged to the payment of the bonds. As of the date appropriated funds and reserves are not sufficient to pay debt service on the bonds, the obligation of the public finance authority with respect to the bonds must terminate, and the bonds are no longer outstanding. In addition to providing funds for the transfers, the public finance authority may use the bond proceeds to pay the costs of issuance of the bonds and establish a reserve fund for the bonds. Neither the obligation of the state to pay the bonds nor the obligation of the issuer to pay debt service will constitute a debt of the state or any agency or political subdivision of the state within the meaning of any constitutional or statutory provision. The issuance of the bond does not directly or contingently obligate the state to pay the bond payments beyond the appropriation for the current biennium of the state. The issuer has no taxing power. In addition to providing funds for the transfers, the public finance authority may use the bond proceeds to pay the costs of issuance of the bonds, capitalized interest, and establish a reserve fund for the bonds.~~
4. Bonds of the public finance authority issued under this chapter or chapter 40-57 are not in any way a debt or liability of the state and do not constitute a loan of the credit of the state or create any debt or debts, liability or liabilities, on behalf of the state, or constitute a pledge of the faith and credit of the state, but all such bonds are payable solely from revenues pledged or available for their payment as authorized in this chapter. Each bond must contain on its face a statement to the effect that the public finance authority is obligated to pay such principal or interest, and redemption premium, if any, and that

neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on such bonds. Specific funds pledged to fulfill the public finance authority's obligations are obligations of the public finance authority.

5. All expenses incurred in carrying out the purposes of this chapter or chapter 40-57 are payable solely from revenues or funds provided or to be provided under this chapter or chapter 40-57 and nothing in this chapter may be construed to authorize the public finance authority to incur any indebtedness or liability on behalf of or payable by the state.

SECTION 21. AMENDMENT. Section 15-11-40 of the North Dakota Century Code is amended and reenacted as follows:

15-11-40. State energy research center - Report. (Effective through June 30, 20232027)

1. The state energy research center at the university of North Dakota energy and environmental research center is created for the purpose of conducting exploratory, transformational, and innovative research that advances future energy opportunities and benefits the state's economy and environment through:
 - a. Exploratory research of technologies and methodologies that facilitate the prudent development, and clean and efficient use, of the state's energy resources;
 - b. Greater access to energy experts for timely scientific and engineering studies to support the state's interests; and
 - c. Education and outreach related to the state's energy resources.
2. The state energy research center shall report all research activities and accomplishments annually to the interim legislative energy development and transmission committee and to the industrial commission. Upon request, the state energy research center shall report all research activities and accomplishments to the appropriations committees of the legislative assembly.
3. To effectuate the purposes of this section, the energy and environmental research center may:
 - a. Select the research topics and projects to be pursued;
 - b. Enter contracts or agreements with other North Dakota institutions of higher education to support select research topics and projects;
 - c. Enter contracts or agreements with federal, private, and nonprofit organizations to carry out selected research topics and projects; and
 - d. Accepting donations, grants, contributions, and gifts from any source to carry out the selected research topics and projects.
4. The state energy research center may not conduct research or pursue projects that will result in the exploration, storage, treatment, or disposal of high-level radioactive waste in North Dakota.

SECTION 22. AMENDMENT. Subsection 6 of section 17-05-08 of the North Dakota Century Code is amended and reenacted as follows:

6. The commission may approve a resolution for the issuance of bonds as provided in this section which states in substance that this subsection is applicable to any required debt service reserve for bonds issued under that resolution in an aggregate amount not to exceed two hundred forty million dollars plus costs of issuance, credit enhancement, and any reserve funds required by agreements with or for the benefit of holders of the evidences of indebtedness for the purposes for which the authority is created under this chapter. The amount of any refinancing, however, may not be counted toward the two hundred forty million dollar limitation to the extent the amount does not exceed the outstanding amount of the obligations being refinanced. No more than thirty percent of the total project costs or the appraised value, whichever is greater, for any single transmission facility project may be financed by bonds issued under this section which are supported by the debt service reserve fund approved by the commission under this subsection. To ensure the maintenance of the required debt service reserve fund approved by the commission under this subsection, the legislative assembly shall appropriate and pay to the authority for deposit in the reserve fund any sum, certified by the commission as necessary to restore the reserve fund to an amount equal to the required debt service reserve fund approved by the commission.

SECTION 23. AMENDMENT. Subsection 1 of section 38-22-14 of the North Dakota Century Code is amended and reenacted as follows:

1. Storage operators shall pay the commission a fee on each ton of carbon dioxide injected for storage. The fee must be in the amount set by commission rule. The amount must be based on the contribution of the storage facility and the source of the carbon dioxide to the energy and agriculture production economy of North Dakota and the commission's anticipated expenses that it will incur in regulating storage facilities during their construction, operational, and preclosure phases.

SECTION 24. AMENDMENT. Subsection 1 of section 38-22-15 of the North Dakota Century Code is amended and reenacted as follows:

1. Storage operators shall pay the commission a fee on each ton of carbon dioxide injected for storage. The fee must be in the amount set by commission rule. The amount must be based on the contribution of the storage facility and the source of the carbon dioxide to the energy and agriculture production economy of North Dakota and the commission's anticipated expenses associated with the long-term monitoring and management of a closed storage facility.

SECTION 25. Subsections 7 and 8 of section 54-17-07.3 of the North Dakota Century Code are created and enacted as follows:

7. Residential mortgage program. A program or programs to originate residential mortgages if private sector mortgage loan services are not reasonably available. Under this program, a local financial institution or credit union may assist the agency with receiving loan applications, gathering required documents, ordering legal documents, and maintaining contact with borrowers. The applicant must be referred to the agency by a local financial institution or credit union. The agency shall provide all regulatory disclosures, process and underwrite loans, prepare closing documents, and distribute loan

funds. A loan under this program may be issued only for an owner-occupied primary residence.

8. The housing finance agency may purchase, service, and sell residential real estate loans secured by a first mortgage lien on real property originated by financial institutions. The loans may be held in the agency's portfolio or sold on the secondary market with servicing retained. All loans with a loan-to-value ratio exceeding eighty percent and not guaranteed by a federal agency must be insured by an approved mortgage insurance company.

SECTION 26. AMENDMENT. Section 54-17-40 of the North Dakota Century Code is amended and reenacted as follows:

54-17-40. Housing incentive fund - Continuing appropriation - Report to budget section.

1. The housing incentive fund is created as a special revolving fund at the Bank of North Dakota. The housing finance agency may direct disbursements from the fund and a continuing appropriation from the fund is provided for that purpose.
2.
 - a. After a public hearing, the housing finance agency shall create an annual allocation plan for the distribution of the fund as authorized under subsection 3. At least fifteen percent of the fund must be used to assist developing communities to address an unmet housing need or alleviate a housing shortage. At least ten percent of the fund must be made available to prevent homelessness as authorized by subdivision d of subsection 3.
 - b. The annual allocation plan must give priority to provide housing for individuals and families of low or moderate income. For purposes of this priority, eligible income limits are determined as a percentage of median family income as published in the most recent federal register notice. Under this priority, the annual allocation plan must give preference to projects that benefit households with the lowest income and to projects that have rent restrictions at or below department of housing and urban development published federal fair market rents or department of housing and urban development section 8 payment standards.
3. The housing finance agency shall adopt guidelines for the fund so as to address unmet housing needs in this state. Assistance from the fund may be used solely for:
 - a. New construction, rehabilitation, preservation, or acquisition of a multifamily housing project;
 - b. Gap assistance, matching funds, and accessibility improvements;
 - c. Assistance that does not exceed the amount necessary to qualify for a loan using underwriting standards acceptable for secondary market financing or to make the project feasible; and
 - d. Rental assistance, emergency assistance, barrier mitigation, or targeted supportive services designated to prevent homelessness.
4. Eligible recipients include units of local, state, and tribal government; local and tribal housing authorities; community action agencies; regional planning

councils; and nonprofit organizations and for-profit developers of multifamily housing. Individuals may not receive direct assistance from the fund.

5. Except for subdivision d of subsection 3, assistance is subject to repayment or recapture under the guidelines adopted by the housing finance agency. Any assistance that is repaid or recaptured must be deposited in the fund and is appropriated on a continuing basis for the purposes of this section.
6. The agency may collect a reasonable administrative fee from the fund, project developers, applicants, or grant recipients. The origination fee assessed to grant recipients may not exceed five percent of the project award.
7. Upon request, the housing finance agency shall report to the industrial commission regarding the activities of the housing incentive fund.
8. At least once per biennium, the housing finance agency shall provide a report to the budget section of the legislative management regarding the activities of the housing incentive fund.

SECTION 27. AMENDMENT. Section 57-51.1-07.9 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-07.9. State energy research center fund - Continuing appropriation. (Effective through June 30, 2023~~2027~~)

The state energy research center fund is a special fund in the state treasury. Before depositing oil and gas gross production tax and oil extraction tax revenues under section 57-51.1-07.5, one percent of the revenues must be deposited monthly into the state energy research center fund, up to five million dollars per biennium. All moneys deposited in the state energy research center fund and interest on all such moneys are appropriated on a continuing basis to the industrial commission for distribution to the state energy research center. The state energy research center shall use the funds in accordance with section 15-11-40.

SECTION 28. AMENDMENT. Section 7 of House Bill No. 1431, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

SECTION 7. PUBLIC FINANCE AUTHORITY - BOND ISSUE LIMITATION - BANK OF NORTH DAKOTA - APPROPRIATION.

1. Pursuant to the bonding authority under section 6-09.4-06, the public finance authority only may issue bonds under this Act to provide up to \$680,000,000 of bonds for transfer to the Bank of North Dakota for allocations to infrastructure projects and programs, for the biennium beginning July 1, 2021, and ending June 30, 2023.
2. The term of any bonds issued under this section may not exceed twenty years. The public finance authority may issue bond anticipation notes or borrow from the Bank to support the allocations to infrastructure projects and programs prior to a bond issue. ~~The public finance authority shall make available up to ten percent of the bonds for sale directly to North Dakota residents and financial institutions.~~ The state investment board may purchase the bonds as investments for the funds under its management.
3. After payment of any issuance costs, capitalized interest, or any transfers to a reserve fund, \$680,000,000 from the bond proceeds issued by the

public finance authority is appropriated to the Bank of North Dakota for allocations to infrastructure projects and programs, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

- a. \$435,500,000 for the Fargo diversion project;
- b. \$74,500,000 to the resources trust fund;
- c. \$50,000,000 to the infrastructure revolving loan fund under section 6-09-49;
- d. \$70,000,000 to the highway fund; and
- e. \$50,000,000 to North Dakota state university, which is appropriated to North Dakota state university, for an agriculture products development center including a northern crops institute project.

SECTION 29. REPEAL. Section 54-17-07.12 of the North Dakota Century Code is repealed.

SECTION 30. EXEMPTION - OIL AND GAS TAX REVENUE ALLOCATIONS - NORTH DAKOTA OUTDOOR HERITAGE FUND. Notwithstanding the provisions of section 57-51-15 relating to the allocations to the North Dakota outdoor heritage fund, for the period beginning September 1, 2021, and ending August 31, 2023, the state treasurer shall allocate eight percent of the oil and gas gross production tax revenue available under subsection 1 of section 57-51-15 to the North Dakota outdoor heritage fund, but not in an amount exceeding \$7,500,000 per fiscal year.

SECTION 31. EXEMPTION - OIL AND GAS TAX REVENUE ALLOCATIONS - OIL AND GAS RESEARCH FUND. Notwithstanding the provisions of section 57-51.1-07.3 relating to the allocations to the oil and gas research fund, for the period beginning August 1, 2021, and ending July 31, 2023, the state treasurer shall deposit two percent of the oil and gas gross production tax and oil extraction tax revenues, up to \$14,500,000, into the oil and gas research fund before depositing oil and gas tax revenues under sections 57-51.1-07.5 and 57-51.1-07.9.

SECTION 32. EXEMPTION - SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND. Notwithstanding the requirements under section 15.1-36-08 to use the moneys in the fund for loan disbursements and administrative expenses and pursuant to the continuing appropriation authority under section 15.1-36-08, \$2,500,000, or so much of the sum as may be necessary, is available from the school construction assistance revolving loan fund to the Bank of North Dakota to provide interest rate buydowns associated with loans issued under section 15.1-36-06, for the biennium beginning July 1, 2021, and ending June 30, 2023. In addition, subject to sufficient funding being available for loans to local school districts, the Bank of North Dakota may utilize funding from the school construction assistance revolving loan fund to repay a portion of the outstanding principal balance of loans issued under section 15.1-36-06 for the purpose of transferring a portion of the loans issued under that section from the Bank of North Dakota to the school construction assistance revolving loan fund, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 33. EXEMPTION - SURVEY REVIEW - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND. The amount of \$800,000 appropriated from the strategic investment and improvements fund in section 2 of chapter 426 of the 2017 Session Laws and continued into the 2019-21 biennium pursuant to section 27 of

chapter 14 of the 2019 Session Laws is not subject to section 54-44.1-11. Any unexpended funds from this appropriation are available to the industrial commission for expert legal testimony associated with the survey review until June 30, 2023.

SECTION 34. EXEMPTION - INDUSTRIAL COMMISSION FUND. The amount of \$1,172,603 appropriated to the industrial commission in subdivision 1 of section 1 of chapter 14 of the 2019 Session Laws and transferred pursuant to section 8 of chapter 14 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the industrial commission for administrative services rendered by the commission during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 35. LEGISLATIVE MANAGEMENT STUDY - LONG-TERM CARE FACILITY DEBT.

1. During the 2021-22 interim, the legislative management shall consider studying the levels of debt associated with long-term care facilities in the state. The study must include consideration of the following:
 - a. The current debt of long-term care facilities and the potential debt that may be incurred in the next ten years by long-term care facilities;
 - b. The status of existing loan programs to assist long-term care facilities, including Bank of North Dakota loan programs and the United States department of agriculture rural loan program; and
 - c. Any potential cost-savings for the state and private payers resulting from lower interest rates associated with loans to long-term care facilities.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 36. BANK OF NORTH DAKOTA LOAN PROGRAMS - REPORT TO LEGISLATIVE MANAGEMENT. During the 2021-22 interim, the Bank of North Dakota shall provide at least one report to the legislative management regarding the status of the infrastructure revolving loan fund under section 6-09-49, the legacy infrastructure loan fund under section 6-09-49.1, and the water infrastructure revolving loan fund under section 16 of this Act. The report must include information regarding the types of projects funded with the loans, outstanding loans, and new loans issued, and the report must identify outstanding loans and new loans by communities with a population of less than five thousand and by communities with a population of at least five thousand.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 43

SENATE BILL NO. 2015

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the department of corrections and rehabilitation; to provide for a report; to provide a statement of legislative intent; to provide for a legislative management study; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of corrections and rehabilitation for the purpose of defraying the expenses of the department of corrections and rehabilitation, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Adult services	\$236,657,747	\$23,570,832	\$260,228,579
Youth services	31,753,268	(7,168,423)	24,584,845
Total all funds	\$268,411,015	\$16,402,409	\$284,813,424
Less estimated income	40,124,189	26,523,426	66,647,615
Total general fund	\$228,286,826	(\$10,121,017)	\$218,165,809
FTE positions	899.79	8.00	907.79

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation by the legislative assembly in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Equipment	\$298,700	\$191,000
Kitchen equipment	0	115,000
Roughrider industries equipment	0	1,281,988
Roughrider industries storage warehouse	0	500,000
Elite servers replacement	40,000	0
Extraordinary repairs	1,332,250	0
Youth correctional center campus infrastructure study	75,000	0
Department of corrections and rehabilitation study	400,000	0
Scan and screen device	230,000	0
Redundant fence	160,000	0
Portable x-ray machine	22,000	0
Oracle software upgrade	165,000	0
Contracts and payments processing system	100,000	0
Inmate tracking system	160,000	0
Intake and legal movement system	240,000	0
Total all funds	\$3,222,950	\$2,087,988

Less estimated income	<u>1,831,700</u>	<u>1,781,988</u>
Total general fund	\$1,391,250	\$306,000

The 2021-23 biennium one-time funding amounts are not part of the entity's base budget for the 2023-25 biennium. The department of corrections and rehabilitation shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION - 2019-21 BIENNIUM - FEDERAL CORONAVIRUS RELIEF FUND - SPENDING RESTRICTION. There is appropriated out of any moneys from federal funds derived from the federal coronavirus relief fund, not otherwise appropriated, the sum of \$43,689,050, or so much of the sum as may be necessary, to the department of corrections and rehabilitation for law enforcement payroll costs, for the period beginning March 2020 and ending June 2021. The funding appropriated in this section replaces existing legislative appropriations. The department of corrections and rehabilitation may not spend the funding appropriated from the general fund for law enforcement payroll costs during the period identified.

SECTION 4. ESTIMATED INCOME - FEDERAL CORONAVIRUS RELIEF FUND. The estimated income line item in section 1 of this Act includes the sum of \$18,371,718, or so much of the sum as may be necessary, from the federal coronavirus relief fund for law enforcement payroll costs for the period beginning July 1, 2021, and ending December 31, 2021.

SECTION 5. LEGISLATIVE INTENT - COMMUNITY BEHAVIORAL HEALTH SERVICES. It is the intent of the sixty-seventh legislative assembly that the department of corrections and rehabilitation be considered the payer of last resort whenever any other benefit or source of third-party payment, excluding the substance use disorder treatment voucher program, is available for community-based behavioral health services for the biennium beginning July 1, 2021, and ending June 30, 2023. It is further the intent of the sixty-seventh legislative assembly that the funding appropriated to the department of corrections and rehabilitation for community-based behavioral health services be utilized prior to utilizing substance use disorder treatment voucher program funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 6. LEGISLATIVE MANAGEMENT STUDY - DEPARTMENT OF CORRECTIONS AND REHABILITATION LAND USE. During the 2021-22 interim, the legislative management shall consider studying the use of land owned by the department of corrections and rehabilitation, including the potential to sell land owned by the department to finance the construction of new correctional facilities. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 7. DEPARTMENT OF CORRECTIONS AND REHABILITATION OPERATING FUND REVENUES. Any moneys received by the department of corrections and rehabilitation from correctional supervision, electronic monitoring, and detention; reimbursements from other agencies; profits received from department of corrections and rehabilitation commissary; miscellaneous revenue, including offender fines, fees, restitution, and medical copayments; and from the youth correctional center permanent fund, may be deposited in the department of corrections and rehabilitation operating fund and expended pursuant to legislative appropriation for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 8. EXEMPTION - COMMUNITY BEHAVIORAL HEALTH PROGRAM.

The amount of \$7,000,000 from the general fund appropriated for the community behavioral health program in section 1 of chapter 15 of the 2019 Session Laws is not subject to section 54-44.1-11, and any unexpended funds from this appropriation may be used for the community behavioral health program during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 9. EXEMPTION - DEFERRED MAINTENANCE AND EXTRAORDINARY REPAIRS.

Notwithstanding any amount continued under section 4 of this Act, up to \$6,000,000 from the general fund appropriated to the department of corrections and rehabilitation in section 1 of chapter 15 of the 2019 Session Laws is not subject to section 54-44.1-11, and any unexpended funds from this appropriation may be used for deferred maintenance, capital planning, and extraordinary repairs projects by the department of corrections and rehabilitation during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 10. EMERGENCY. Section 3 of this Act is declared to be an emergency measure.

Approved April 27, 2021

Filed April 28, 2021

CHAPTER 44

SENATE BILL NO. 2016

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of job service North Dakota; to amend and reenact subsection 4 of section 52-06-01 of the North Dakota Century Code, relating to conditions required to be eligible for unemployment benefits; to provide for a report; to provide for a statement of legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to job service North Dakota for the purpose of defraying the expenses of job service North Dakota, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$30,572,221	(\$1,577,279)	\$28,994,942
Operating expenses	17,840,895	(676,522)	17,164,373
Capital assets	20,000	0	20,000
Grants	6,166,112	2,114,939	8,281,051
Reed Act - unemployment insurance	<u>10,475,114</u>	<u>470,012</u>	<u>10,945,126</u>
computer modernization			
Total all funds	\$65,074,342	\$331,150	\$65,405,492
Less estimated income	<u>64,643,718</u>	<u>351,545</u>	<u>64,995,263</u>
Total general fund	\$430,624	(\$20,395)	\$410,229
Full-time equivalent positions	172.61	(16.00)	156.61

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Unemployment insurance modernization project	<u>\$611,852</u>	<u>\$0</u>
Total other funds	\$611,852	\$0

SECTION 3. ADDITIONAL INCOME - APPROPRIATION. All federal funds received by job service North Dakota in excess of those funds appropriated in section 1 of this Act are appropriated to job service North Dakota for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 4. ESTIMATED INCOME - REED ACT FUNDS - UNEMPLOYMENT INSURANCE COMPUTER MODERNIZATION. The estimated income line item in section 1 of this Act includes the sum of \$10,945,126 from federal Reed Act funds made available to the state by the federal Reed Act distributions made in federal fiscal years 1957, 1958, 1999, and 2002, pursuant to section 903 of the federal Social

Security Act. This sum, or so much of the sum as may be necessary, is for the purpose of developing a modernization unemployment insurance computer system.

SECTION 5. AMENDMENT. Subsection 4 of section 52-06-01 of the North Dakota Century Code is amended and reenacted as follows:

4. The individual has been unemployed for a waiting period of one week. The executive director may suspend the waiting period during periods of time when federal reimbursement for benefit charges incurred for the suspended waiting period is made available to the bureau. Any suspension of the waiting period applies to all new initial claims filed with an effective date within the time period in which the waiting period is suspended. No week may be counted as a week of unemployment for the purposes of this subsection:
 - a. Unless it occurs within the benefit year which includes the week with respect to which the individual claims payment of benefits;
 - b. If benefits have been paid with respect thereto; and
 - c. Unless the individual was eligible for benefits, with respect thereto as provided in this section and section 52-06-02; and

SECTION 6. INFORMATION TECHNOLOGY UNIFICATION - LEGISLATIVE INTENT - LEGISLATIVE MANAGEMENT REPORT. The information technology department may not charge state agencies selected to participate in the 2021-23 biennium information technology unification initiative an amount in excess of the salaries and wages and related operating expenses of any full-time equivalent positions transferred to the information technology department during the 2021-23 biennium. It is the intent of the sixty-seventh legislative assembly that any full-time equivalent positions transferred to the information technology department for the 2021-23 biennium information technology unification initiative be transferred to the agency employing the positions during the 2019-21 biennium, unless the sixty-eighth legislative assembly is presented with sufficient evidence of efficiencies gained and cost-savings realized by the state as a result of the 2021-23 biennium information technology unification initiative. During the 2021-22 interim, the information technology department shall report annually to the legislative management regarding any efficiencies gained and cost-savings realized as a result of the 2021-23 biennium information technology unification initiative.

SECTION 7. EMERGENCY. Section 5 of this Act is declared to be an emergency measure.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 45

SENATE BILL NO. 2017

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the office of administrative hearings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from income, to the office of administrative hearings for the purpose of defraying the expenses of the office of administrative hearings, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,248,330	\$50,314	\$1,298,644
Operating expenses	1,582,334	551	1,582,885
Total special funds	\$2,830,664	\$50,865	\$2,881,529
Full-time equivalent positions	5.00	0.00	5.00

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 46

SENATE BILL NO. 2018

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the department of commerce; to provide an appropriation to the department of transportation; to create and enact a new section to chapter 4.1-01 of the North Dakota Century Code, relating to the transfer of the international business and trade office from the department of commerce to the agriculture commissioner; to amend and reenact sections 54-34.3-13 and 54-60-29 of the North Dakota Century Code, relating to the rural growth incentive program and the unmanned aircraft systems program fund; to repeal section 54-60-16 of the North Dakota Century Code, relating to the international business and trade office; to provide a continuing appropriation; to provide for a transfer; to provide for a report; to provide an exemption; to provide a statement of legislative intent; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of commerce for the purpose of defraying the expenses of the department of commerce, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$13,217,286	(\$381,855)	\$12,835,431
Operating expenses	14,873,203	9,009,989	23,883,192
Grants	52,638,527	35,193,803	87,832,330
Discretionary funds	2,150,000	0	2,150,000
North Dakota trade office	1,600,000	(1,600,000)	0
Partner programs	1,562,531	0	1,562,531
Entrepreneurship grants and vouchers	948,467	0	948,467
Total all funds	\$86,990,014	\$42,221,937	\$129,211,951
Less estimated income	54,123,293	41,421,086	95,544,379
Total general fund	\$32,866,721	\$800,851	\$33,667,572
Full-time equivalent positions	61.80	(3.00)	58.80

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Unmanned aircraft system	\$2,225,000	\$1,000,000
Beyond visual line of sight unmanned aircraft system	0	20,000,000
Enhanced use lease grant	3,000,000	7,000,000
Workforce grants to tribally controlled community colleges	500,000	500,000

Census 2020 program	1,000,000	0
Workforce safety grant	1,000,000	1,500,000
Entrepreneurship grants and vouchers	2,000,000	0
Sculpture maintenance grants	75,000	0
Nonresident nurse employment recruitment	500,000	0
Intermodal container transportation shipping fees	1,300,000	0
Job development and economic growth grant	25,000	1,500,000
Tourism marketing	0	7,000,000
Technical skills training grants	0	1,000,000
Motion picture production and recruitment grant	0	100,000
Travel agent and tour operator emergency resiliency grants	0	2,000,000
Event center emergency resiliency grants	0	2,000,000
Tourism transportation improvement grant	0	565,432
Total all funds	\$11,625,000	\$44,165,432
Less estimated income	4,300,000	42,000,000
Total general fund	\$7,325,000	\$2,165,432

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The department of commerce shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION - DEPARTMENT OF TRANSPORTATION - BEYOND VISUAL LINE OF SIGHT UNMANNED AIRCRAFT SYSTEM PROGRAM - ONE-TIME FUNDING. There is appropriated from special funds, derived from grant funds received from the department of commerce pursuant to section 14 of this Act, not otherwise appropriated, the sum of \$5,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of defraying infrastructure construction expenses of the beyond visual line of sight unmanned aircraft system program, for the biennium beginning July 1, 2021, and ending June 30, 2023. The department of transportation may bid, award, and administer any contracts necessary to complete the construction of the infrastructure. This funding is considered a one-time funding item.

SECTION 4. TRANSFER - INTERNSHIP FUND. The office of management and budget shall transfer \$755,000 of the amount appropriated in the operating expenses line item in section 1 of this Act to the internship fund for the purpose of administering the operation intern program, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 5. ENTREPRENEURSHIP GRANTS AND VOUCHER PROGRAM. The entrepreneurship grants and voucher line item in section 1 of this Act includes \$948,467, of which \$740,956 is from the general fund and \$207,511 is from the economic development fund, for the purpose of defraying the expenses of the entrepreneurship grants and voucher program. The department shall establish guidelines to provide grants to entrepreneurial centers certified by the department. The department also shall establish guidelines to award vouchers to entrepreneurs to procure business development assistance from certified entrepreneurial centers or to provide grants to entrepreneurs working with an entrepreneurial center.

SECTION 6. RURAL HEALTH CARE GRANT PROGRAM - MATCHING FUNDS REQUIREMENT. The grants line item in section 1 of this Act includes \$250,000 from the general fund for providing matching funds to an organization assisting in the recruitment, distribution, and supply, and enhancing the quality and efficiency of personnel providing health services in rural areas of the state. The department of

commerce may spend the funds appropriated in this section only to the extent the organization has secured matching funds from nonstate sources on a dollar-for-dollar basis.

SECTION 7. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - ONE-TIME FUNDING. The estimated income line item in section 1 of this Act includes the sum of \$29,000,000 from the strategic investment and improvements fund, of which \$19,000,000 is for beyond visual line of sight unmanned aircraft system grants, \$7,000,000 is for enhanced use lease grants, \$1,500,000 is for a job development grant to an organization dedicated to promoting job development and economic growth, and \$1,500,000 is for a workforce safety grant to an organization that provides workforce safety. This funding is considered a one-time funding item.

SECTION 8. ESTIMATED INCOME - FEDERAL CORONAVIRUS RELIEF FUND - ONE-TIME FUNDING. The estimated income line item in section 1 of this Act includes the sum of \$12,000,000 from the federal coronavirus relief fund, which is provided for the purposes identified in this section. The department of commerce shall establish guidelines for awarding funding under this section. This funding is considered a one-time funding item and is available for the following:

1. \$7,000,000 for tourism marketing and branding initiatives, of which \$6,565,432 is for tourism marketing and branding operating expenses and \$434,568 is for the tourism transportation improvement grant program for a grant to be provided to an organization dedicated to preserving and promoting a historic, tourism destination North Dakota city.
2. \$1,000,000 for technical skills training grants.
3. \$2,000,000 for travel agent and tour operator emergency resiliency grants. Grants may be awarded only to travel agents that book commission-based travel for private individuals or companies, tour companies that schedule tour details and itineraries in North Dakota, or transportation companies providing transportation services to tour planners for tours originating in North Dakota or operators bringing tours into North Dakota. The department of commerce shall establish additional eligibility requirements for the program. The following organizations are ineligible for a grant under this subsection:
 - a. National companies that provide travel services to individuals in North Dakota but do not employ at least one individual in the state;
 - b. Corporations with staff dedicated to purchasing and arranging travel for employees;
 - c. Military-based travel agents or other individuals employed by government entities; and
 - d. Organizations that only offer guided services and tours of their attraction.
4. \$2,000,000 for event center emergency resiliency grants.

SECTION 9. BEYOND VISUAL LINE OF SIGHT UNMANNED AIRCRAFT SYSTEM PROGRAM - MATCHING FUND REQUIREMENT - ONE-TIME FUNDING. The grants line item in section 1 of this Act includes \$1,000,000 from the general fund for grants to an organization dedicated to expanding workforce opportunities, training, and education related to the beyond visual line of sight unmanned aircraft system

industry, which the department of commerce may provide only to the extent the organization provides one dollar of matching funds from private or other public sources for each one dollar provided by the department. This funding is considered a one-time funding item.

SECTION 10. A new section to chapter 4.1-01 of the North Dakota Century Code is created and enacted as follows:

International business and trade office - Advisory board - Continuing appropriation.

1. The commissioner shall administer the international business and trade office. The purpose of the office is to assist North Dakota businesses to expand exports to international markets by:
 - a. Advocating for exporters;
 - b. Offering export educational opportunities to North Dakota businesses;
 - c. Researching and raising awareness of export opportunities, issues, and challenges impacting North Dakota businesses;
 - d. Assisting North Dakota businesses in identifying, developing, and cultivating international markets for products; and
 - e. Organizing and carrying out trade missions that seek to facilitate contact and communication between North Dakota businesses and international markets.
2. The commissioner may designate a nonprofit corporation incorporated in this state which has the primary purpose of assisting North Dakota exporters or contract with a third party for the provision of services for the international business and trade office. If the commissioner designates a nonprofit corporation or contracts with a third party under this subsection, all data and databases collected and created by the third party in performing services for the office are the property of the department and the third party.
3. The commissioner may seek and accept any gift, grant, or donation of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the international business and trade office. Any funds accepted under this subsection are appropriated to the commissioner on a continuing basis.
4. The commissioner may establish an international business and trade office advisory board with whom the commissioner may consult in administering the international business and trade office. Each member of the advisory board is entitled to receive per diem compensation at a rate established by the director not exceeding sixty-two dollars and fifty cents and reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directly related to board membership, except that per diem compensation under this section may not be paid to any member who receives compensation or salary as a regular state employee or official.

SECTION 11. AMENDMENT. Section 54-34.3-13 of the North Dakota Century Code is amended and reenacted as follows:

54-34.3-13. Rural growth incentive program.

1. The department shall manage and administer the rural growth incentive program. A city with a population of less than two thousand five hundred may apply to the department to be designated as a rural growth incentive city. A rural growth incentive city may be eligible for a loan, grant, or both under this section.
2. The department shall designate an applicant city as a rural growth incentive city eligible for a loan if the city raises funds in the amount of a dollar-for-dollar match for the amount requested in the loan and meets any additional program requirements provided by rule. The source of city funds used for loan matching funds may be any combination of public and private funds. If the department designates a city as a rural growth incentive city eligible for a loan under this section, subject to the availability of funds, the state shall make a loan to the city in an amount not less than twenty-five thousand dollars and not more than seventy-five thousand dollars. The department shall establish the amount of the interest rate for loans provided to a city under this subsection. The funding source of the state loan is the North Dakota development fund. The city shall distribute the city and state funds to qualifying new or expanded ~~primary-sector~~ businesses in the city. A qualifying business in the city includes a business that provides essential services to the city. For purposes of this subsection, a business that provides essential services does not include a public utility. The governing body of the city determines whether a new or expanded ~~primary-sector~~ business qualifies for funding, and the director of the department determines whether a business that provides essential services to the city qualifies for funding. The state shall distribute a loan to a rural growth incentive city once the city establishes the city has chosen a specified qualified business to receive funding.
3. The department shall designate an applicant city as a rural growth incentive city eligible for a grant if the city raises funds in the amount of a dollar-for-dollar match for the amount requested in the grant application and meets any additional program requirements provided by rule. The source of city funds used for grant matching funds may be any combination of public and private funds. If the department designates a city as a rural growth incentive city eligible for a grant under this section, subject to availability of funds, the state shall make a grant to the city in an amount not to exceed ten thousand dollars. The recipient rural growth incentive city shall use the grant money received to conduct a feasibility study for the location of a new business, including an expansion of a business with the primary place of business outside the rural growth incentive city. ~~The business under this subsection is not limited to primary-sector businesses.~~ The funding source of the state grant is the North Dakota development fund. Total grants awarded by the department under this subsection may not exceed one hundred thousand dollars per biennium.
4. The city may not use city or state funds raised or provided under this section for costs associated with administering the rural growth incentive city. The department shall provide the rural growth incentive city with training to assist the city in expanding ~~primary-sector~~ businesses, locating new businesses, and working with state economic development programs.

SECTION 12. AMENDMENT. Section 54-60-29 of the North Dakota Century Code is amended and reenacted as follows:

54-60-29. Unmanned aircraft systems program fund - Continuing appropriation.

1. There is created in the state treasury a special fund known as the unmanned aircraft systems fund, which ~~must~~may be used to defray the expenses of the operations:
 - a. Operations of an unmanned aircraft systems test site officially designated by the federal aviation administration;
 - b. Beyond visual line of sight unmanned aircraft system program; and
 - c. Enhanced use lease grant program.
2. The fund consists of fees collected for the administration of the test site and other funds appropriated by the legislative assembly. All moneys in the fund are appropriated to the department of commerce on a continuing basis for the purpose of defraying the expenses of the ~~unmanned aircraft systems program~~programs identified in subsection 1. Interest earned on moneys in the fund must be credited to the fund.

SECTION 13. REPEAL. Section 54-60-16 of the North Dakota Century Code is repealed.

SECTION 14. EXEMPTION - BEYOND VISUAL LINE OF SIGHT UNMANNED AIRCRAFT SYSTEM PROGRAM. Of the \$28,000,000 appropriated from the general fund in the grants line item for the beyond visual line of sight unmanned aircraft system program in section 27 of chapter 40 of the 2019 Session Laws is not subject to section 54-44.1-11, up to \$5,000,000 of unexpended funds may be continued and is available for the program during the biennium beginning July 1, 2021, and ending June 30, 2023. The department of commerce may provide grants of up to \$5,000,000, to the department of transportation, for the purpose of defraying infrastructure construction expenses of the beyond visual line of sight unmanned aircraft system program during the 2021-23 biennium.

SECTION 15. EXEMPTION - UNMANNED AIRCRAFT SYSTEM PROGRAM. The amount of \$2,250,000 appropriated from the general fund in the operating expenses line item for the unmanned aircraft system program in section 27 of chapter 40 of the 2019 Session Laws is not subject to section 54-44.1-11 and is available for the program during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 16. EXEMPTION - ENHANCED USE LEASE GRANT PROGRAM. The amount of \$3,000,000 appropriated from the general fund in the grants line item for the enhanced use lease grant program in section 27 of chapter 40 of the 2019 Session Laws is not subject to section 54-44.1-11 and is available for the program during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 17. EXEMPTION - NONRESIDENT NURSE EMPLOYMENT RECRUITMENT PROGRAM - ELIGIBILITY. Of the \$500,000 appropriated from the general fund in the grants line item for the nonresident nurse employment recruitment program in section 27 of chapter 40 of the 2019 Session Laws, \$320,000 is not subject to section 54-44.1-11 and is available for the program during the biennium beginning July 1, 2021, and ending June 30, 2023. In addition to the program eligibility guidelines established for the 2019-21 biennium, the department of commerce shall provide funding authorized in this section to eligible nursing students

in the state who have not been employed by a health care provider on a full-time basis in the year preceding the grant award.

SECTION 18. EXEMPTION - DISCRETIONARY FUNDS. The amount of \$2,150,000 appropriated from the general fund in the discretionary funds line item in section 27 of chapter 40 of the 2019 Session Laws is not subject to section 54-44.1-11 and is available for the program during the biennium beginning July 1, 2021, and ending June 30, 2023. Of this amount, up to \$200,000 must be used to retrain up to ten displaced energy industry workers to enhance programmer development and engineering skills.

SECTION 19. LEGISLATIVE INTENT - NORTHERN PLAINS UNMANNED AIRCRAFT SYSTEM TEST SITE. It is the intent of the sixty-seventh legislative assembly that the northern plains unmanned aircraft system test site maximize earned revenue to the extent possible while operating and conducting business of the test site.

SECTION 20. LEGISLATIVE MANAGEMENT STUDY - DATA STORAGE. During the 2021-22 interim, the legislative management shall consider studying data storage by state entities. The study must include input from the information technology department, North Dakota university system, and kindergarten through grade twelve education coordination council. The study must consider data security, geographical locations of storage, geographical locations of corporate contractors, state and federal laws that may affect North Dakota data, ownership and control of data storage, and current and estimated data storage costs related to cloud-based, out-of-state data storage of North Dakota state and local government data. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-eighth legislative assembly.

Approved May 10, 2021

Filed May 10, 2021

CHAPTER 47

SENATE BILL NO. 2019

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the department of career and technical education; and to provide a statement of legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of career and technical education for the purpose of defraying the expenses of the department of career and technical education, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$4,812,765	(\$168,859)	\$4,643,906
Operating expenses	2,357,796	(159,343)	2,198,453
Grants	9,207,349	300,000	9,507,349
Grants - secondary	24,587,780	2,250,000	26,837,780
Marketplace for kids	300,000	0	300,000
Science, technology, engineering, and mathematics initiative	0	100,000	100,000
Grants - postsecondary	256,982	(256,982)	0
Adult farm management	1,894,249	(188,111)	1,706,138
Workforce training	2,000,000	0	2,000,000
Center for distance education	<u>9,351,188</u>	<u>110,066</u>	<u>9,461,254</u>
Total all funds	\$54,768,109	\$1,986,771	\$56,754,880
Less estimated income	<u>14,703,121</u>	<u>316,696</u>	<u>15,019,817</u>
Total general fund	\$40,064,988	\$1,670,075	\$41,735,063
Full-time equivalent positions	52.30	(2.00)	50.30

SECTION 2. LEGISLATIVE INTENT - AREA CAREER AND TECHNICAL CENTERS - SECONDARY GRANTS. It is the intent of the sixty-seventh legislative assembly that school districts:

1. Use federal funds available from the elementary and secondary school emergency relief fund to effectively benefit students;
2. Prepare to provide for any future operating and maintenance costs relating to new or expanded programs resulting from the expenditure of these federal funds because state funds will not be provided to replace these federal funds; and
3. Prepare to provide increased local support for area career and technical centers since state secondary grant funding is limited and the share of state assistance for these programs may decrease if new or expanded programs are established.

Approved April 27, 2021

Filed April 28, 2021

CHAPTER 48

SENATE BILL NO. 2020

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the North Dakota state university extension service, northern crops institute, upper great plains transportation institute, main research center, branch research centers, and agronomy seed farm; to provide for a report; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the North Dakota state university extension service, the northern crops institute, the upper great plains transportation institute, the main research center, branch research centers, and agronomy seed farm, for the purpose of defraying the expenses of the North Dakota state university extension service, the northern crops institute, the upper great plains transportation institute, the main research center, branch research centers, and agronomy seed farm, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

Subdivision 1.

NORTH DAKOTA STATE UNIVERSITY EXTENSION SERVICE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Extension service	\$54,396,305	\$2,133,919	\$56,530,224
Soil conservation committee	<u>1,091,520</u>	<u>120,000</u>	<u>1,211,520</u>
Total all funds	\$55,487,825	\$2,253,919	\$57,741,744
Less estimated income	<u>27,778,159</u>	<u>525,762</u>	<u>28,303,921</u>
Total general fund	\$27,709,666	\$1,728,157	\$29,437,823
Full-time equivalent positions	242.51	(0.74)	241.77

Subdivision 2.

NORTHERN CROPS INSTITUTE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Northern crops institute	<u>\$3,840,027</u>	<u>\$69,733</u>	<u>\$3,909,760</u>
Total all funds	\$3,840,027	\$69,733	\$3,909,760
Less estimated income	<u>1,896,217</u>	<u>26,401</u>	<u>1,922,618</u>
Total general fund	\$1,943,810	\$43,332	\$1,987,142
Full-time equivalent positions	12.80	0.75	13.55

Subdivision 3.

UPPER GREAT PLAINS TRANSPORTATION INSTITUTE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Upper great plains transportation institute	\$23,292,223	\$2,460,734	\$25,752,957
Total all funds	\$23,292,223	\$2,460,734	\$25,752,957
Less estimated income	<u>18,895,894</u>	<u>2,371,456</u>	<u>21,267,350</u>
Total general fund	\$4,396,329	\$89,278	\$4,485,607
Full-time equivalent positions	43.88	0.00	43.88

Subdivision 4.

MAIN RESEARCH CENTER

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Main research center	\$109,170,101	\$5,079,087	\$114,249,188
Total all funds	\$109,170,101	\$5,079,087	\$114,249,188
Less estimated income	<u>56,502,775</u>	<u>2,658,181</u>	<u>59,160,956</u>
Total general fund	\$52,667,326	\$2,420,906	\$55,088,232
Full-time equivalent positions	344.05	(9.49)	334.56

Subdivision 5.

BRANCH RESEARCH CENTERS

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Dickinson research center	\$7,015,862	\$62,976	\$7,078,838
Central grasslands research center	3,510,825	42,495	3,553,320
Hettinger research center	5,112,403	62,482	5,174,885
Langdon research center	3,052,060	39,250	3,091,310
North central research center	5,137,570	65,681	5,203,251
Williston research center	5,286,833	75,901	5,362,734
Carrington research center	<u>9,685,861</u>	<u>142,102</u>	<u>9,827,963</u>
Total all funds	\$38,801,414	\$490,887	\$39,292,301
Less estimated income	<u>20,600,388</u>	<u>122,430</u>	<u>20,722,818</u>
Total general fund	\$18,201,026	\$368,457	\$18,569,483
Full-time equivalent positions	109.81	(1.60)	108.21

Subdivision 6.

AGRONOMY SEED FARM

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Agronomy seed farm	\$1,565,975	\$13,680	\$1,579,655
Total special funds	\$1,565,975	\$13,680	\$1,579,655
Full-time equivalent positions	3.00	0.00	3.00

Subdivision 7.

SECTION 1 TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$104,918,157	\$4,650,130	\$109,568,287

Grand total other funds	<u>127,239,408</u>	<u>5,717,910</u>	<u>132,957,318</u>
Grand total all funds	\$232,157,565	\$10,368,040	\$242,525,605

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in the appropriation in section 1 of this Act.

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Deferred maintenance	\$0	\$500,000
Carrington research extension center capital projects	0	775,000
Central grasslands research extension center capital projects	0	525,000
Hettinger research extension center capital projects	0	300,000
Langdon research extension center capital projects	0	473,000
Remote sensing of infrastructure	0	2,225,000
Seed cleaning plant	750,000	0
Extraordinary repairs	940,465	0
Greenhouse	<u>500,000</u>	<u>0</u>
Total all funds	\$2,190,465	\$4,798,000
Total other funds	<u>1,440,465</u>	<u>4,298,000</u>
Total general fund	\$750,000	\$500,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The main research center shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. DICKINSON RESEARCH EXTENSION CENTER - MINERAL RIGHTS INCOME. The Dickinson research extension center may spend up to \$755,000 of revenues received during the 2021-23 biennium from mineral royalties, leases, or easements for ongoing operational expenses. Any revenues received in excess of \$755,000 may be spent only for one-time expenditures for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 4. WILLISTON RESEARCH EXTENSION CENTER - MINERAL RIGHTS INCOME - REPORT. The Williston research extension center shall report to the sixty-eighth legislative assembly on amounts received and spent from mineral royalties, leases, or easements in the biennium beginning July 1, 2019, and ending June 30, 2021, and the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 5. ADDITIONAL INCOME - APPROPRIATION. In addition to the amount included in the grand total other funds appropriation line item in section 1 of this Act, any other income, including funds from federal acts, private grants, gifts, and donations, or from other sources received by the North Dakota state university extension service, the northern crops institute, the upper great plains transportation institute, the main research center, branch research centers, and agronomy seed farm, except as otherwise provided by law, is appropriated for the purpose designated in the act, grant, gift, or donation, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 6. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - UPPER GREAT PLAINS TRANSPORTATION INSTITUTE - BRANCH RESEARCH CENTER PROJECTS. The estimated income line item in subdivision 3 of section 1 of this Act includes the sum of \$225,000 from

the strategic investment and improvements fund for remote sensing of infrastructure for the upper great plains transportation institute. The estimated income line item in subdivision 4 of section 1 of this Act includes the total sum of \$2,073,000 from the strategic investment and improvements fund for capital projects at the Carrington research center, central grasslands research center, Hettinger research center, and Langdon research center.

SECTION 7. EXEMPTION - TRANSFER AUTHORITY. Notwithstanding section 54-16-04, upon approval of the state board of agricultural research and education and appropriate branch research center directors, the director of the office of management and budget shall transfer appropriation authority within subdivisions 1, 2, 4, and 5 of section 1 of this Act.

SECTION 8. EXEMPTION - FULL-TIME EQUIVALENT POSITION ADJUSTMENTS. Notwithstanding any other provisions of law, the state board of higher education may adjust or increase full-time equivalent positions as needed for the entities in section 1 of this Act, subject to availability of funds. All full-time or part-time positions must be separate from North Dakota state university. Annually, the board shall report to the office of management and budget and to the budget section on any adjustments made pursuant to this section.

SECTION 9. EXEMPTION - UNEXPENDED GENERAL FUND - EXCESS INCOME. Any unexpended general fund appropriation authority available to and any excess income received by entities listed in section 1 of this Act are not subject to the provisions of section 54-44.1-11, and any unexpended funds from these appropriations or revenues are available and may be expended by those entities, during the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION 10. EXEMPTION. The \$500,000 of other funds appropriated for the Williston research extension center greenhouse and the \$750,000 from the general fund appropriated for the Williston research extension center seed cleaning plant in subdivision 4 of section 1 of chapter 20 of the 2019 Session Laws and the \$1,500,000 of other funds appropriated for the Williston research extension center seed cleaning plant in subdivision 5 of section 1 of chapter 45 of the 2017 Session Laws continued into the 2019-21 biennium pursuant to section 10 of chapter 20 of the 2019 Session Laws are not subject to the provisions of section 54-44.1-11, and any unexpended funds from these appropriations or related revenues are available and may be expended during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 11. CAPITAL PROJECTS - AMERICAN RESCUE PLAN ACT - BUDGET SECTION REPORT. During the 2021-22 interim, the director of the North Dakota state university main research center shall report to the legislative management regarding priority capital projects and other expenses that may be eligible for funding from the state fiscal recovery fund allocated to the state under the federal American Rescue Plan Act of 2021.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 49

SENATE BILL NO. 2021

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the information technology department; to amend and reenact section 54-59-05 as amended by section 5 of Senate Bill No. 2007, as approved by the sixty-seventh legislative assembly, and section 54-59-07 of the North Dakota Century Code, relating to the veterans' home information technology services and state information technology advisory committee; to repeal section 6 of Senate Bill No. 2016, as approved by the sixty-seventh legislative assembly, relating to the information technology unification initiative; to provide a transfer; to provide for a report; to provide an exemption; to provide for a statement of legislative intent; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the information technology department for the purpose of defraying the expenses of the information technology department, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$81,374,501	\$20,360,128	\$101,734,629
Operating expenses	89,957,364	31,130,748	121,088,112
Capital assets	4,253,117	(809,208)	3,443,909
Statewide longitudinal data system	4,387,145	99,133	4,486,278
Edutech	9,645,773	46,166	9,691,939
K-12 wide area network	5,167,970	(488,252)	4,679,718
Geographic information system	1,052,629	49,177	1,101,806
Health information technology office	4,879,146	9,846,725	14,725,871
Statewide interoperable radio network	12,330,000	1,863,796	14,193,796
Total all funds	\$213,047,645	\$62,098,413	\$275,146,058
Less estimated income	195,882,334	50,287,771	246,170,105
Total general fund	\$17,165,311	\$11,810,642	\$28,975,953
Full-time equivalent positions	402.00	77.00	479.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Cybersecurity	\$15,400,000	\$6,500,000
Statewide land parcel project	1,150,000	0
Statewide interoperable radio network	120,000,000	0

Health information technology office	0	6,000,000
Total all funds	\$136,550,000	\$12,500,000
Less estimated income	125,150,000	12,500,000
Total general fund	\$11,400,000	\$0

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The information technology department shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. ESTIMATED INCOME - TRANSFER - HEALTH INFORMATION TECHNOLOGY PLANNING LOAN FUND TO ELECTRONIC HEALTH INFORMATION EXCHANGE FUND - LEGISLATIVE INTENT - ONE-TIME FUNDING. Notwithstanding section 6-09-43, the estimated income line item in section 1 of this Act includes the sum of \$6,000,000, or so much of the sum as may be necessary, which the Bank of North Dakota shall transfer, as requested by the chief information officer, from the health information technology planning loan fund to the electronic health information exchange fund for the purpose of defraying the expenses of the health information technology office and the health information network during the biennium beginning July 1, 2021, and ending June 30, 2023. It is the intent of the sixty-seventh legislative assembly that funding be transferred only to the extent federal funding is not available to defray the expenses of the health information technology office and the health information network during the 2021-23 biennium. This funding is considered a one-time funding item.

SECTION 4. EXEMPTION - LINE ITEM TRANSFERS. Notwithstanding section 54-16-04, the director of the office of management and budget shall make transfers of funds between line items in section 1 of this Act for the information technology department as may be requested by the chief information officer as determined necessary for the development and implementation of information technology projects. The department shall notify the legislative council of any transfers made pursuant to this section.

SECTION 5. ESTIMATED INCOME - FEDERAL CORONAVIRUS RELIEF FUND. The estimated income line item in section 1 of this Act includes the sum of \$6,500,000, or so much of the sum as may be necessary, from the federal coronavirus relief fund for cybersecurity operating expenses.

²⁶ **SECTION 6. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code, as amended by Section 5 of Senate Bill No. 2007, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

54-59-05. Powers and duties of department. (Effective through July 31, 2023)

The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education and the veterans' home.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state,

²⁶ Section 54-59-05 was also amended by section 1 of House Bill No. 1417, chapter 444, and section 5 of Senate Bill No. 2007, chapter 35.

minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.

3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. With the exception of agreements entered related to the statewide interoperable radio network, an agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the legislative assembly or the budget section if the legislative assembly is not in session before executing a financing agreement. Any request considered by the budget section must comply with section 54-35-02.9. If the legislative assembly or the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. With the exception of financing for the statewide interoperable radio network, the department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.
5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request and review information, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive branch agency. The department shall present the information to the information technology committee on request of the committee.

8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and five hundred thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.
9. Shall study emerging technology and evaluate its impact on the state's system of information technology.
10. Shall develop guidelines for reports to be provided by each agency of the executive, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, on information technology in those entities.
11. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.
12. Shall perform all other duties necessary to carry out this chapter.
13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003.
14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
15. Notwithstanding subsection 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.
16. Shall advise and oversee cybersecurity strategy for all executive branch state agencies, including institutions under the control of the state board of higher education, counties, cities, school districts, or other political subdivisions. For purposes of this subsection, the department shall consult with the attorney general and the veterans' home on cybersecurity strategy.
17. Shall advise and consult with the legislative and judicial branches regarding cybersecurity strategy.

Powers and duties of department. (Effective after July 31, 2023)

The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education and the veterans' home.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state,

minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.

3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the legislative assembly or the budget section if the legislative assembly is not in session before executing a financing agreement. Any request considered by the budget section must comply with section 54-35-02.9. If the legislative assembly or the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.
5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request and review information, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive branch agency. The department shall present the information to the information technology committee on request of the committee.

8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and five hundred thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.
9. Shall study emerging technology and evaluate its impact on the state's system of information technology.
10. Shall develop guidelines for reports to be provided by each agency of the executive, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, on information technology in those entities.
11. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.
12. Shall perform all other duties necessary to carry out this chapter.
13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003.
14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
15. Notwithstanding subsection 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.
16. Shall advise and oversee cybersecurity strategy for all executive branch state agencies, including institutions under the control of the state board of higher education, counties, cities, school districts, or other political subdivisions. For purposes of this subsection, the department shall consult with the attorney general and the veterans' home on cybersecurity strategy.
17. Shall advise and consult with the legislative and judicial branches regarding cybersecurity strategy.

SECTION 7. AMENDMENT. Section 54-59-07 of the North Dakota Century Code is amended and reenacted as follows:

54-59-07. State information technology advisory committee.

The state information technology advisory committee consists of the chief information officer; the commissioner of higher education or the commissioner's designee; the attorney general or the attorney general's designee; the secretary of state or the secretary of state's designee; the tax commissioner or the commissioner's designee; the chief justice of the supreme court or the chief justice's designee; two members of the legislative assembly appointed by the legislative management, of

which one member must be the chairman of the information technology committee; a minimum of eight members representing state agencies, appointed by the governor; and two members with technology management expertise representing private industry, appointed by the governor. The appointees of the governor serve at the pleasure of the governor. The governor shall designate the chairman chief information officer and chairman of the information technology committee shall serve as co-chairmen of the state information technology advisory committee. Additional members may be asked to participate at the request of the chairman chairmen. The department shall provide staff services to the committee. The members of the committee representing private industry are entitled to be compensated for time spent in attendance at meetings of the committee and for other travel as approved by the chairman chairmen of the committee at the rate of sixty-two dollars and fifty cents per day and are entitled to reimbursement for actual and necessary expenses incurred in the same manner as other state officials. The compensation and expenses are to be paid from appropriations for the department. The committee shall advise the department regarding statewide information technology planning and budgeting, services of the information technology department, and statewide information technology initiatives and policy and shall review reports on major information technology projects as required by this chapter and policies, standards, and guidelines developed by the department. The chief information officer shall submit recommendations of the committee regarding information technology issues to the information technology committee for its consideration.

SECTION 8. REPEAL. Section 6 of Senate Bill No. 2016, as approved by the sixty-seventh legislative assembly, is repealed.

SECTION 9. EXEMPTION - STATEWIDE INTEROPERABLE RADIO NETWORK. The \$20,000,000 appropriated from the strategic investment and improvements fund for the statewide interoperable radio network in section 8 of chapter 293 of the 2019 Session Laws is not subject to section 54-44.1-11 and is available for the statewide interoperable radio network project during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 10. INFORMATION TECHNOLOGY UNIFICATION - LEGISLATIVE INTENT - LEGISLATIVE MANAGEMENT REPORT. The information technology department shall charge a state agency selected to participate in the 2021-23 biennium information technology unification initiative a rate for the labor of any full-time equivalent position transferred to the information technology department during the 2021-23 biennium, that may not exceed the salaries and wages and related operating expenses of the full-time equivalent position for services the respective state agency was performing prior to the 2021-23 biennium. It is the intent of the sixty-seventh legislative assembly that any full-time equivalent positions transferred to the information technology department for the 2021-23 biennium information technology unification initiative be transferred to the agency employing the positions during the 2019-21 biennium, unless the sixty-eighth legislative assembly is presented with sufficient evidence of efficiencies gained and cost-savings realized by the state as a result of the 2021-23 biennium information technology unification initiative. During the 2021-22 interim, the information technology department shall report annually to the legislative management regarding any efficiencies gained and cost-savings realized as a result of the 2021-23 biennium information technology unification initiative.

SECTION 11. LEGISLATIVE INTENT - PHONE EQUIPMENT. It is the intent of the sixty-seventh legislative assembly that the information technology department:

1. Supply at least one physical phone in each state agency;

2. Give state agencies the option of having a physical phone for each employee in the agency; and
3. Allow the head of each agency to determine the number of phones provided to the agency.

SECTION 12. LEGISLATIVE INTENT - LEGISLATIVE MANAGEMENT STUDY - INFORMATION TECHNOLOGY DIRECTION. It is the intent of the sixty-seventh legislative assembly that the information technology department provide direction to executive branch agencies regarding information technology strategic planning and operations during the biennium beginning July 1, 2021, and ending June 30, 2023. During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of the legislative branch and judicial branch receiving strategic planning and operational information technology direction from the information technology department beginning in the 2023-25 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 13. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT INFORMATION TECHNOLOGY BUDGETING AND APPROPRIATION PROCESS. During the 2021-22 interim, the legislative management shall consider studying the state government information technology budgeting and appropriations process. The study must include a review of the current process and the feasibility and desirability of providing a general fund appropriation to the information technology department rather than providing general fund appropriations to state agencies to pay the information technology department for information technology services. The study must include consideration of any cost or cost-savings that may result and any transparency benefits of the potential budgeting and appropriation changes. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 14. LEGISLATIVE MANAGEMENT STUDY - INFORMATION TECHNOLOGY UNIFICATION. During the 2021-22 interim, the legislative management shall consider studying the effectiveness, efficiency, cost, and any cost-savings of the 2019-21 biennium and 2021-23 biennium information technology unification initiatives and the feasibility and desirability of continuing these initiatives. The study must include a review of changes in fees, services, operations, processes, and systems. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 15. LEGISLATIVE MANAGEMENT STUDY - CYBERSECURITY. During the 2021-22 interim, the legislative management shall consider studying costs incurred by the information technology department to deliver core technology services and cybersecurity services to state agencies and political subdivisions. The study must consider the feasibility and desirability of political subdivisions paying their share of the cost of these services. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 16. LEGISLATIVE MANAGEMENT STUDY - IMPACT OF LARGE TECHNOLOGY COMPANIES. During the 2021-22 interim, the legislative management shall consider studying competitive fairness, economic development implications, and other economic and societal impacts of large technology companies

conducting business in North Dakota. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 17. LEGISLATIVE MANAGEMENT STUDY - VIRTUAL CURRENCY BUSINESS ACTIVITY. During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of regulating special purpose depository institutions and regulating other entities engaged in virtual currency business activities. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 18. EMERGENCY. House Bill No. 1417, as approved by the sixty-seventh legislative assembly, is declared to be an emergency measure.

Approved May 7, 2021

Filed May 10, 2021

CHAPTER 50

SENATE BILL NO. 2022

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the commission on legal counsel for indigents for the purpose of defraying the expenses of the commission on legal counsel for indigents, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Commission on legal counsel for indigents	<u>\$20,374,662</u>	<u>\$589,551</u>	<u>\$20,964,213</u>
Total all funds	\$20,374,662	\$589,551	\$20,964,213
Less estimated income	<u>1,990,035</u>	<u>4,815</u>	<u>1,994,850</u>
Total general fund	\$18,384,627	\$584,736	\$18,969,363
Full-time equivalent positions	40.00	0.00	40.00

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 51

SENATE BILL NO. 2023

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the North Dakota racing commission; to provide for a legislative management study; and to provide for a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from other income, to the North Dakota racing commission for the purpose of defraying the expenses of the North Dakota racing commission, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Racing commission	\$565,037	\$9,458	\$574,495
Total all funds	\$565,037	\$9,458	\$574,495
Less estimated income	165,965	636	166,601
Total general fund	\$399,072	\$8,822	\$407,894
Full-time equivalent positions	2.00	0.00	2.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Internships	\$0	\$20,000
Total general fund	\$0	\$20,000

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The racing commission shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - RACING COMMISSION FUNDING. During the 2021-22 interim, the legislative management shall consider studying funding sources for the budget of the racing commission. The study must include consideration of the feasibility and desirability of changing the racing commission to a special funds only budget and the effect on general fund revenues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 52

SENATE BILL NO. 2024

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the department of environmental quality; to amend and reenact section 23.1-16-10 of the North Dakota Century Code, relating to certificate of inspection; to provide a statement of legislative intent; and to provide for a legislative management report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of environmental quality for the purpose of defraying the expenses of the department of environmental quality, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$30,587,358	\$1,964,459	\$32,551,817
Operating expenses	9,962,180	809,718	10,771,898
Capital assets	1,263,429	983,743	2,247,172
Grants	<u>15,861,529</u>	<u>(801,411)</u>	<u>15,060,118</u>
Total all funds	\$57,674,496	\$2,956,509	\$60,631,005
Less estimated income	<u>45,193,574</u>	<u>1,776,356</u>	<u>46,969,930</u>
Total general fund	\$12,480,922	\$1,180,153	\$13,661,075
Full-time equivalent positions	165.50	0.50	166.00

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Air pollution program equipment	\$1,040,000	\$0
Laboratory information management system	0	<u>1,000,000</u>
Total all funds	\$1,040,000	\$1,000,000
Less estimated income	<u>1,040,000</u>	0
Total general fund	\$0	\$1,000,000

SECTION 3. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION FUND. The estimated income line item in section 1 of this Act includes the sum of \$250,000 from the environment and rangeland protection fund. This amount includes \$50,000 for a grant to the North Dakota stockmen's association environmental services program.

SECTION 4. ESTIMATED INCOME - PETROLEUM TANK RELEASE COMPENSATION FUND. The estimated income line item in section 1 of this Act includes the sum of up to \$773,983 from the petroleum tank release compensation fund for expenses related to the petroleum tank release program.

SECTION 5. AMENDMENT. Section 23.1-16-10 of the North Dakota Century Code is amended and reenacted as follows:

23.1-16-10. Certificate of inspection - Certificate to be posted.

The department shall issue a certificate of inspection for each boiler inspected upon receipt of an inspection report certifying that the boiler is in a safe condition to be operated. The department shall charge a fee of ~~twenty~~thirty-five dollars per year for each year that a certificate is valid, or part of a year thereof, for each certificate of inspection issued as the result of inspections authorized under sections 23.1-16-07 and 23.1-16-08. The fees are the liability of the owner or user and must be paid in accordance with rules adopted by the department. A certificate may not be issued for any boiler not in a safe condition to be operated or for a boiler for which the inspection and certificate fees have not been paid in full. A certificate is not valid for a period of more than thirty-six months for power boilers described in subsection 2 of section 23.1-16-07, and no more than twelve months for other power boilers, twelve months for steam traction engines, and thirty-six months for low-pressure boilers except that a two-month grace period may be extended for any certificate. Upon written request from a special inspector, the chief boiler inspector may issue a short-term certificate. Each certificate of inspection must be posted conspicuously under glass in the boiler room or adjacent to the boiler inspected.

SECTION 6. LEGISLATIVE INTENT - FUNDING FOR WASTEWATER TESTING AND LABORATORY INFORMATION MANAGEMENT SYSTEM - EMERGENCY COMMISSION APPROVAL. It is the intent of the sixty-seventh legislative assembly that the department of environmental quality use federal COVID-19 relief funds or any funds for defraying the expenses of wastewater testing. It is further the intent of the sixty-seventh legislative assembly that the department of environmental quality use federal COVID-19 relief funds or other available funds for defraying the expenses of the laboratory information management system before accessing funding from the general fund. The department of environmental quality may seek emergency commission approval to adjust the source of funds if a non-general fund source is identified.

SECTION 7. LOW-CARBON FUTURE INITIATIVE - LEGISLATIVE MANAGEMENT REPORT. During the 2021-22 interim, the department of environmental quality shall gather information from private industry, private organizations, and government which relates to carbon reduction initiatives, rules, or policies that will affect North Dakota residents and industries. In gathering information, the department of environmental quality shall consider, review, and report, as appropriate, technologies, operational practices, and conservation opportunities directed at reducing the state's carbon intensity. The department of environmental quality shall present the report to the legislative management by September 1, 2022.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 53

SENATE BILL NO. 2025

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the department of veterans' affairs; to provide for a report; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of veterans' affairs for the purpose of defraying the expenses of the department of veterans' affairs, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Veterans' affairs	\$1,200,129	\$301,821	\$1,501,950
State approving agency	285,658	6,366	292,024
Grants - transportation program	800,000	420,000	1,220,000
Transport vans	18,800	0	18,800
Service dogs	50,000	0	50,000
Veterans' home cemetery	0	291,500	291,500
Total all funds	\$2,354,587	\$1,019,687	\$3,374,274
Less estimated income	1,085,657	717,993	1,803,650
Total general fund	\$1,268,930	\$301,694	\$1,570,624
Full-time equivalent positions	7.00	1.00	8.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Grant database enhancements	\$7,500	\$0
Temporary loan and grant position	140,000	0
Veterans' home cemetery	291,500	291,500
Total all funds	\$439,000	\$291,500
Less estimated income	291,500	291,500
Total general fund	\$147,500	\$0

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The department of veterans' affairs shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. EXEMPTION - POSTTRAUMATIC STRESS DISORDER SERVICE DOG PROGRAM. The \$50,000 appropriated from the general fund for the

posttraumatic stress disorder service dog program in section 1 of chapter 25 of the 2019 Session Laws is not subject to section 54-44.1-11 and any unspent funds from this program are available for the program during the biennium beginning July 1, 2021, and ending June 30, 2023.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 54

SENATE BILL NO. 2146

(Senators Burckhard, Heckaman, K. Roers)
(Representatives Bosch, Karls, Schreiber-Beck)

AN ACT to provide an appropriation to the office of management and budget for accessibility improvements on the state capitol grounds; to provide a statement of legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the capitol building fund in the state treasury, not otherwise appropriated, the sum of \$750,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of accessibility improvements on the state capitol grounds for the period beginning with the effective date of this Act and ending June 30, 2023. Of the total, \$460,950 is for costs relating to improvements for compliance with the 2010 standards for accessible design adopted by the United States department of justice pursuant to the federal Americans with Disabilities Act of 1990, and the remaining \$289,050 is for costs relating to other accessibility improvements. The office of management and budget may spend the funds appropriated in this section only for the purpose of remodeling and improvements relating to accessibility on the state capitol grounds, including entrances, restrooms, legislative committee rooms and chambers, the cafeteria, the supreme court, and other public areas. The office of management and budget shall consult with the legislative management when considering changes to legislative branch areas and with the chief justice when considering changes to judicial branch areas.

SECTION 2. LEGISLATIVE INTENT. It is the intent of the sixty-seventh legislative assembly that the office of management and budget complete all accessibility improvements on the state capitol grounds as provided for in section 1 of this Act as soon as possible.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 55

SENATE BILL NO. 2245

(Senators Krebsbach, Burckhard, Hogue, Wanzek)
(Representatives Fisher, Louser)

AN ACT to provide an appropriation to the agriculture commissioner for an intermodal facility grant program; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND - INTERMODAL FACILITY CONSTRUCTION GRANT PROGRAM - ONE-TIME FUNDING. There is appropriated from federal funds derived from the federal coronavirus capital projects fund, not otherwise appropriated, the sum of \$2,000,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of an intermodal facility grant program for capital construction projects that will expand rail capacity to support economic and workforce development and growth and enhance the value of agriculture and commercial products exported through an intermodal facility in North Dakota for the period beginning with the effective date of this Act and ending June 30, 2023. This funding is considered a one-time funding item.

1. The agriculture commissioner shall establish guidelines for awarding grants under the program.
2. Grants may be awarded only to an organization dedicated to the expansion of rail capacity at an existing intermodal facility in the state connected to and served by a class I railroad. Grant funds may be used only to pay for capital costs associated with engineering, labor, equipment, and materials related to rail track expansion.
3. The funding provided under this section may be spent only to the extent the director of the office of management and budget certifies to the legislative management that the use of this funding complies with federal guidelines for the federal coronavirus capital projects fund.

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

Approved April 30, 2021

Filed May 3, 2021

GENERAL PROVISIONS

CHAPTER 56

SENATE BILL NO. 2035

(Legislative Management)
(Judiciary Committee)

AN ACT to amend and reenact section 4.1-01-19, paragraph 6 of subdivision b of subsection 2 of section 10-19.1-115, subsection 1 of section 15.1-07-33, subsection 6 of section 23-02.1-27, sections 23-07-07.6, 43-17-06, 43-17-14, 43-17-17, 43-17-24, 43-17-25, and 43-17-30, subsection 1 of section 54-07-01.2, and sections 57-51-16 and 61-04-06.2 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references; and to repeal section 61-03-05.1 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-01-19 of the North Dakota Century Code is amended and reenacted as follows:

4.1-01-19. Environmental impact - Cost of participation.

1. Any expenses incurred by the commissioner or by the federal environmental law impact review committee in meeting the requirements of section 4.1-01-18 must be paid by the commissioner from the federal environmental law impact review fund.
2. If the attorney general elects to participate in an administrative or judicial process pertaining to federal environmental legislation or regulations, which detrimentally impact or potentially detrimentally impact the state's agricultural, energy, or oil production sectors, any expenses incurred by the attorney general in the participation must be paid by the commissioner from the federal environmental law impact review fund.
3. For purposes of this section, "expenses" include administrative costs, consulting fees, research costs, expert witness fees, attorney fees, and travel costs.

SECTION 2. AMENDMENT. Paragraph 6 of subdivision b of subsection 2 of section 10-19.1-115 of the North Dakota Century Code is amended and reenacted as follows:

- (6) The period of duration as provided in the articles has expired and has not been extended as provided in section ~~40-49.1-124~~10-19.1-127;

SECTION 3. AMENDMENT. Subsection 1 of section 15.1-07-33 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding any other technology requirements imposed by the superintendent of public instruction; or the information technology department, or the North Dakota educational technology council, each school district shall implement the state student information system administered by the information technology department and use it as its principal student information system. Each school district shall use a state course code, assigned by the department of public instruction, to identify all local classes in the state student information system.

²⁷ **SECTION 4. AMENDMENT.** Subsection 6 of section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

6. The state department of health may grant limited access to birth and death information to divisions and programs of the state department of health, the department of transportation, the protection and advocacy project, and the department of information technology department, and to the department of human services necessary for the purpose of completing their respective official duties.

²⁸ **SECTION 5. AMENDMENT.** Section 23-07-07.6 of the North Dakota Century Code is amended and reenacted as follows:

23-07-07.6. Report of testing result of imprisoned individuals.

1. Notwithstanding any other provision of law, the state department of health or any other agency shall release the results of any testing for any reportable disease performed on an individual convicted of a crime who is imprisoned if the request is made by any individual and the individual provides written proof from the administrator of the facility with control over the individual imprisoned which states that the individual has had a significant exposure as defined in section 23-07.3-04.
2. For purposes of this section, "significant exposure" means:
 - a. Contact of broken skin or mucous membrane with a patient's or other individual's blood or bodily fluids other than tears or perspiration;
 - b. The occurrence of a needle stick or scalpel or instrument wound in the process of caring for a patient; or
 - c. Exposure that occurs by any other method of transmission defined by the state department of health as a significant exposure.

SECTION 6. AMENDMENT. Section 43-17-06 of the North Dakota Century Code is amended and reenacted as follows:

43-17-06. Officers of the board.

The board shall elect a president and vice president from its own number and a secretary-treasurer an executive director. The secretary-treasurer executive director

²⁷ Section 23-02.1-27 was also amended by section 157 of House Bill No. 1247, chapter 352, section 158 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2123, chapter 196.

²⁸ Section 23-07-07.6 was also amended by section 181 of House Bill No. 1247, chapter 352.

need not be a member of the board. The ~~secretary-treasurer~~executive director must be the general administrative and prosecuting officer of such board.

SECTION 7. AMENDMENT. Section 43-17-14 of the North Dakota Century Code is amended and reenacted as follows:

43-17-14. Compensation - Expenses of board and the members thereof.

A member of the board shall receive for each day during which the member actually is engaged in the performance of the duties of the member's office such per diem as must be fixed by the board and such mileage as is provided in section 54-06-09. The ~~secretary~~executive director of the board shall receive such salary or other compensation, and such allowance for clerical and other expenses of the board as the board shall determine.

SECTION 8. AMENDMENT. Section 43-17-17 of the North Dakota Century Code is amended and reenacted as follows:

43-17-17. Application for license.

In order to obtain a license to practice medicine in this state, an application must be made to the board through the ~~secretary-treasurer~~executive director. The application must be upon the form adopted by the board and must be made in the manner prescribed by it.

SECTION 9. AMENDMENT. Section 43-17-24 of the North Dakota Century Code is amended and reenacted as follows:

43-17-24. Physicians register with the board.

On or before the due date established by the board, every person legally licensed to practice medicine within this state shall file with the ~~secretary-treasurer~~executive director of the board a registration statement upon blanks prepared and provided by the board and shall pay to the ~~secretary-treasurer~~executive director the registration fee. No person may engage in the practice of medicine in this state without a current registration certificate issued by the board.

SECTION 10. AMENDMENT. Section 43-17-25 of the North Dakota Century Code is amended and reenacted as follows:

43-17-25. Registration fee.

The registration fee for any person licensed to practice medicine in the state must be fixed by regulation of the board. All fees must be paid to and held by the ~~secretary-treasurer~~executive director of the board and are subject to disbursement by the board in performing its duties.

SECTION 11. AMENDMENT. Section 43-17-30 of the North Dakota Century Code is amended and reenacted as follows:

43-17-30. Payment of delinquent registration fee - Reinstatement.

Any practitioner of medicine who has been licensed to practice in this state by the board, and who has been suspended from practice and whose license has been revoked because of failure to pay the registration fee, may, at the discretion of the board, be reinstated, and have the suspension revoked, and the license renewed by paying to the ~~secretary-treasurer~~executive director of the board the amount of the registration fee which is then in default.

SECTION 12. AMENDMENT. Subsection 1 of section 54-07-01.2 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding sections 2-05-01, 4.1-05-02, 4.1-26-02, 6-01-03, 6-09-02.1, 12-55.1-02, 12-59-01, 15-39.1-05.1, 15.1-01-01, 15.1-13-02, 20.1-02-23, 23-01-02, 23.1-01-02, 36-01-01, 37-18.1-01, 50-06-05.6, 54-34.3-10, 54-54-02, 55-01-01, and 61-02-04, all members of the following boards and commissions must, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:
 - a. The aeronautics commission.
 - b. The milk marketing board.
 - c. The dairy promotion commission.
 - d. The state banking board.
 - e. The state credit union board.
 - f. The advisory board of directors to the Bank of North Dakota.
 - g. The pardon advisory board.
 - h. The state parole board.
 - i. The state board of public school education.
 - j. The education standards and practices board.
 - k. The board of trustees of the teachers' fund for retirement.
 - l. The state game and fish advisory board.
 - m. The health council.
 - n. The environmental review advisory council.
 - o. The board of animal health.
 - p. The administrative committee on veterans' affairs.
 - q. The committee on aging.
 - r. The commission on the status of women.
 - s. The North Dakota council on the arts.
 - t. The state historical board.
 - u. The state water commission.
 - v. ~~The state water pollution control board.~~

SECTION 13. AMENDMENT. Section 57-51-16 of the North Dakota Century Code is amended and reenacted as follows:

57-51-16. Distribution of proceeds in certain cases.

If gross production tax is paid to the commissioner and the reports accompanying such tax are insufficient to enable the commissioner to determine the source, by county, from which it is produced, the state treasurer shall allocate those revenues under this section. In the first distribution to counties under section 57-51-15 which occurs after June gross production tax revenues are received by the state treasurer for allocation, the revenue under this section must be allocated among counties in the same proportions that revenue was allocated among counties that received distributions under section 57-51-15 during the year ended June thirtieth. Revenue received by the county under this section must be allocated within the county as provided in ~~subsection 3 of~~ section 57-51-15.

²⁹ **SECTION 14. AMENDMENT.** Section 61-04-06.2 of the North Dakota Century Code is amended and reenacted as follows:

61-04-06.2. Terms of permit - Disposition of fees.

The state engineer may issue a conditional water permit for less than the amount of water requested. Except for water permits for incorporated municipalities or rural water systems, the state engineer may not issue a permit for more water than can be beneficially used for the purposes stated in the application. Water permits for incorporated municipalities or rural water systems may contain water in excess of present needs based upon what may reasonably be necessary for the future water requirements of the municipality or the rural water system. The state engineer may require modification of the plans and specifications for the appropriation. The state engineer may issue a permit subject to fees for water use and conditions the state engineer considers necessary to protect the rights of others and the public interest. Conditions must be related to matters within the state engineer's jurisdiction. Fees collected under this section must be deposited in the resources trust fund of the state treasury. All conditions attached to any permit issued before July 1, 1975, are binding upon the permit holder.

³⁰ **SECTION 15. REPEAL.** Section 61-03-05.1 of the North Dakota Century Code is repealed.

Approved March 17, 2021

Filed March 18, 2021

²⁹ Section 61-04-06.2 was also amended by section 84 of House Bill No. 1353, chapter 488.

³⁰ Section 61-03-05.1 was also repealed by section 225 of House Bill No. 1353, chapter 488.

CHAPTER 57

SENATE BILL NO. 2232

(Senators Mathern, Holmberg)
(Representatives Buffalo, M. Ruby, Schneider)

AN ACT to create and enact a new section to chapter 1-03 of the North Dakota Century Code, relating to the annual observance of Juneteenth; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 1-03 of the North Dakota Century Code is created and enacted as follows:

Juneteenth.

To commemorate the ending of slavery in the United States, the nineteenth of June of each year is designated and established as Juneteenth for the state of North Dakota.

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

Approved April 12, 2021

Filed April 13, 2021

AGRICULTURE

CHAPTER 58

HOUSE BILL NO. 1046

(Agriculture Committee)
(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact subsection 1 of section 4.1-01-11 of the North Dakota Century Code, relating to the advisory committee on sustainable agriculture.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 4.1-01-11 of the North Dakota Century Code is amended and reenacted as follows:

1. The commissioner ~~shall~~may appoint an advisory committee on sustainable agriculture.
 - a. The committee must include:
 - (1) The chairman of the house agriculture committee or the chairman's designee;
 - (2) The chairman of the senate agriculture committee or the chairman's designee;
 - (3) The commissioner of the department of commerce or the commissioner's designee;
 - (4) The director of the North Dakota state university agricultural experiment station;
 - (5) An agricultural producer who utilizes innovative research-based technologies in farming operations;
 - (6) A representative of an international agricultural corporation; and
 - (7) An individual specializing in the domestic and international marketing of agricultural products.
 - b. If both houses of the legislative assembly are controlled by the same party, the committee also must include one member of the legislative assembly from the minority party, appointed by the chairman of the legislative management.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 59

SENATE BILL NO. 2053

(Agriculture Committee)

(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact section 4.1-01.1-06 of the North Dakota Century Code, relating to the required uses of the agricultural products utilization fund; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-01.1-06 of the North Dakota Century Code is amended and reenacted as follows:

4.1-01.1-06. Agricultural products utilization fund - Purposes.

The agricultural products utilization fund in the state treasury must be used to fund programs for agricultural research, equipment, development, processing, technology, and marketing. The fund must be used to defray the expenses of the North Dakota agricultural products utilization commission. Interest earned on moneys in the fund must be credited to the fund.

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

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 60

HOUSE BILL NO. 1475

(Representatives Satrom, Hagert, Kempenich, Kiefert, Mitskog, Ostlie)
(Senators Conley, Wanzek)

AN ACT to create and enact three new sections to chapter 4.1-01.1 of the North Dakota Century Code, relating to an agriculture diversification and development fund, agriculture diversification and development committee, and agriculture diversification and development fund grants program; to provide an appropriation; to provide a continuing appropriation; and to provide for a transfer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 4.1-01.1 of the North Dakota Century Code is created and enacted as follows:

Agriculture diversification and development fund - Continuing appropriation.

1. There is created in the state treasury the agriculture diversification and development loan fund. The fund consists of all moneys transferred to the fund by the legislative assembly, interest upon moneys in the fund, and payments of interest and principal on loans made from the fund. Moneys in the fund are appropriated to the Bank of North Dakota on a continuing basis for loan disbursements, grants, and administrative costs pursuant to this section. No more than twenty-five percent of the fund may be utilized for grants in a biennium.
2. Loans, interest rate buydowns, or grants may be issued from the fund to support new or expanding value-added agriculture businesses that demonstrate financial feasibility, enhance profitability for farmers and ranchers, create jobs, and grow the state's economy. Value-added agriculture businesses include food production or processing facilities; feed or pet food processing facilities; commodity processing facilities; agriculture product manufacturers; and animal agriculture production facilities, including swine, poultry, dairy, and feed lot production facilities.
3. The Bank of North Dakota shall develop policies in consultation with the agriculture diversification and development committee. The Bank shall review loan applications. To be eligible for a loan under this section, an entity shall agree to provide the Bank with information as requested. The Bank may develop policies for loan participation with local financial institutions. The Bank shall deposit in the fund all principal and interest paid on the outstanding loans. The Bank may use a portion of the interest paid as a servicing fee to pay for administrative costs, which may not exceed one-half of one percent of the amount of the outstanding loans. The Bank shall contract with a certified public accounting firm to audit the fund if the fund has any loans. The cost of the audit must be paid from the fund.

SECTION 2. A new section to chapter 4.1-01.1 of the North Dakota Century Code is created and enacted as follows:

Agriculture diversification and development committee.

1. The agriculture diversification and development committee consists of eleven members, five of whom must be appointed by the commissioner for terms of two years each, arranged so that two terms expire in odd-numbered years and three terms expire in even-numbered years.
 - a. Four of the members appointed by the commissioner must be actively engaged in farming in this state and the fifth member appointed by the commissioner must be actively engaged in agribusiness in this state.
 - b. The governor shall appoint one member for a term of two years which expires in odd-numbered years.
 - c. The member appointed by the governor must be actively engaged in business in this state.
 - d. The remaining committee members must consist of:
 - (1) One representative from the independent community banks of North Dakota;
 - (2) One representative from the North Dakota bankers association;
 - (3) The commissioner of commerce or the commissioner's designee;
 - (4) The president of North Dakota state university or the president's designee; and
 - (5) The agriculture commissioner or the commissioner's designee.
 - e. The committee shall elect one of its members as chairman.
2. The agriculture diversification and development committee shall develop guidelines for the grants, including eligibility criteria and reporting requirements. The guidelines must include priority for businesses with a majority of the ownership comprised of North Dakota residents. The agriculture diversification and development committee shall review grant applications and make funding determinations.

SECTION 3. A new section to chapter 4.1-01.1 of the North Dakota Century Code is created and enacted as follows:

Agriculture diversification and development fund grants program - Access to records.

1. To the extent the agriculture diversification and development committee determines the materials or data provided under section 1 of this Act consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying for grants with the committee, materials and data submitted to, made by, or received by the committee, are not public records, subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota, and are subject to section 44-04-18.4.

2. A person may file a request with the committee to have material designated as confidential under subsection 1. The request must contain any information required by the committee and must include at least the following:
 - a. A general description of the nature of the information sought to be protected;
 - b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons;
 - c. An explanation of why the information is not readily ascertainable by proper means of other persons;
 - d. A general description of any person that may obtain economic value from disclosure or use of the information, and how the person may obtain this value; and
 - e. A description of the efforts used to maintain the secrecy of the information.
3. A request under subsection 2 is confidential. The committee shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the committee determines the information is not relevant or not a trade secret, the committee shall notify the requester and the requester may ask for the return of the information and the request within ten days of the notice. If no return is sought, the information and request are public records.
4. The names or identities of independent technical reviewers on a project or program are confidential, may not be disclosed by the committee, and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota.

SECTION 4. APPROPRIATION - TRANSFER TO AGRICULTURE DIVERSIFICATION AND DEVELOPMENT FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$10,000,000, or so much of the sum as may be necessary, to the agriculture diversification and development fund for the biennium beginning July 1, 2021, and ending June 30, 2023.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 61

HOUSE BILL NO. 1145

(Representatives D. Johnson, Beltz, Hagert, Howe)
(Senators Lemm, Luick, Piepkorn, Wanzek, Weber)

AN ACT to amend and reenact sections 4.1-11-02 and 4.1-11-03, and subsection 2 of section 4.1-11-04 of the North Dakota Century Code, relating to soybean districts and terms of office for members elected to the North Dakota soybean council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-11-02 of the North Dakota Century Code is amended and reenacted as follows:

4.1-11-02. Soybean districts - Establishment - Review of district lines.

1. The state consists of the following ~~eight soybean districts~~:
 - a. ~~Richland County;~~
 - b. ~~Dickey, LaMoure, Ransom, and Sargent Counties;~~
 - c. ~~Cass County;~~
 - d. ~~Barnes, Griggs, and Steele Counties;~~
 - e. ~~Traill County;~~
 - f. ~~Grand Forks County;~~
 - g. ~~Pembina, Nelson, and Walsh Counties; and~~
 - h. ~~All other North Dakota counties in which soybeans are grown.~~
2. ~~Beginning April 1, 2012, the state consists of the following twelve soybean districts:~~
 - a. District one: Richland County;
 - b. District two: Ransom and Sargent Counties;
 - c. District three: Dickey and LaMoure Counties;
 - d. District four: Cass County;
 - e. District five: Barnes County;
 - f. District six: Stutsman County;
 - g. District seven: Grand Forks and Traill Counties;

- h. District eight: Griggs, Nelson, and Steele Counties;
 - i. District nine: Eddy, Foster, and Wells Counties;
 - j. District ten: Cavalier, Pembina, and Walsh Counties;
 - k. District eleven: Benson, Bottineau, Burke, Divide, McHenry, Mountrail, Pierce, Ramsey, Renville, Rolette, Towner, Ward, and Williams Counties; and
 - l. District twelve: Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Kidder, Logan, McIntosh, McKenzie, McLean, Mercer, Morton, Oliver, Sheridan, Sioux, Slope, and Stark Counties.
2. The council shall review the district boundaries at least once every seven years to ensure accurate producer representation. If, upon review, the council determines the districts do not accurately represent producers in the state based upon acreage, the council may redistrict upon a two-thirds vote of the members elected to the council.

SECTION 2. AMENDMENT. Section 4.1-11-03 of the North Dakota Century Code is amended and reenacted as follows:

4.1-11-03. North Dakota soybean council - Membership - Terms.

1. The council consists of one producer elected from each of the districts established in section 4.1-11-02.
2. Each member of the council must be a resident of ~~and a producer in the district that the member represents~~ and a producer.
3.
 - a. The term of each elected member is three years and begins on ~~April~~ July first following the member's election. Except as otherwise provided in this subsection, the terms must be staggered so that no more than ~~three~~ four expire each year.
 - b. ~~Notwithstanding subdivision a, the terms of all council members expire on March 31, 2012. Between January 1, 2012, December first and March 31, 2012, thirty-first of the subsequent year, each district established by subsection 2 of section 4.1-11-02 which has a vacancy shall elect an individual to serve as a council member with a term beginning April 1, 2012 July first. The initial terms of individuals elected to begin serving as all council members on April 1, 2012, are:~~
 - (1) ~~One year for council members representing districts one, five, seven, and nine;~~
 - (2) ~~Two years for council members representing districts two, eight, ten, and twelve; and~~
 - (3) ~~Three years for council members representing districts three, four, six, and eleven expire on June thirtieth of the third year of each member's term.~~

4. If at any time during a member's term the member ceases to possess any of the qualifications provided for in this section, the member's office is deemed vacant and the council, by majority vote, shall appoint another qualified producer to serve for the remainder of the term.
5. An elected member of the council may not serve more than two consecutive terms.
6. If an individual is appointed to complete a vacancy, that service is not counted as a term for purposes of this section unless the duration of that service exceeds one year.

SECTION 3. AMENDMENT. Subsection 2 of section 4.1-11-04 of the North Dakota Century Code is amended and reenacted as follows:

2. Each year during the month of ~~January~~December, the council shall publish notice of the election in the official newspaper of the county for one week. The notice must contain a description of the election process, a request for the nomination of potential candidates for the position, and a deadline for the receipt of all nominations.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 62

HOUSE BILL NO. 1045

(Agriculture Committee)
(At the request of the Agriculture Commissioner)

AN ACT to create and enact three new sections to chapter 4.1-18.1 of the North Dakota Century Code, relating to prohibited acts and the commissioner's authority to charge fees for industrial hemp testing and to set the tetrahydrocannabinol concentration level; to amend and reenact section 4.1-18.1-01 and subsection 1 of section 4.1-18.1-05 of the North Dakota Century Code, relating to industrial hemp; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-18.1-01 of the North Dakota Century Code is amended and reenacted as follows:

4.1-18.1-01. Hemp (~~cannabis sativa L.~~) Definitions.

1. "Hemp" means the plant *cannabis sativa L.* and any part of the plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a ~~delta-9~~total tetrahydrocannabinol concentration ~~of not more than three-tenths of one percent on a dry-weight basis in an amount determined by the commissioner.~~The term does not include any commodity or product using hemp which exceeds the allowable amount of total tetrahydrocannabinol determined by the commissioner.
2. "Tetrahydrocannabinol" means delta-9 tetrahydrocannabinol and any structural, optical, or geometric isomers of tetrahydrocannabinol, including:
 - a. Delta-7 tetrahydrocannabinol;
 - b. Delta-8 tetrahydrocannabinol; and
 - c. Delta-10 tetrahydrocannabinol.
3. "Total tetrahydrocannabinol" means the sum of the percentage, by weight, of tetrahydrocannabinolic acid multiplied by eight hundred seventy-seven thousandths plus the percentage of weight of tetrahydrocannabinol.

SECTION 2. A new section to chapter 4.1-18.1 of the North Dakota Century Code is created and enacted as follows:

Commissioner - Authority - Tetrahydrocannabinol concentration.

The commissioner shall determine the total tetrahydrocannabinol concentration under this chapter up to an amount not to exceed the federal Agriculture Improvement Act of 2018 [Pub. L. 115-334; 132 Stat. 4490] and federal domestic hemp production program regulations under title 7, Code of Federal Regulations, part 990.

SECTION 3. A new section to chapter 4.1-18.1 of the North Dakota Century Code is created and enacted as follows:

Hemp testing - Fee - Exemption.

1. The commissioner may charge a fee of up to one hundred twenty-five dollars to inspect, sample, and test hemp under this chapter.
2. The commissioner shall deposit fees collected under this section in the commissioner's operating fund.
3. The provisions of chapter 54-44.4 do not apply to hemp testing under this section.

SECTION 4. A new section to chapter 4.1-18.1 of the North Dakota Century Code is created and enacted as follows:

Prohibited acts.

A licensee may not:

1. Engage in the isomerization of cannabinoids to create isomers of tetrahydrocannabinol, including delta-8, delta-9, and delta-10 tetrahydrocannabinol; and
2. Sell hemp or hemp products that were created using the isomerization of cannabinoids to create isomers of tetrahydrocannabinol, including delta-8, delta-9, and delta-10 tetrahydrocannabinol.

SECTION 5. AMENDMENT. Subsection 1 of section 4.1-18.1-05 of the North Dakota Century Code is amended and reenacted as follows:

1. A producer found in violation of this chapter for negligently failing to provide the legal description of the land where the producer is growing hemp, failing to obtain a license, or by producing hemp with a ~~delta-9 total tetrahydrocannabinol concentration of more than three-tenths of one percent on a dry weight basis~~total tetrahydrocannabinol concentration greater than the amount determined by the commissioner is subject to:
 - a. Meeting a deadline set by the commissioner to come into compliance with this chapter; and
 - b. Additional reporting requirements set by the commissioner for a period of no less than two years.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 63

SENATE BILL NO. 2049

(Agriculture Committee)
(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact subsection 19 of section 4.1-25-01 and sections 4.1-25-31, 4.1-25-32, and 4.1-25-33 of the North Dakota Century Code, relating to the definition of pasteurized milk ordinance and the pasteurized milk ordinance revision.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 19 of section 4.1-25-01 of the North Dakota Century Code is amended and reenacted as follows:

19. "Pasteurized milk ordinance" means the ~~2017~~2019 revision of the Grade "A" Pasteurized Ordinance issued by the United States food and drug administration and by the United States department of agriculture's public health service.

SECTION 2. AMENDMENT. Section 4.1-25-31 of the North Dakota Century Code is amended and reenacted as follows:

4.1-25-31. State milk sanitation rating and sampling surveillance officer - Duties - Guidelines.

The state milk sanitation rating and sampling surveillance officer is responsible for the rating and certification of milk and dairy products. The rating and certification of milk and dairy products must be in accordance with the procedures outlined in the public health service food and drug administration publication entitled "Methods of Making Sanitation Ratings of Milk Shippers - ~~2017~~2019 Revision, Edition" and the sampling of milk and dairy products must be in accordance with the guidelines in the Standard Methods.

SECTION 3. AMENDMENT. Section 4.1-25-32 of the North Dakota Century Code is amended and reenacted as follows:

4.1-25-32. Milk laboratory evaluations officer - Duties - Guidelines.

The milk laboratory evaluations officer is responsible for the certification and evaluation of milk and dairy products laboratories within the state. Evaluations and certification of milk laboratories must be made in accordance with the Standard Methods and the procedures outlined in the public health service food and drug administration publication entitled "Evaluation of Milk Laboratories - ~~2017~~2019 Edition".

SECTION 4. AMENDMENT. Section 4.1-25-33 of the North Dakota Century Code is amended and reenacted as follows:

4.1-25-33. Grade A pasteurized milk ordinance.

Dairy producers, processors, and manufacturers shall comply with the pasteurized milk ordinance and follow the standards set by the "Procedures Governing the Cooperative State-Public Health Service Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 20172019 Revision".

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 64

SENATE BILL NO. 2054

(Agriculture Committee)

(At the request of the Agriculture Commissioner)

A Bill for and Act to amend and reenact section 4.1-27-19 of the North Dakota Century Code, relating to refusal or revocation of a license to operate a livestock auction market; and to repeal chapter 4.1-88 of the North Dakota Century Code, relating to wool dealers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-27-19 of the North Dakota Century Code is amended and reenacted as follows:

4.1-27-19. Use of fees - Grounds for refusal or revocation of license - Procedure on default of licensee.

All fees collected by the commissioner under this chapter must be credited to the general fund of the state treasury. A license to operate a livestock auction market may be refused or revoked for any of the reasons specified in sections 4.1-83-10; or 4.1-83-19, ~~4.1-88-09, or 4.1-88-18~~. When the holder of a license issued under this chapter defaults in any of the conditions of any bond filed with the commissioner by the licensee, the commissioner will become trustee of the bond and sections 4.1-83-21 through 4.1-83-28 ~~and 4.1-88-20 through 4.1-88-27~~ govern the procedure to be followed.

SECTION 2. REPEAL. Chapter 4.1-88 of the North Dakota Century Code is repealed.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 65

SENATE BILL NO. 2050

(Agriculture Committee)

(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact section 4.1-31-01.1 of the North Dakota Century Code, relating to the federal meat inspection revision.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-31-01.1 of the North Dakota Century Code is amended and reenacted as follows:

4.1-31-01.1. Federal meat inspection regulations.

All federal meat and poultry inspection regulations effective as of ~~May 31, 2018~~October 1, 2019, as provided under title 9, Code of Federal Regulations, parts 301-320, 325, 329, 381, 391, 416-418, 424, 430, 441, 442, and 500, but excluding parts 307.5 and 381.38, are incorporated by reference and made a part of this title.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 66

HOUSE BILL NO. 1338

(Representative Trottier)

AN ACT to create and enact a new subsection to section 4.1-33-16 and a new section to chapter 4.1-33 of the North Dakota Century Code, relating to the waiver of certification requirements during a declared state of emergency and an exemption to certification requirements for antimicrobial pesticides; to amend and reenact section 4.1-33-01 of the North Dakota Century Code, relating to the definition of antimicrobial pesticide; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-33-01 of the North Dakota Century Code is amended and reenacted as follows:

4.1-33-01. Definitions.

As used in this chapter:

1. "Animal" means all vertebrate and invertebrate species, including humans and other mammals, birds, fish, and shellfish.
2. "Antimicrobial pesticide" means a substance or mixture of substances intended for preventing, destroying, repelling, suppressing, or mitigating the growth of micro-organisms, including bacteria, viruses, and fungi on inanimate objects and surfaces.
3. "Applicator" means any person who applies a pesticide to land.
- ~~3-4.~~ "Certified applicator" means any individual who is certified under this chapter to purchase or use a restricted use pesticide.
- ~~4-5.~~ "Commercial applicator" means a person who, by contract or for hire, engages in the business of applying pesticides for compensation.
- ~~5-6.~~ "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.
- ~~6-7.~~ "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissue.
- ~~7-8.~~ "Device" means any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than human and other than bacteria, virus, or other micro-organism on or in living humans or other living animals, but not including equipment used for the application of pesticides when sold separately from pesticide.
- ~~8-9.~~ "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver, or supply pesticides in this state.

- 9-10. "Environment" includes water, air, land, and all plants and humans and other animals living therein, and the interrelationships that exist among them.
- 40-11. "Equipment" means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, inhabiting, or stored on or in that land. The term does not include any pressurized hand-held household apparatus used to apply any pesticide, or any equipment or contrivance of which the individual who is applying the pesticide is the source of power or energy to make the pesticide application.
- 44-12. "Fungus" means any non-chlorophyll-bearing thallophytes, that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts as, for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living humans or other living animals, and except those on or in processed food, beverages, or pharmaceuticals.
- 42-13. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class of insecta, comprising six-legged, usually winged forms, and to other allied classes of arthropods whose members are wingless and usually have more than six legs.
- 43-14. "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
- 44-15. "Labeling" means the label and all other written, printed, or graphic matter:
- Accompanying the pesticide or device; or
 - To which reference is made on the label or in literature accompanying or referring to the pesticide, except when accurate nonmisleading references are made to current official publications of the board, the United States environmental protection agency, the United States departments of agriculture and interior, the United States department of health and human services, state agricultural colleges, and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.
- 45-16. "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery, appurtenant to or situated on land, fixed or mobile, including any used for transportation.
- 46-17. "Nematode" means invertebrate animals of the phylum nemathelminthes, and class nematoda, i.e., unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts, may also be called nemas or eelworms.
- 47-18. "Pest" means any insect, rodent, nematode, fungus, or weed; or any other form of terrestrial or aquatic plant or animal life, viruses, bacteria, or other micro-organism, except viruses, bacteria, or other micro-organisms on or in living humans or other living animals.
- 48-19. "Pesticide" means:

- a. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and
- b. Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

49.20. "Pesticide dealer" means any person, other than a pesticide wholesaler, distributing pesticides.

20.21. "Plant regulator" means any substance or mixture of substances intended, through physiological action, to accelerate or retard the rate of growth or rate of maturation, or to otherwise alter the behavior of plants or the produce thereof, but does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

21.22. "Private applicator" means an individual who is required to be a certified applicator to buy or use a restricted use pesticide on property owned or rented by the applicator or the applicator's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

22.23. "Public applicator" means an applicator who applies pesticides, other than ready-to-use pesticides, as an employee of:

- a. A governmental agency, municipal corporation, or public utility; or
- b. A hospital, privately owned golf course, nursery, or greenhouse.

23.24. "Ready-to-use pesticide" means a pesticide other than a restricted use pesticide which is applied directly from its original container consistent with label directions, and includes aerosol spray cans, ready-to-use spray containers, bait packs, and other types of containers that do not require mixing or loading before application.

24.25. "Restricted use pesticide" means any pesticide formulation that is classified as restricted use by the United States environmental protection agency or the agriculture commissioner under section 4.1-34-06.

25.26. "Rinsate" means a diluted mixture of pesticide obtained from triple rinsing or pressure rinsing pesticide containers or from rinsing the inside and outside of spray equipment.

26.27. "Tank mix" means any pesticidal formulation used alone or in combination with another pesticide and mixed with a liquid carrier prior to application.

27.28. "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

28.29. "Weed" means any plant that grows where not wanted.

29.30. "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this chapter, pests, including mammals, birds, and aquatic life.

SECTION 2. A new subsection to section 4.1-33-16 of the North Dakota Century Code is created and enacted as follows:

The certification requirements of this chapter do not apply to an individual applying nonrestricted-use antimicrobial pesticides.

SECTION 3. A new section to chapter 4.1-33 of the North Dakota Century Code is created and enacted as follows:

Statutes - Certification requirements - Waiver for emergencies.

If the governor declares a statewide state of disaster or emergency that affects the certification requirements under this chapter, the pesticide control board may temporarily waive statutory requirements, or any associated rules, relating to the certification for the duration of the declared state of disaster or emergency.

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

Approved March 16, 2021

Filed March 16, 2021

CHAPTER 67

HOUSE BILL NO. 1197

(Representatives D. Johnson, Beltz, Thomas, Westlund)
(Senators Klein, Luick, Myrdal)

AN ACT to amend and reenact subsection 7 of section 4.1-40-03, subsection 1 of section 4.1-40-06, and section 4.1-40-07 of the North Dakota Century Code, relating to the definition, licensing, labeling, and inspection fees for specialty fertilizers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 4.1-40-03 of the North Dakota Century Code is amended and reenacted as follows:

7. The requirements of this section do not apply to persons that distribute only:
 - a. Specialty fertilizers to end users; or
 - b. Seed inoculants.

SECTION 2. AMENDMENT. Subsection 1 of section 4.1-40-06 of the North Dakota Century Code is amended and reenacted as follows:

1. If the product is in a container, the label must be plainly printed in English and conspicuously placed on or attached to the container. The label must include:
 - a. The net weight of the product;
 - b. The brand;
 - c. The grade, unless no primary nutrients are claimed;
 - d. The guaranteed analysis; ~~and~~
 - e. The name and address of the registrant; and
 - f. For soil or plant amendments, the purpose for which the product is used.

SECTION 3. AMENDMENT. Section 4.1-40-07 of the North Dakota Century Code is amended and reenacted as follows:

4.1-40-07. Inspection fees - Tonnage reports - Penalty.

1. a. An inspection fee of ten dollars or twenty cents per ton [907.18 kilograms], whichever is greater, must be paid to the commissioner on all fertilizer, fertilizer material, micronutrients, specialty fertilizer, soil amendments, and plant amendments distributed in this state.
- b. This subsection does not apply to:

- (1) Exchanges of product between manufacturers and distributors; or
 - (2) Individual fertilizers, fertilizer material, micronutrients, specialty fertilizers, soil amendments, or plant amendments sold exclusively in packages of twenty-five~~ten~~ pounds [11.344.54 kilograms] or less.
2. a. On or before January thirty-first, each licensed person who distributes a fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment ~~to an end user~~ in this state shall:
- (1) File with the commissioner a form stating the number of net tons [kilograms] of each listed product distributed in this state during the preceding calendar year; and
 - (2) Submit to the commissioner the inspection fee required by this section.
- b. If a person fails to submit an inspection fee, at the time and in the manner required by this section, the commissioner may impose a penalty of ten dollars or ten percent of the amount due, whichever is greater.
- c. The requirements of subdivisions a and b apply only to the last licensed person to handle the same lot of fertilizer.
3. a. ~~On or before January thirty-first, each licensed person that distributes a fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment to a licensed entity in this state shall file with the commissioner a form stating the number of net tons [kilograms] of each listed product distributed in this state during the preceding calendar year.~~
- b. ~~If a person fails to file the form, at the time and in the manner required by this subsection, the commissioner may impose a late fee of thirty-five dollars.~~
4. Each distributor shall keep all records regarding purchases and sales for a period of three years. The records may be examined by the commissioner upon request.
- ~~5.4.~~ The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

Approved March 16, 2021

Filed March 16, 2021

CHAPTER 68

HOUSE BILL NO. 1329

(Representatives Hagert, Fegley, Howe, Satrom, Trottier)
(Senators Klein, Meyer, Wanzek, Weber)

AN ACT to amend and reenact subsection 7 of section 4.1-53-13, subsection 1 of section 4.1-53-37, section 4.1-53-38, subsection 2 of section 4.1-53-43, subsection 1 of section 4.1-53-48, and subsection 2 of section 4.1-53-61 of the North Dakota Century Code, relating to seed labels, tolerances, permits, and certification; to repeal section 4.1-53-41 of the North Dakota Century Code, relating to nonresident seed dealer licenses; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 4.1-53-13 of the North Dakota Century Code is amended and reenacted as follows:

7. a. The percentage of germination, exclusive of hard or dormant seed;
- b. The percentage of hard or dormant seed, if applicable; and
- c. The month and year in which the percentages were determined; and

SECTION 2. AMENDMENT. Subsection 1 of section 4.1-53-37 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~In order to~~To determine correctness and accuracy in labeling seed as required by this chapter, the seed commissioner shall:
 - a. Apply the tolerances established by the Federal Seed Act of August 9, 1939 [53 Stat. 1275; 7 U.S.C. 1551 et seq.], as amended through ~~June 30, 2011~~August 6, 2020; or
 - b. Establish stricter tolerances by rule.

SECTION 3. AMENDMENT. Section 4.1-53-38 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-38. Seed labelingsales permit - Reports - Fees - Civil penalty.

1. Before a resident or nonresident person in this state may label or sell agricultural, vegetable, flower, or tree or shrub seed and before a person may label agricultural, vegetable, flower, or tree or shrub seed for delivery into this state, the person shall obtain a seed labelingsales permit from the seed commissioner.
2. A permit issued under this section applies to employees and agents of the permit holder.
3. Each person issued a seed labelingsales permit under this section shall:

- a. Record all seeds sold by that person in this state;
- b. Report all seeds sold by that person in this state to the seed commissioner at the time and in the manner determined by the seed commissioner; and
- c. Submit at the time and in the manner determined by the seed commissioner, fees in the amount set by the seed commissioner and applicable to all seeds that the person sells in this state.

~~3-4.~~ If a person issued a seed ~~labeling~~sales permit under this section fails to submit the reports or fees required by this section within thirty days of the date determined by the seed commissioner, the seed commissioner may assess a penalty ~~equal to five percent of the amount due or ten dollars, whichever is greater.~~

SECTION 4. AMENDMENT. Subsection 2 of section 4.1-53-43 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~In order to~~To pursue certification, a person shall provide to the seed commissioner:
 - a. The name of the variety;
 - b. A statement regarding the variety's origin and the breeding procedure or reproductive stabilization used in its development;
 - c. A description of the morphological, physiological, or other characteristics that distinguish the variety from other varieties;
 - d. Evidence supporting the identity of the variety;
 - e. A statement regarding the geographic area of adaptation;
 - f. A statement regarding plans and procedures for the maintenance of seed classes, including the number of generations through which the variety may be multiplied;
 - g. A description of the manner in which the variety is constituted when a particular cycle of reproduction or multiplication is specified;
 - h. Any additional restrictions on the variety specified by the breeder; and
 - i. A sample of seed that is representative of the variety as marketed.

SECTION 5. AMENDMENT. Subsection 1 of section 4.1-53-48 of the North Dakota Century Code is amended and reenacted as follows:

1. If a certificate of plant variety protection issued under the Plant Variety Protection Act [7 U.S.C. 2121 et seq.], as amended through July 31, ~~2015~~2020, specifies that the variety may be sold only as a class of certified seed, that seed must be certified by an official seed-certifying agency before it can be advertised for sale, offered for sale, or sold.

SECTION 6. AMENDMENT. Subsection 2 of section 4.1-53-61 of the North Dakota Century Code is amended and reenacted as follows:

2. Seed grown by a producer and sold by that producer without advertising and without using a third party as an agent or broker to effect the sale, provided this exemption is not applicable if the seed is a variety protected by the Plant Variety Protection Act [7 U.S.C. 2321 et seq.], as amended through July 31, ~~2015~~2020.

SECTION 7. REPEAL. Section 4.1-53-41 of the North Dakota Century Code is repealed.

Approved March 25, 2021

Filed March 26, 2021

ALCOHOLIC BEVERAGES

CHAPTER 69

HOUSE BILL NO. 1124

(Representatives Roers Jones, Becker, Heinert, Jones, Paulson, Vetter)
(Senators Bakke, Dwyer, Hogue, Larson, Myrdal)

AN ACT to amend and reenact section 5-01-08 of the North Dakota Century Code, relating to evidence-based alcohol and drug education program for individuals under twenty-one years of age who purchase, possess, or consume an alcoholic beverage; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹ **SECTION 1. AMENDMENT.** Section 5-01-08 of the North Dakota Century Code is amended and reenacted as follows:

5-01-08. Individuals under twenty-one years of age prohibited from using alcoholic beverages or entering licensed premises - Penalty.

1. Except as permitted in this section and section 5-02-06, an individual under twenty-one years of age may not manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed other than during a religious service, be under the influence of, be in possession of, or furnish money to any individual for the purchase of an alcoholic beverage.
2. An individual under twenty-one years of age may not enter any licensed premises where alcoholic beverages are being sold or displayed, except:
 - a. A restaurant if accompanied by a parent or legal guardian;
 - b. In accordance with section 5-02-06;
 - c. If the individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages;
 - d. If the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or
 - e. If the individual enters the premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority.

³¹ Section 5-01-08 was also amended by section 1 of House Bill No. 1223, chapter 70, section 2 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2264, chapter 176.

3. A violation of this section is a class B misdemeanor. For a violation of subsection 1 or 2, the court also ~~shall~~may sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of human services under section 50-06-44.
4. The court, under this section, may refer the individual to an outpatient addiction facility licensed by the department of human services for evaluation and appropriate counseling or treatment.
5. The offense of consumption occurs in the county of consumption or the county where the offender is arrested.
6. An individual under twenty-one years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals ~~that~~who may be immune for any one occurrence is five individuals.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 70

HOUSE BILL NO. 1223

(Representatives Ista, Adams, Mock, O'Brien, Roers Jones, Vetter)
(Senators Bakke, Heckaman, Kreun, Meyer)

AN ACT to amend and reenact section 5-01-08 of the North Dakota Century Code, relating to the penalty for an individual under twenty-one years of age who consumes, purchases, or possesses an alcoholic beverage; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³² **SECTION 1. AMENDMENT.** Section 5-01-08 of the North Dakota Century Code is amended and reenacted as follows:

5-01-08. Individuals under twenty-one years of age prohibited from using alcoholic beverages or entering licensed premises - Penalty.

1. Except as permitted in this section and section 5-02-06, an individual under twenty-one years of age may not manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed other than during a religious service, be under the influence of, be in possession of, or furnish money to any individual for the purchase of an alcoholic beverage.
2. An individual under twenty-one years of age may not enter any licensed premises where alcoholic beverages are being sold or displayed, except:
 - a. A restaurant if accompanied by a parent or legal guardian;
 - b. In accordance with section 5-02-06;
 - c. If the individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages;
 - d. If the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or
 - e. If the individual enters the premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority.
3. ~~A violation of this section is a class-B misdemeanor.~~An individual who violates this section is guilty of an infraction. For a violation of subsection 1 or 2, the court also shall sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of human services under section 50-06-44.

³² Section 5-01-08 was also amended by section 1 of House Bill No. 1124, chapter 69, section 2 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2264, chapter 176.

4. The court, under this section, may refer the individual to an outpatient addiction facility licensed by the department of human services for evaluation and appropriate counseling or treatment.
5. The offense of consumption occurs in the county of consumption or the county where the offender is arrested.
6. An individual under twenty-one years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals that may be immune for any one occurrence is five individuals.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 71

SENATE BILL NO. 2321

(Senators D. Larsen, O. Larsen, Meyer, K. Roers)
(Representatives Becker, Toman)

AN ACT to amend and reenact sections 5-01-14 and 5-01-21 of the North Dakota Century Code, relating to microbrew pubs and brewer taprooms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-14 of the North Dakota Century Code is amended and reenacted as follows:

5-01-14. Microbrew pubs - Licensing - Taxes.

1. A microbrew pub shall obtain a brewer license and a retailer license as required under this title. A microbrew pub may manufacture on the licensed premises, store, transport, sell to wholesale malt beverage licensees, and export no more than ten thousand barrels of malt beverages annually; sell malt beverages manufactured on the licensed premises; and sell alcoholic beverages regardless of source to consumers for consumption on the microbrew pub's licensed premises; and sell or direct ship malt beverages manufactured on the licensed premises to an individual in this state for consumption in accordance with section 5-01-16. A microbrew pub may not engage in any wholesaling activities. Except as provided in subsection 3, all sales and delivery of malt beverages to any other retail licensed premises may be made only through a wholesale malt beverage licensee. Beer manufactured on the licensed premises and sold by a microbrew pub directly to the consumer for consumption on or off the premises is subject to the taxes imposed pursuant to section 5-03-07, in addition to any other taxes imposed on brewers and retailers. A microbrew pub is required to file a monthly sales report with the tax commissioner by the fifteenth day of the month following the month in which the sales are made. The report must be prepared and submitted in a form and manner as prescribed by the tax commissioner. A microbrew pub is not precluded from retailing beer it purchases from a wholesaler. Complimentary samples of beer may not be in an amount exceeding sixteen ounces [47 liter] per patron. Licenses under this section entitle the microbrew pub to sell beer manufactured on the premises for off-premises consumption, in brewery-sealed containers of not more than three gallons [11.36 liters]. A licensee may not sell beer to any person for off-premises consumption more than two hundred eighty-eight ounces [8.51 liters] of beer per day, if sold in any size a brewery-sealed container of not more than three gallons [11.36 liters] and the total amount sold to each person does not exceed five and sixteen-hundredths gallons [19.53 liters] per day. This section may not be superseded under chapters 11-09.1 and 40-05.1.
2. The tax commissioner may issue a special event permit for not more than ~~twenty~~forty days per calendar year to a microbrew licensee which allows the licensee to give free samples of beer manufactured by the licensee, sell beer manufactured by the glass or in closed containers, or dispense beer manufactured by the licensee at a designated trade show, convention, festival,

fundraiser, or other related special event hosted by a nonprofit organization unaffiliated with the licensee, or a similar event approved by the tax commissioner. This subsection is subject to local ordinances.

3. A microbrew pub may transfer beer in bulk, as defined by section 5-01-01, manufactured by the microbrew pub to an affiliated microbrew pub licensee. For purposes of this subsection, "affiliated microbrew pub licensee" means a microbrew pub of which at least an eighty-five percent interest is owned by the microbrew pub measured annually and:
 - a. The microbrew pub does not own more than three affiliated microbrew pub licensees;
 - b. The microbrew pub licensee receiving the beer in bulk has produced no less than five thousand gallons [18927.06 liters] of beer on the premises in the preceding calendar year. For the purpose of calculating the production requirements, the production must be prorated based on the number of days beer was produced;
 - c. The beer in bulk transferred in any calendar year constitutes no more than fifty percent of the beer being produced by the microbrew pub licensee receiving the beer; and
 - d. For purposes of determining whether the ten thousand barrel production limit under subsection 1 is being exceeded, the beer being transferred is credited to the microbrew pub that manufactured the beer.
4. A contractee brewer may contract with a contractor brewer to produce beer for the contractee brewer to the extent allowed by federal law under the following conditions:
 - a. The contractee brewer and the contractor brewer must be licensed and owned separately;
 - b. The contractee brewer must have a proper license issued under this section and maintain a physical brewing presence in the state;
 - c. Beer brewed for a contractee brewer counts toward the contractee brewer's annual barrels produced, and the beer does not count toward the contractor brewer's annual barrels produced;
 - d. The contractee brewer retains ownership of the product; and
 - e. Each brewer is separately and distinctly responsible for compliance with this chapter.

SECTION 2. AMENDMENT. Section 5-01-21 of the North Dakota Century Code is amended and reenacted as follows:

5-01-21. Brewer taproom license.

1. The tax commissioner may issue multiple brewer taproom licenses to the owner or operator of a brewery producing no more than twenty-five thousand barrels of malt beverages annually. A brewer with multiple taproom licenses must produce malt beverages at each location and the total amount of malt beverages produced at all locations combined may not exceed twenty-five

thousand barrels of malt beverages annually. Each brewer taproom license may be issued and renewed for an annual fee of five hundred dollars, which is in lieu of all other state license fees required by this title. All provisions of this chapter which apply to a retail license must apply to a license issued under this section unless the provision is explicitly inconsistent with this section.

2. A brewer holding a brewer taproom license may:
 - a. Manufacture on the licensed premises, store, transport, sell, and export no more than twenty-five thousand barrels of malt beverages annually.
 - b. Sell malt beverages manufactured on the licensed premises or through a contract for consumption on the premises of the brewery or a restaurant owned by the licensee and located on property contiguous to the brewery.
 - c. Sell beer manufactured on the licensed premises or through a contract for off premises consumption in brewery-sealed containers of ~~not less than twelve ounces [36 liters]~~ and not more than five and sixteen-hundredths gallons [19.53 liters].
 - d. Sell and deliver beer produced by the brewery to licensed beer wholesalers.
 - e. Dispense free samples of beer offered for sale. Complimentary samples of beer may not be in an amount exceeding sixteen ounces [.47 liter] per patron.
 - f. Sell and deliver beer produced by the brewery to licensed retailers within the state, but only if:
 - (1) The brewer uses the brewer's own equipment, trucks, and employees to deliver the beer;
 - (2) Individual deliveries, other than draft beer, are limited to the case equivalent of eight barrels per day to each licensed retailer;
 - (3) The total amount of beer sold or delivered directly to all retailers does not exceed ten thousand barrels per year; and
 - (4) A common carrier is not used to ship or deliver the brewery's product to the public or to licensed retailers. All other sales and deliveries of beer to licensed retailers in this state may be made only through a wholesaler licensed in this state.
 - g. Sell or direct ship beer produced by the brewery to an individual in this state for consumption in accordance with section 5-01-16.
3. The tax commissioner may issue special event permits for not more than ~~twenty~~forty days per calendar year to a brewer taproom licensee allowing the licensee, subject to local ordinance, to give free samples of its beer, sell its beer by the glass or in closed containers, or dispense beer manufactured by the licensee at a designated trade show, convention, festival, fundraiser or other related special event hosted by a nonprofit organization unaffiliated with the brewer taproom licensee, or a similar event approved by the tax commissioner.

4. For any month in which a brewery has made sales to a wholesaler licensed in this state, that brewery shall file a report with the tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after that day.
5. A brewer taproom licensee is subject to section 5-03-06 and shall report and pay annually to the tax commissioner the wholesaler taxes due on all beer sold by the licensee at retail or to a retail licensee, including all beer sold directly to consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the year following the year sales were made. When the fifteenth of January falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after that day. The report must provide the detail and be in a format as prescribed by the tax commissioner. The tax commissioner may require the report be submitted in an electronic format approved by the tax commissioner.
6. A brewer may have multiple taproom licenses, but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of any other manufacturer, brewer, importer, wholesaler, or retailer, or be an affiliate thereof, whether the affiliation is corporate or by management, direction, or control. A brewer may transfer beer in bulk, as defined by section 5-01-01, manufactured by the brewer to an affiliated brewer. For the purposes of this subsection, an "affiliated brewer taproom" means a licensed brewer taproom of which at least an eighty-five percent interest is owned by the brewer taproom, measured annually and:
 - a. The brewer does not own more than three affiliated brewer taprooms;
 - b. The licensed brewer taproom receiving the beer in bulk has produced no less than five thousand gallons [18927.06 liters] of beer on the premises in the preceding calendar year. For the purpose of calculating the production requirements, the production must be prorated based on the number of days beer was produced;
 - c. The beer in bulk transferred in any calendar year constitutes no more than fifty percent of the beer being produced by the licensed brewer taproom receiving the beer; and
 - d. For purposes of determining whether the twenty-five thousand barrel production limit under subsections 1 and 2 is being exceeded, the beer being transferred is credited to the brewer that manufactured the beer.
7. A contractee brewer may contract with a contractor brewer to produce beer for the contractee brewer to the extent allowed by federal law under the following conditions:
 - a. The contractee brewer and the contractor brewer must be licensed and owned separately;
 - b. The contractee brewer must have a proper license issued under this section and maintain a physical presence in the state;

- c. Beer brewed for a contractee brewer counts toward the contractee brewer's annual barrels produced, and the beer does not count toward the contractor brewer's annual barrels produced;
- d. The contractee brewer retains ownership of product produced by a contractor brewer; and
- e. Each brewer is separately and distinctly responsible for compliance with this chapter.

Approved April 14, 2021

Filed April 14, 2021

CHAPTER 72

SENATE BILL NO. 2220

(Senators Meyer, Holmberg, Poolman, K. Roers)
(Representatives Howe, Mock)

AN ACT to amend and reenact subsection 2 of section 5-01-17, subsection 2 of section 5-01-19, and section 5-02-05 of the North Dakota Century Code, relating to the dispensing and selling of alcoholic beverages on Sunday; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 5-01-17 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to persons inside or outside of the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters] in a calendar year; glassware; wine literature and accessories; and cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between ~~twelve noon~~eight a.m. and twelve midnight. The tax commissioner may issue special events permits for not more than forty events per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at off-premises events. A domestic winery may not engage in any wholesaling activities. All sales and deliveries of wines to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. For any month in which a domestic winery has made sales to a North Dakota wholesaler, that domestic winery shall file a report with the tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.

SECTION 2. AMENDMENT. Subsection 2 of section 5-01-19 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters] in a calendar year. Direct sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between ~~twelve noon~~eight a.m. and twelve midnight. A domestic distillery may hold

events inside and outside its premises, but only on contiguous property under common ownership, allowing free samples of its spirits and to sell its spirits by the glass or in closed containers. The tax commissioner may issue event permits for not more than forty event days per calendar year to a domestic distillery allowing the domestic distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers, at off-premises events. A domestic distillery may not engage in any wholesaling activities. Except as provided by section 5-01-19.1, all sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a domestic distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the domestic distillery by the domestic winery. No later than the last business day of a calendar month, a farm distillery that has made sales to a North Dakota wholesaler during the preceding calendar month shall file a report with the tax commissioner reporting those sales.

SECTION 3. AMENDMENT. Section 5-02-05 of the North Dakota Century Code is amended and reenacted as follows:

5-02-05. Dispensing prohibited on certain days - Penalty.

A person may not dispense or permit the consumption of alcoholic beverages on a licensed premises between two a.m. and ~~eleven a.m. on Sundays, between the hours of two a.m. and eight a.m. on all other days of the week, or, on Christmas Day, or after six p.m. on Christmas Eve.~~ In addition, a person may not provide off sale after two a.m. on Thanksgiving Day or between two a.m. and ~~no eight a.m.~~ eight a.m. on Sundays. A person that violates this section is guilty of a class A misdemeanor.

Approved April 1, 2021

Filed April 1, 2021

CHAPTER 73

HOUSE BILL NO. 1286

(Representatives Mock, Becker, Kasper, Keiser, O'Brien, D. Ruby)
(Senators Kreun, Weber)

AN ACT to create and enact section 5-01-19.2 of the North Dakota Century Code, relating to a manufacturing distillery; to provide for transition; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 5-01-19.2 of the North Dakota Century Code is created and enacted as follows:

5-01-19.2. Manufacturing distillery - Satellite locations.

1. The tax commissioner may issue a manufacturing distillery license to the owner or operator of a distillery located within this state which uses a majority of North Dakota farm products to manufacture and sell spirits produced on the premises. A manufacturing distillery license may be issued and renewed for an annual fee of one hundred dollars. This fee is in lieu of all other license fees required by this title. The tax commissioner may not issue the manufacturing distillery license until the applicant has established the applicant has applied for and obtained the necessary federal registrations and permits, as required under the Internal Revenue Code of 1986 [26 U.S.C. 5001 et seq.] and the federal Alcohol Administration Act [27 U.S.C. 203], for the operation of a distilled spirits plant.
2. A manufacturing distillery may sell spirits produced by that distillery at off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters] in a calendar year. Direct sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at off sale may be made on Sundays between twelve noon and twelve midnight. A manufacturing distillery may hold events inside its premises and at its satellite location. The tax commissioner may issue event permits for not more than forty event days per calendar year to a manufacturing distillery to allow the manufacturing distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers at on-premises events and at its satellite location. A manufacturing distillery may not engage in any wholesaling activities. Except as provided by section 5-01-19.1, all sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a manufacturing distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the manufacturing distillery by the domestic winery.

3.
 - a. As used in this subsection, "samples" means the serving of free tastings of a manufacturing distillery's products not to exceed six ounces [0.18 liter] of spirits per individual per day.
 - b. A manufacturing distillery may operate one satellite location in addition to its licensed premises for the purpose of providing samples and on sale or off sale retail sales.
 - (1) The spirits sampled or sold at the satellite location must be produced by the manufacturing distillery.
 - (2) A manufacturing distillery may not produce any spirits at the satellite location.
 - (3) An event permit issued to a manufacturing distillery in accordance with subsection 2 for an indoor or outdoor event held at its satellite location does not count towards the forty event days per calendar year allowed under subsection 2. The manufacturing distillery may offer free samples of its spirits and may sell its spirits by the glass or in closed containers at the event held at the satellite location.
 - (4) The satellite location must be owned or leased by the manufacturing distillery licensee.
 - (5) A manufacturing distillery may not engage in wholesaling activities at its satellite location.
 - c. A manufacturing distillery shall obtain a satellite location license from the tax commissioner before operating a satellite location. The tax commissioner may issue and renew a satellite location license for an annual fee of one hundred dollars. This fee is in addition to all other license fees required by this title.
 - d. A manufacturing distillery is liable for any violation of alcohol or licensing requirements committed on the premises of its satellite location.
4. A person may not hold a manufacturing distillery license and a domestic distillery license.
5. A manufacturing distillery may obtain a manufacturing distillery license and a retailer license allowing the on-premises sale of alcoholic beverages at a restaurant owned by the licensee and located at the manufacturing distillery's satellite location.
6. A manufacturing distillery is subject to section 5-03-06 and shall report and pay annually to the tax commissioner the wholesaler taxes due on all spirits sold by the licensee at retail or to a retail licensee, including all spirits shipped directly to consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the year following the year sales were made. The report must provide the detail and be in a format as prescribed by the tax commissioner. The tax commissioner may require the report to be submitted in an electronic format approved by the tax commissioner.

SECTION 2. TRANSITION PERIOD. After the effective date of this Act, a domestic distillery licensee may rescind a domestic distillery license and apply for and be issued a manufacturing distillery license. After August 1, 2022, a domestic distillery licensee may not be issued a manufacturing distillery license.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 74

HOUSE BILL NO. 1284

(Representatives Mock, Becker, Boschee, Howe, Kasper, Lefor, D. Ruby)
(Senators Burckhard, Klein, Kreun, Weber)

AN ACT to amend and reenact section 5-02-01.1 and subsection 5 of section 5-02-06 of the North Dakota Century Code, relating to alcohol event permits and prohibitions for individuals under twenty-one years of age; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

5-02-01.1. Event permit authorized - Penalty.

1. The local governing body may by permit authorize a qualified alcoholic beverage licensee licensed under this chapter to engage in the sale of alcoholic beverages at events designated by the permit. For purposes of this section, "qualified alcoholic beverage licensee" means a licensee in a city that imposed a city lodging and restaurant tax on July 31, 1993, who paid ~~such the~~ tax and who continues to pay any such tax imposed by the city or a licensee in a county, a licensee in a city that did not impose a city lodging and restaurant tax on July 31, 1993, or a tribal licensee. A fee for the local permit may be set by ordinance or resolution at not more than twenty-five dollars. The permit may not be valid for a period greater than fourteen days and may include Sundays. The local governing body may establish rules to regulate and restrict the operation of an event permit. Any person ~~who that~~ dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section or the conditions of a permit is guilty of a class B misdemeanor.
2. The local governing body may authorize ~~persons an individual~~ under twenty-one years of age to remain in the area of ~~attend~~ the event, ~~or a portion thereof, where beer, wine, or sparkling wine may be sold pursuant to the permit. However, this authorization must be subject to the following minimum conditions:~~
 - a. ~~The area where persons under twenty-one years of age may remain must be specifically set forth in the permit;~~
 - b. ~~Only employees of the qualified alcoholic beverage licensee who are at least twenty-one years of age may deliver and sell the beer, wine, or sparkling wine; and~~
 - c. ~~No person under twenty-one years of age within the area described in the permit may consume, possess, or receive alcoholic beverages but may not authorize the consumption or possession of an alcoholic beverage by an individual under twenty-one years of age.~~

³³ **SECTION 2. AMENDMENT.** Subsection 5 of section 5-02-06 of the North Dakota Century Code is amended and reenacted as follows:

5. An individual under twenty-one years of age may ~~remain in an area of a site where beer, wine, or sparkling wine is sold~~attend an event where alcoholic beverages are sold in accordance with the conditions of an event permit issued pursuant to section 5-02-01.1.

Approved April 19, 2021

Filed April 20, 2021

³³ Section 5-02-06 was also amended by section 1 of House Bill No. 1184, chapter 75.

CHAPTER 75

HOUSE BILL NO. 1184

(Representatives Louser, Becker, Lefor, Richter, Schatz)
(Senators Meyer, Vedaa)

AN ACT to amend and reenact subsection 3 of section 5-02-06 of the North Dakota Century Code, relating to prohibitions for an individual under twenty-one years of age; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁴ **SECTION 1. AMENDMENT.** Subsection 3 of section 5-02-06 of the North Dakota Century Code is amended and reenacted as follows:

3. a. At the discretion of the owner of the licensed premises, an individual under twenty-one years of age may be permitted to enter and remain in a restaurant where alcoholic beverages are being sold and in the area of the restaurant designated for the opening or mixing of alcoholic beverages if the individual:
 - (1) Is accompanied by a parent or guardian;
 - (2) Is not seated at or within three feet [0.91 meters] of the bar counter;
and
 - (3) Does not enter or remain in the designated area after ten p.m.
- b. An individual under twenty-one years of age may not be permitted to remain in a restaurant where alcoholic beverages are being sold except if the restaurant is separated from the room designated area in which alcoholic beverages are opened or mixed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, or if the individual is employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of an individual twenty-one or more years of age or older and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.

Approved March 17, 2021

Filed March 18, 2021

³⁴ Section 5-02-06 was also amended by section 2 of House Bill No. 1284, chapter 74.

BANKS AND BANKING

CHAPTER 76

SENATE BILL NO. 2101

(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to create and enact section 6-06-14.1 of the North Dakota Century Code, relating to credit union loans; to amend and reenact subsection 3 of section 6-01-01.1, sections 6-01-04.3, 6-01-09, and 6-01-17, subsection 1 of section 6-03-05, sections 6-03-11, 6-03-13.3, and 6-03-15.1, subsection 1 of section 6-03-47.2, sections 6-03-49.1, 6-05-15.4, and 6-06-06, subsection 4 of section 6-06-08, and sections 6-06-11 and 6-08-08.1 of the North Dakota Century Code, relating to the regulatory fund, assessment of civil money penalties, appointment of receivers, supervision and examinations, assessments, real estate loans, bank mergers, bank branches, bank investments, trust branches, credit union powers, credit union board notice, and sale or purchase of banking institutions or holding companies; to repeal section 6-06-14 of the North Dakota Century Code, relating to credit union loans; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 6-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

3. Any cash balance in the financial institutions regulatory fund after all current biennium expenditures are met must be carried forward in the financial institutions regulatory fund for the next succeeding biennium. ~~The balance in this fund at the end of the current biennium, excluding fees collected for use in the next succeeding biennium, may not exceed twenty percent of the department's next succeeding biennial budget.~~

SECTION 2. AMENDMENT. Section 6-01-04.3 of the North Dakota Century Code is amended and reenacted as follows:

6-01-04.3. Assessment of civil money penalties.

1. The commissioner or the board may assess a civil money penalty against a financial institution, financial corporation, or credit union, or an officer, director, employee, agent, or person participating in the conduct of the affairs of the financial corporation, financial institution, or credit union upon finding one or more of the following:
 - a. Failure to comply with a permanent or temporary cease and desist order that has been voluntarily consented to or issued pursuant to section 6-01-04.2;
 - b. Failure to comply with a final order that has been voluntarily consented to or issued following formal proceedings under chapter 28-32;

- c. Payment of dividends in violation of section 6-03-36;
 - d. Loans and leases to one borrower or concern which exceed the limitations set forth in sections 6-03-59 and 6-03-59.1;
 - e. Loans to directors, officers, and employees in violation of section 6-03-60;
 - f. The intentional filing of inaccurate or misleading call reports required by section 6-03-70 or 6-06-08;
 - g. Violations of loan limitations under subsection 1 of section 6-06-12 or ~~North Dakota Administrative Code section 13-03-16-03, 13-03-16-05, or 13-03-16-08~~ title 12, chapter 7, Code of Federal Regulations, subchapter A, part 723, as amended February 5, 2019;
 - h. Loans in violation of section 6-06-14 or ~~subsection 2 of section 13-03-16-02 of the North Dakota Administrative Code or subsection 2 of section 13-03-16-05 of the North Dakota Administrative Code~~ 6-06-14.1; or
 - i. Failure to file notice of change of control under section 6-08-08.1.
2. The commissioner or the board commences administrative proceedings to assess civil money penalties by serving a complaint on the respondent stating the factual basis for the commissioner's or board's belief that a violation has occurred and the amount of civil penalties that the complaint seeks to impose. The complaint must contain a notice of an opportunity for an administrative hearing conducted under chapter 28-32. The date for the hearing must be set not less than thirty days after the date the complaint is served upon the respondent. If assessment of civil money penalties are proposed based on conditions described in subdivisions c through i of subsection 1, a complaint may not be filed unless the respondent has been provided with prior orders, examination reports, or other written communications, and has willfully refused to take corrective action that the respondent was capable of taking at the time.
 3. If the respondent fails to answer the complaint within twenty days of its service, the commissioner or board may enter an order imposing civil money penalties upon the respondent. If a hearing is held and the board concludes that the record so warrants, the board may enter an order imposing civil money penalties upon the respondent. The assessment order is effective and enforceable immediately upon service or upon a date specified in the order, and remains effective and enforceable until it is stayed, modified, terminated, or set aside by action of the board or a reviewing court.
 4. In determining the amount of civil penalty imposed, the commissioner or board shall consider whether good faith was exercised, and the gravity of the violation and any previous violations. The commissioner or board may not impose a civil money penalty in excess of ~~five~~ one hundred thousand dollars for each occurrence and ~~one hundred thousand~~ dollars per day for each day that the violation continues after service of an order. Any civil money penalties collected under this section must be paid to the department of financial institutions and deposited in the financial institutions regulatory fund.

SECTION 3. AMENDMENT. Section 6-01-09 of the North Dakota Century Code is amended and reenacted as follows:

6-01-09. Supervision and examination by commissioner of financial institutions.

The commissioner shall exercise a constant supervision over the business affairs of all financial corporations, financial institutions, and credit unions, including all out-of-state branches of financial corporations, financial institutions, and credit unions. Either the commissioner or one or more examiners shall ~~visit~~examine each financial institution ~~at least once each thirty-six months to examine its~~assess the affairs of the institution and ascertain ~~its~~the institution's financial condition. The commissioner shall inspect and verify the assets and liabilities of the institution and branches to ascertain with reasonable certainty that the value of the assets and the amounts of the liabilities are correctly carried on its books. The commissioner shall examine the validity of mortgages held by savings institutions and shall see that all of the mortgages are properly recorded. The commissioner shall investigate the method of operation and conduct of the corporations and institutions and their systems of accounting to ascertain whether the methods conform to the law and sound banking usage and principles. The commissioner shall inquire into and report any infringement of the laws governing those corporations and institutions, and for that purpose the commissioner may examine the officers, agents, and employees of the corporations and institutions and all persons doing business therewith. The commissioner may examine, or cause to be examined, or review the books and records of any subsidiary corporation of a bank or credit union service organization of a credit union under the commissioner's supervision and may require the bank to provide information on the holding company that owns the bank. The commissioner may also examine, or cause to be examined, or review the books and records of any technology service provider that provides services to financial corporations, credit unions, and financial institutions under the commissioner's supervision, to evaluate that entity's risk management systems and controls and compliance with applicable laws that affect such services provided to financial corporations, credit unions, and financial institutions. The commissioner shall report the condition of the corporations and institutions, together with the commissioner's recommendations or suggestions in connection therewith, to the state banking board, state credit union board, or both, and the ~~board~~boards may take such action as the exigencies may demand.

SECTION 4. AMENDMENT. Section 6-01-17 of the North Dakota Century Code is amended and reenacted as follows:

6-01-17. ~~Yearly assessment~~Semiannual assessments of banks and interstate branches.

Every state banking association and banking institution under the jurisdiction and control of the commissioner and the commissioner's deputy examiners by this title, including the Bank of North Dakota and every branch of an out-of-state state bank, shall pay a ~~yearly assessment~~semiannual assessment. This assessment is to be determined by the state banking board as necessary to fund that portion of the department's budget relating to the regulation of state-chartered banks and branches of out-of-state state banks, including the authority to enter into cooperative fee sharing agreements and assessment of associated travel costs with other state bank supervisors. ~~Assessment fees may not be computed on the combined assets of the bank and its trust department for those banks and branches exercising trust powers. Fees for the examination of the trust department must be computed in accordance with section 6-05-28. The assessment must be paid to the department of financial institutions within thirty days of each June thirtieth and December thirty-first. Institutions and branches that have not been examined by the commissioner or the state banking board for three years prior to any assessment date shall not be required to pay the assessment.~~ If any such corporation or institution or branch is delinquent

more than twenty days in making such payment, the board ~~may make an order suspending the functions~~ may seek other administrative remedies of such delinquent corporation, institution, or branch until payment of the amount due. The commissioner may assess a penalty of ~~five dollars~~ one percent of the outstanding assessment fee for each day that the assessment fee is delinquent. All fees and penalties under this section must be deposited with the state treasurer and deposited in the financial institutions regulatory fund.

SECTION 5. AMENDMENT. Subsection 1 of section 6-03-05 of the North Dakota Century Code is amended and reenacted as follows:

1. Before any real estate loan equal to or more than ~~two~~four hundred ~~fifty~~thousand dollars is made, an appraisal must be conducted by a licensed or certified appraiser if required by the federal Financial Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101-73; 103 Stat. 512; 12 U.S.C. 3332 et seq.].

SECTION 6. AMENDMENT. Section 6-03-11 of the North Dakota Century Code is amended and reenacted as follows:

6-03-11. Conversion, consolidation, or merger.

Any two or more banking institutions upon making application to the commissioner or the state banking board may consolidate or merge if authorized by the commissioner or board into one banking institution under the charter of either existing banking institution on such terms and conditions as lawfully may be agreed upon by a majority of the board of directors of each banking institution proposing to consolidate or merge subject to rules adopted by the state banking board. Before becoming final, such consolidation or merger must be ratified and confirmed by the vote of the shareholders of each such banking institution owning at least two-thirds of its capital stock outstanding at a meeting to be held on the call of the directors. Notice of such meeting and of the purpose thereof must be given to each shareholder of record by registered or certified mail at least ten days prior to the meeting. The shareholders may unanimously waive such notice and may consent to such meeting and consolidation or merger in writing. The capital stock and surplus of such consolidated banking institution must not be less than that required under this title for the organization of a banking institution of the class of the largest consolidating banking institution. Immediately after the consolidation or merger a full report thereof, including a statement of the assets and liabilities of the consolidated banking institution, must be made to the commissioner by the surviving banking institution. Any banking institution may without approval by any state authority convert into or merge or consolidate with a national banking association as provided by federal law. A national bank proposing to merge into a state-chartered bank shall grant the commissioner discretionary authority to conduct an examination. The commissioner shall set fees for such examination at an hourly rate sufficient to cover all reasonable expenses of the department of financial institutions associated with the examination. Fees must be collected by the commissioner and deposited in the financial institutions regulatory fund.

SECTION 7. AMENDMENT. Section 6-03-13.3 of the North Dakota Century Code is amended and reenacted as follows:

6-03-13.3. Facts considered for approval.

1. Whenever any bank desires to maintain and operate a facility separate and apart from its banking house, pursuant to section 6-03-13.1, or to move a

facility previously established to another location, it shall apply to the commissioner or the comptroller of the currency, as the case may be, for such authority and provide the commissioner with such relevant information as the commissioner may reasonably request. In determining whether to approve the application for such facility, the commissioner shall take into consideration the following facts:

1. a. The convenience, needs, and welfare of the people of the community and area served; and
2. b. The financial strength of the bank in relation to the cost of establishing and maintaining such separate facility.
3. ~~Whether other banks will be seriously injured by the approval of the application.~~

~~When considering an application for relocating an existing facility to another location within the same corporate city limits, the commissioner may consider only subsection 2 as a factor for approval.~~

2. Upon approval by the commissioner or state banking board of a merger application under section 6-03-11, the former main office and facilities of the banking institutions being merged will become facilities of the surviving banking institution and the banking institution is not required to file an application under this section.
3. If the commissioner's decision with respect to an application is unfavorable, the applicant bank may appeal the decision to the state banking board by filing a notice of appeal with the commissioner within twenty days after the commissioner has notified the applicant bank of the decision.

~~If an interested party files a protest with respect to an application, the matter will be referred to and decided by the state banking board.~~

SECTION 8. AMENDMENT. Section 6-03-15.1 of the North Dakota Century Code is amended and reenacted as follows:

6-03-15.1. Temporary relocation of bank operations.

In the event of an emergency or other temporary relocation, a bank may apply to the commissioner to relocate its main banking house or facility until the former location is repaired to allow bank operations to resume. No notice or public hearing need be held to act upon the temporary relocation request. The bank shall give the commissioner notice of the bank's decision to relocate promptly and in any case within three days in the event of an emergency, and at least thirty days prior for other temporary relocations. The notice must describe the bank's actions and the expected duration of the bank's relocation. Unless extended by the commissioner, a bank's authority to change the bank's location under this section may not exceed sixty days. Notice of the bank's intention to temporarily relocate must be provided to customers at least ten days before the relocation.

SECTION 9. AMENDMENT. Subsection 1 of section 6-03-47.2 of the North Dakota Century Code is amended and reenacted as follows:

1. Bonds, notes, or debentures of any corporation ~~rated at "A" or higher by a nationally recognized rating service approved by the commissioner, provided~~

that the lesser of the book value or face value of the investments at the time of purchase may not exceed for any one corporation twenty-five percent of the unimpaired capital and surplus of the banking association that have been rated in one of the four highest rating categories by a nationally recognized statistical rating organization registered with the securities and exchange commission. In the case of different ratings from different rating organizations, the lower rating applies. If a nationally recognized statistical rating organization has not rated the security, the bank shall determine that the security is the credit equivalent of a security rated in the four highest rating categories by a nationally recognized statistical rating organization. This includes documentation demonstrating that the issuer of the security has an adequate capacity to meet financial commitments under the security for the projected life of the asset or exposure and the issuer has adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected. The aggregate par value of investments issued by any one corporation may not exceed twenty-five percent of unimpaired capital and surplus at the time of purchase.

SECTION 10. AMENDMENT. Section 6-03-49.1 of the North Dakota Century Code is amended and reenacted as follows:

6-03-49.1. Bank investment in service corporation - Service corporation services and activities.

1. Subject to the approval of the state banking board, any bank may invest not more than in a service corporation and provide services and activities through the service corporation, if:
 - a. The service corporation is a United States corporation and is organized as a bank service corporation having its principal place of business in the United States.
 - b. The investment in stocks, bonds, debentures, or other obligations does not exceed ten percent of paid-in and unimpaired capital and unimpaired surplus in stocks, bonds, debentures, or other obligations of any North Dakota corporation organized as a bank service corporation having its principal place of business in the state and in each corporation.
 - c. The service corporation is operated exclusively for the purpose of providing for such bank and one or more other banks, bank services which the banks would otherwise be required or permitted to provide for on an individual bank basis. The term bank services in this section includes services such as check:
 - (1) Check and deposit sorting and posting, computation,
 - (2) Computation and posting of interest and other credits and charges, preparation,
 - (3) Preparation and mailing of checks, statements, notices, and similar items, or any,
 - (4) Any other clerical, bookkeeping, accounting, statistical, or similar functions performed by a bank.

- (5) Owning and administering a credit card program for customers of banks.
- (6) Engaging in activities incidental to banking services.
- (7) Other activities that further or facilitate the corporate purposes of a bank or subsidiaries of a bank, if the services may be lawfully performed by both its national bank shareholders under the laws of the United States and its state bank shareholders under the laws of this state.

2. ~~Payment for rent earned, goods sold and delivered, or services rendered prior to the making of the payment is not an investment under this subsection. A bank service corporation may be chartered under the laws of this state with shareholders limited to state and national banks located within the state and corporations that are organized as associations of state and national banks located within the state to provide all the services, except deposit taking, that all the banks that are its shareholders can offer directly to their own customers at any place in the state where they can offer their services, including owning and administering a credit card program for customers of banks and engaging in activities incidental to banking services and other activities that further or facilitate the corporate purposes of a bank or subsidiaries of a bank, so long as such services may be lawfully performed by both its national bank shareholders under the laws of the United States and its state bank shareholders under the laws of this state not accept deposits.~~

SECTION 11. AMENDMENT. Section 6-05-15.4 of the North Dakota Century Code is amended and reenacted as follows:

6-05-15.4. Multiple offices or places of business - Application to state banking board - Hearing.

1. A trust company may establish and maintain for itself and its operating subsidiary organizations one or more offices or places of business within this state, throughout the United States, in foreign countries, or in dependencies or insular possessions of the United States upon written application to the department of financial institutions for approval from the state banking board. Additional branches in the United States may be approved by the commissioner, while all other branches must be approved by the state banking board. The application must include the information specified by the board.
2. Notice of the application to establish and maintain an office or place of business must be published as required by the state banking board.
3. ~~Within ten business days after receipt of the application by the department of financial institutions, the~~ The commissioner shall determine if the application is complete and shall notify the trust company of the determination. ~~If within the ten business days the commissioner determines the application is incomplete, the commissioner shall request the additional information necessary to complete the application. Within ten days after receipt of the additional information, the commissioner shall notify the trust company by mail of the commissioner's determination of completeness. Within sixty days after the date for the mailing of a notice of completeness by the commissioner, the~~ The commissioner or state banking board either shall approve the application or shall notify the trust company that a hearing on the application will be required.

4. Any hearing required by the commissioner or state banking board must be commenced and concluded by issuance of the an order of the board within ninety days after the date for the mailing of a notice of completeness by the commissioner. If the hearing is not concluded within this ninety-day period, the application is deemed approved by the board.
5. The commissioner or state banking board may disapprove the application if it finds, after a hearing the commissioner or board find:
 - a. The establishment and maintenance of the office or place of business will jeopardize the solvency of the trust company; or
 - b. The operation of more than one office or place of business by the trust company will place the company in an unsafe and unsound condition.
6. If a North Dakota chartered trust company desires to move a branch previously established to another location, the trust company shall apply to the commissioner for such authority and provide the commissioner with such relevant information as the commissioner may reasonably request.

SECTION 12. AMENDMENT. Section 6-06-06 of the North Dakota Century Code is amended and reenacted as follows:

6-06-06. Powers of credit unions.

A credit union has the following powers:

1. To receive the savings of its members either as payment on shares or as deposits, including the right to conduct Christmas clubs, vacation clubs, and other such thrift organizations within its membership.
2. To make loans to members.
3. To make loans to a cooperative society or other organization having membership in the credit union.
4. To deposit its moneys in financial institutions, trust companies, credit unions, corporate central credit unions, and the Bank of North Dakota authorized to receive deposits.
5. To invest in the following:
 - a. In bonds of the United States without limitation in securities issued as direct obligations by the United States government or any agency thereof and in any trust established for investing directly or collectively in such securities.
 - b. In bonds or evidences of debt of this state or in bonds of states of the United States.
 - c. In bonds or certificates of indebtedness of any county, city, or school district in this state, issued pursuant to authority of law, but not to exceed thirty percent of the assets of any credit union may be invested in such bonds or certificates of indebtedness.

- d. In notes or bonds secured by mortgage or deed of trust upon unencumbered, improved real estate in this state, if such investment does not exceed sixty-five percent of the market value of the property mortgaged, and fire and tornado insurance policies are maintained and deposited as collateral to such mortgage, subject to such restriction and regulations as may be imposed by the state credit union board.
 - e. In notes or bonds secured by a security interest or lien upon unencumbered personal property, if the investment does not exceed ninety percent of the market value of the property secured.
 - f. In first lien, public utility, industrial, corporation, or association bonds, notes, or other evidences of debt issued by corporations located in the United States of America to the extent authorized by the state credit union board.
 - g. Subject to rules of the state credit union board, in shares of investment companies registered under the Investment Companies Act of 1940 and which invest only in investments otherwise permissible under this section.
 - h. In investments or insurance products or in loans to the credit union employee associated with the investment or insurance product which are otherwise prohibited by this section if the investments are directly related to a benefit plan for credit union employees.
- 6. To borrow money as limited in this chapter.
 - 7. Subject to such regulations as the state credit union board may prescribe, insurance obtained under title 1 of the National Housing Act must be deemed adequate security.
 - 8. To sue and be sued.
 - 9. A credit union may invest in a credit union office building, including the lot, piece, or parcel of land on which the same is located, and in furniture and fixtures, to the extent authorized by regulations issued by the state credit union board.
 - 10. a. Every state credit union has the power to purchase, hold, and convey other real estate as herein provided, and not otherwise:
 - a- (1) Such as is mortgaged to it in good faith by way of security for loans, or for debts previously contracted.
 - b- (2) Such as is conveyed to it in good faith in satisfaction of debts previously contracted in the course of its dealings.
 - c- (3) Such as it purchases at sales under judgments, decrees, or mortgages held by the credit union, or purchases to secure debts due to it.

~~Within sixty days of the~~

- b. Upon transfer to other real estate owned, a current appraisal must be conducted by a state-licensed an individual who is independent of the transaction ~~for all real estate recorded at or above one hundred thousand~~

dollars or through a market evaluation performed by a qualified individual who is independent of the transaction for all real estate recorded below one hundred thousand dollars. Except as otherwise provided by chapter 10-06.1, a state credit union may hold possession of any real estate acquired after July 1, 1991, under mortgage, or title and possession of any real estate purchased to satisfy indebtedness, for a period not to exceed five years. Except as otherwise provided by chapter 10-06.1, real estate acquired before July 1, 1991, may be held for a period not exceeding five years from July 1, 1991. The commissioner may extend the real estate holding period up to an additional five years upon formal request by a credit union if the credit union has made a good-faith attempt to dispose of the real estate within the five-year period, or disposal within the five-year period would be detrimental to the credit union. Within thirty days after receipt of an adverse decision, the credit union may appeal that decision to the state credit union board.

c. Notwithstanding other sections of this chapter, a credit union may apply to the commissioner for authority to exchange its interest in real property acquired in satisfaction of a debt previously contracted for an interest in an entity that would dispose of the real property. If the commissioner's decision with respect to an application is unfavorable, the applicant credit union may appeal the decision to the state credit union board by filing a notice of appeal with the commissioner within twenty business days after the commissioner has notified the applicant credit union of the decision.

11. Subject to authorization by the state credit union board, acting by order or rule, a state credit union has the same powers as a federal credit union and may engage in any activity in which a credit union could engage if the credit union were federally chartered.
12. To exercise any incidental power necessary or requisite to enable the credit union to carry out effectively the business for which it is incorporated or as determined by the board by order or rule.

SECTION 13. AMENDMENT. Subsection 4 of section 6-06-08 of the North Dakota Century Code is amended and reenacted as follows:

4. Every state credit union, ~~including any "corporate central" or "corporate" credit union,~~ placed under the jurisdiction and control of the state credit union board and the commissioner by the provisions of this title shall pay a ~~yearly~~semiannual assessment. This assessment is to be determined by the state credit union board as necessary to fund that portion of the department's budget relating to the regulation of state-chartered credit unions. The assessment must be paid to the state treasurer within thirty days of each June thirtieth and December thirty-first. ~~Credit unions that have not been examined by the commissioner or the state credit union board for three years prior to any assessment date are not required to pay the assessment. The state treasurer shall report the payments of fees to the commissioner, and if any credit union is delinquent more than twenty days in making payment, the board may make an order suspending the functions of the delinquent credit union seek other administrative remedies until payment of the amount due. The commissioner may assess a penalty of five dollars one percent of the outstanding assessment fee for each day that the penalty is delinquent. The examination fee for any "corporate central" or "corporate" credit union shall be charged by the department at an hourly rate to be set by the commissioner,~~

~~sufficient to cover all reasonable expenses of the department associated with the examination. All fees and penalties under this section must be paid to the state treasurer and deposited in the financial institutions regulatory fund.~~

SECTION 14. AMENDMENT. Section 6-06-11 of the North Dakota Century Code is amended and reenacted as follows:

6-06-11. Annual meetings - Election of directors - Election or appointment of committees.

1. The organization meeting of the members of a credit union shall be the first annual meeting. At its annual meeting, its members shall elect a board of directors of not less than five members and a credit committee of not less than three members, unless the bylaws of the credit union provide that the credit union may not have a credit committee. A supervisory committee of not less than three members must be elected at the annual meeting, unless the bylaws of the credit union provide that the supervisory committee members be appointed by the board of directors of the credit union or the bylaws provide that the credit union may not have a supervisory committee. In the event the bylaws do not provide for a supervisory committee, then the duties and powers of a supervisory committee, as described in section 6-06-15, are the responsibility of the board of directors. The directors and committee members if any, shall hold office for such terms, respectively, as provided by the bylaws of the credit union and until their successors qualify. A record of the names and addresses of the officers and members of the board and committees must be filed with the commissioner within ten days after their election or appointment. Notice of any change in membership on the board or committees by appointment to fill an unexpired term or otherwise must be filed with the commissioner within ten days of such change. The notice requirement is satisfied if the national credit union association's call report profile is updated within the ten-day reporting requirement.
2. If the bylaws of the credit union provide for a credit committee, then pursuant to the provisions of the bylaws, the board of directors may appoint or the members may elect a credit committee which consists of an odd number of members of the credit union, but which may not include more than one loan officer. The method used must be set forth in the bylaws.
3. If the credit committee is dispensed with in the bylaws, a credit manager, under the general supervision of the board of directors, may be empowered to approve or disapprove loans subject to the policies and conditions prescribed by the board of directors. The president or other qualified senior management official may serve as the credit manager. If a credit manager is provided in lieu of an elected credit committee, the credit manager may appoint one or more loan officers with the power to approve or disapprove loans, and may establish an internal credit committee comprised of designated credit union staff with the power to approve or disapprove loans, subject to such limitations or conditions as the credit manager and board of directors prescribes.

SECTION 15. AMENDMENT. Section 6-08-08.1 of the North Dakota Century Code is amended and reenacted as follows:

6-08-08.1. Sale or purchase of associations, banking institutions, or holding companies - Notification to commissioner - Hearing.

1. No person, acting directly or indirectly or through or in concert with one or more other persons, may purchase or otherwise acquire control of an association or banking institution unless the state banking board or commissioner has been given prior written notice by application of the proposed disposition or acquisition. The written application must include such information as the state banking board shall specify. The transaction may not be consummated before the board or commissioner has granted approval.
2. The applicant shall publish notice of the application as required by the board by rule.
3. ~~Within ten business days after the date the application is received, the~~The commissioner shall determine if the application is complete and notify the applicant ~~by mail of the determination. If the commissioner determines the application is incomplete, the commissioner will, within the ten business days, shall~~ request additional information deemed necessary to complete the application. ~~Within ten business days after the receipt of the additional information, the commissioner will notify the applicant by mail of the commissioner's determination of completeness. Within sixty days, or the next regularly scheduled meeting of the board, after the mailing of a notice of completeness by the commissioner, the board must either approve or disapprove the application.~~
4. ~~If not approved by the commissioner, the commissioner shall submit the application to the board. The board may approve or disapprove any~~the application if the board determines that:
 - a. The character, reputation, general fitness, financial standing, and responsibility of the persons proposed as new stockholders, directors, or officers is such that the interests of the other stockholders, depositors, and creditors of the institution and the public generally will be jeopardized by the change in control and management.
 - b. The qualifications of management do not include adequate experience with financial institutions or other approved related experience.
5. Within three business days after the board's decision to disapprove an application, the board shall notify the applicant in writing of the disapproval. The notice must provide a statement of the basis for the disapproval.
6. Within twenty days after receipt of the notice of disapproval, the applicant may request a hearing on the disapproval. The board must conduct a hearing, if requested, under the provisions of chapter 28-32. At the conclusion of the hearing, the board shall by order approve or disapprove the application on the basis of the record at the hearing.
7. For purposes of this section, "control" means ownership or control, directly, indirectly, or through the actions of one or more persons of the power to vote twenty-five percent or more of any class of voting securities of an association, banking institution, controlling bank holding company, or the direct or indirect power to control in any manner the election of a majority of the directors of an association or banking institution, or to direct the management or policies of an association or banking institution, whether by individuals, corporations, limited liability companies, partnerships, trusts, or other entities or organizations of any type.

8. The following acquisitions of voting securities of a North Dakota state chartered bank, which would otherwise require submission of an application under this section, are not subject to the application requirements if the acquiring person notifies the commissioner within ninety days after the acquisition and provides any relevant information requested by the commissioner: acquisition of voting securities through inheritance; acquisition of voting securities as a bona fide gift; and acquisition of voting securities in satisfaction of a debt previously contracted in good faith. This subsection does not limit the authority of the commissioner to require a party to submit a written application to the board under subsection 1.

SECTION 16. Section 6-06-14.1 of the North Dakota Century Code is created and enacted as follows:

6-06-14.1. Loans - How made - Security - Meetings and duties of loan administration - Preferential loans.

1. The duty of loan administration falls to the credit committee if the bylaws establish a credit committee, or to the credit manager appointed by the board of directors if the bylaws do not provide for a credit committee. At a minimum, loan administration must include:
 - a. Oversight over all loans.
 - b. Performance of loan-related duties as often as necessary, and in the case of a credit committee, a meeting at least once each month. Each member of the credit committee must receive prior notice of the time and location of a meeting.
 - c. Loan applications, notes, security instruments, and all other loan documentation necessary to execute the transaction on forms approved by the committee or credit manager which set forth the purpose for which the loan is desired, the security, if any, which is offered, and such other data as the committee or credit manager may require.
 - d. Documentation that the loan complies with board of directors-approved loan policies, including policy limits on the maximum unsecured loans to one borrower and the limit on maximum total loans to a borrower.
 - e. Documented approval or denial of the loan by the majority of the entire credit committee or by the credit manager, except that the credit committee or credit manager may appoint and delegate to one or more loan officers the power to approve loans up to the limit established by the board of directors.
 - f. Sufficient segregation of duties to limit risk or error if possible. At a minimum, an individual may not disburse funds of the credit union for any loan that has been approved by that individual in that individual's capacity as a loan officer.
2. Not more than one member of the credit committee may be appointed as a loan officer, unless credit union bylaws provide for a board of directors-appointed credit manager and the credit committee is made up of credit union employees appointed by the credit manager.

3. Every loan by a credit union to, or guaranteed by, its directors, officers, managers, and committee members must:
 - a. Be current as outlined on the terms of the loan agreement.
 - b. Be made on substantially the same terms, including interest rates, fee structure, and collateral, as those prevailing at the time for comparable transactions with other persons.
 - c. Be written in strict conformity with the credit union's policies, rules, and regulations.
4. An exception may be made for a loan otherwise prohibited by this section if the loan is directly related to a retirement investment benefit plan for credit union employees.

SECTION 17. REPEAL. Section 6-06-14 of the North Dakota Century Code is repealed.

SECTION 18. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 77

SENATE BILL NO. 2102

(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to create and enact chapter 6-07.2 of the North Dakota Century Code, relating to dissolution, insolvency, suspension, emergency receivership, and liquidation of institutions under the department of financial institutions' supervision; to amend and reenact subsection 4 of section 6-01-04.2 and sections 6-01-04.4, 6-02-05, 6-03-12, 6-03-57, 6-03-67, 6-05-34, and 6-06-08.4 of the North Dakota Century Code, relating to financial institutions cross references, cease and desist orders, and prompt corrective action; and to repeal chapter 6-07 of the North Dakota Century Code, relating to dissolution, insolvency, suspension, emergency receivership, and liquidation of institutions under the department of financial institutions' supervision.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 6-01-04.2 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner or the board may enter an emergency, temporary cease and desist order if the commissioner or the board finds the conduct described in the complaint is likely to cause insolvency, substantial dissipation of assets, earnings, or capital of the financial corporation, financial institution, or credit union, or substantial prejudice to the depositors, shareholders, members, or creditors of the financial corporation, financial institution, or credit union. An emergency, temporary cease and desist order is effective immediately upon service on the financial corporation, financial institution, or credit union and remains in effect for no longer than sixty days or until the conclusion of permanent cease and desist proceedings pursuant to this section, whichever is sooner. An emergency, temporary cease and desist order may be issued without an opportunity for hearing. The financial corporation, financial institution, or credit union upon which such an order is served may apply to the district court of the county in which the financial corporation, financial institution, or credit union is located for an order enjoining the operation of the emergency, temporary order. The application for injunction and procedure upon application must comply with the requirements of section 6-07-14A bank or credit union may request a hearing before the state banking board or state credit union board within ten days of the order to review the factual basis used to issue the emergency, temporary cease and desist order. The decision made by the board during this hearing will be final. If a hearing is not requested, the initial decision of the commissioner or board will be final.

SECTION 2. AMENDMENT. Section 6-01-04.4 of the North Dakota Century Code is amended and reenacted as follows:

6-01-04.4. Prompt corrective action.

The commissioner or board may enter an order if the commissioner or board finds that a state bank is undercapitalized, significantly undercapitalized, or critically

undercapitalized. For the purpose of this section, undercapitalized, significantly undercapitalized, and critically undercapitalized have the same definition as found in title 12, Code of Federal Regulations, part 324, section 403, as amended April 15, 2016. The order may require an undercapitalized state bank to take prompt corrective action as the commissioner or board determines reasonable to bring the bank to an adequately capitalized condition, including the submission and implementation of an acceptable capital restoration plan. A bank may request a hearing before the state banking board within ten days of the order to review the factual basis used to issue the request for prompt corrective action. The decision made by the board during this hearing is final. If a hearing is not requested, the initial decision of the commissioner or board is final. For a significantly or critically undercapitalized state bank, the commissioner or board may issue a temporary cease and desist order appointing a receiver, or with the consent of the federal deposit insurance corporation appoint a conservator or take such other action as may be better to resolve the problems of the state bank consistent with section 38 of the Federal Deposit Insurance Act of 1991 [Pub. L. 102-242; 105 Stat. 2253; 12 U.S.C. 1831o et seq.], in effect on July 22, 2010. A bank that has been served with a complaint requesting the state banking board to issue a prompt corrective action under this section may request a hearing before the board within five days after service of the complaint upon the bank. A request for a hearing must be granted and the hearing must be held not later than ten days after the request is filed with the board. A complete record of the hearing must be established and maintained. On the basis of the hearing, the board may issue an order. The bank may appeal the board's order under this section to the district court of Burleigh County, North Dakota, within ten days after the board's order is served on the bank. The appeal is governed by chapter 28-32 in accordance with chapter 6-07.2.

SECTION 3. AMENDMENT. Section 6-02-05 of the North Dakota Century Code is amended and reenacted as follows:

6-02-05. Acknowledgment of organization certificate - Application for certificate of authority - Notice of hearing.

The organization certificate must be acknowledged before a notary public, and, ~~together with the acknowledgment thereof, the acknowledged certificate~~ must be authenticated by the seal of the notary. The ~~same thereupon~~ authenticated certificate must be transmitted to the state banking board with a request for permission to present the same to the secretary of state, with application for the issuance of a certificate of authority. Upon receiving such organization certificate, the board shall cause notice of the application ~~therefor~~ to be published in the official newspaper of the county within which such association is proposed to be established. ~~Such~~ The notice must contain a statement of a time when and place where the board will hear ~~such~~ the application and must specify that any person objecting ~~thereto~~ the application may appear and show cause why such application should not be approved. Upon the consolidation of banks, acquisition pursuant to ~~section 6-07-04.2~~ chapter 6-07.2, or the conversion of a national bank to a state bank, notice of such hearing need not be given.

SECTION 4. AMENDMENT. Section 6-03-12 of the North Dakota Century Code is amended and reenacted as follows:

6-03-12. Transfer of assets on consolidation or merger.

All of the rights, property, franchises, and interests of the consolidating or merging bank or trust company are deemed to be transferred to and vested in the bank or trust company into which it is consolidated or merged without other instrument of transfer.

The consolidated bank or trust company shall hold and enjoy the same and all rights, property, franchises, and interests in the same manner and to the same extent as were held and enjoyed by the bank or trust company so consolidated or merged therewith, including the holding and performing by any bank or trust company of any and all trust and fiduciary relations whatsoever as to and for which either or any of the banks or trust companies so consolidating or merging may have been appointed, nominated, or designated by any will, agreement, conveyance, or otherwise, whether or not such trust or fiduciary relationship has come into being or has taken effect at the time of the consolidation or transfer. The merging bank or trust company, however, shall transfer all of its real property to the consolidated bank or trust company by good and sufficient deed of conveyance, and for that and other purposes, it remains a body corporate until dissolved in the manner provided in chapter ~~6-076-07.2~~, or if no assets or liabilities remain, until the certificate is canceled by the secretary of state.

SECTION 5. AMENDMENT. Section 6-03-57 of the North Dakota Century Code is amended and reenacted as follows:

6-03-57. Foreclosure of pledge contracts.

Except as otherwise provided in chapter ~~6-076-07.2~~, no pledge made by an association may be foreclosed except by an action in equity brought in the district court of the county in which the pledgor association is located, except where assets are pledged by a state banking association in order to secure borrowed money or the obligation of the association on rediscounted paper, the rights of the pledgee must be determined by the terms of the agreement of pledge, and if the pledged assets are outside of this state, the foreclosure of the pledge is governed by the laws of the state where the pledge is located.

SECTION 6. AMENDMENT. Section 6-03-67 of the North Dakota Century Code is amended and reenacted as follows:

6-03-67. Appropriation of deposits unlawful - Exception - Liability therefor.

Except as provided in sections ~~6-07-526-07.2-09~~ and 30.1-31-20, it is unlawful for any banking association to charge any claim which it might have, or the claim of any other person, against a deposit made with the association, or to appropriate a deposit or any part of the deposit to the payment of any debt to the association, without legal process or the consent of the depositor. Any banking association that violates this section is liable to the party aggrieved for any damages caused by the violation.

SECTION 7. AMENDMENT. Section 6-05-34 of the North Dakota Century Code is amended and reenacted as follows:

6-05-34. Other code provisions applicable to corporations doing business under this chapter.

The provisions of title 10, as it may be amended from time to time, governing profit corporations, and sections 6-01-06, 6-01-09, 6-03-11, 6-03-12, 6-03-27, 6-03-33, 6-03-34, 6-03-35, 6-03-41, 6-03-42, 6-03-51, 6-03-52, 6-03-53, 6-03-54, 6-03-55, 6-03-56, 6-03-57, 6-03-58, 6-03-61, 6-03-62, 6-03-63, 6-03-64, 6-03-65, 6-03-70, 6-03-72, ~~6-07-01, 6-07-02, 6-07-04, 6-07-05, 6-07-06~~chapter ~~6-07.2~~, sections 6-08-03, 6-08-06, 6-08-09, 6-08-14, and 6-08-20 are applicable to and must be observed by all corporations organized under this chapter, except as to provisions thereof inconsistent with the provisions of this chapter.

SECTION 8. AMENDMENT. Section 6-06-08.4 of the North Dakota Century Code is amended and reenacted as follows:

6-06-08.4. Prompt corrective action.

1. For purposes of this section, the net worth categories are defined as:
 - 1- a. Well capitalized. A credit union with a net worth ratio of seven percent or greater which meets any applicable risk-based net worth requirement.
 - 2- b. Adequately capitalized. A credit union with a net worth ratio six percent or more but less than seven percent which meets any applicable risk-based net worth requirement as defined by the state credit union board by rule.
 - 3- c. Undercapitalized. A credit union with a net worth ratio of four percent or more but less than six percent or fails to meet any risk-based net worth requirement.
 - 4- d. Significantly undercapitalized. A credit union with a net worth ratio of two percent or more but less than four percent, fails to increase its net worth, or fails to submit or materially implement a net worth restoration plan.
 - 5- e. Critically undercapitalized. A credit union with a net worth ratio less than two percent.
2. A credit union may be reclassified into the next subordinate net worth category by the commissioner or the state credit union board if it is determined that the credit union is in an unsafe or unsound condition or has not corrected unsafe or unsound practices of which it was, or should have been, aware. The board or commissioner may ~~require~~order a credit union that is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized to take prompt corrective action to increase its net worth. Additionally, the ~~board or commissioner~~order may require a credit union that is undercapitalized, significantly undercapitalized, or critically undercapitalized to submit an acceptable net worth restoration plan to the commissioner. A credit union may request a hearing before the state credit union board within ten days of the order to review the factual basis used to issue the request for prompt corrective action. The decision made by the board during this hearing is final. If a hearing is not requested, the initial decision of the commissioner or board is final. For a significantly undercapitalized credit union that has no reasonable prospect of becoming adequately capitalized or a critically undercapitalized credit union, the ~~commissioner or~~ board may take possession of the credit union; ~~or~~ appoint a conservator or liquidating agent for the credit union; ~~or take such other action as the board determines would be appropriate to resolve the problems of the credit union.~~

~~A credit union that is the subject of such a board declaration may ask for a hearing before the board within five days after service upon it of the board's declaration. The application for a hearing must be granted and the hearing must be held not later than ten days after the application is filed. A complete record of the hearing must be established and maintained. On the basis of the hearing, the board shall enter a final order. The institution may appeal the order to the district court of Burleigh County, within ten days after the order is served upon it. The appeal is governed by chapter 28-32 in accordance with chapter 6-07.2.~~

SECTION 9. Chapter 6-07.2 of the North Dakota Century Code is created and enacted as follows:

6-07.2-01. Department taking possession - Procedure.

1. The commissioner may take possession of the business and property of an institution the commissioner supervises if it appears to the commissioner that any of the following conditions exist:
 - a. The directors or officers of the institution, or the liquidators of the institution subject to a voluntary plan of liquidation, have neglected, failed, or refused to take action the commissioner deems necessary for the protection of the institution.
 - b. The directors, officers, or liquidators of the institution have impeded or obstructed an examination. This may include concealment or refusal to submit books, papers, records, or affairs of the institution for inspection to any examiner or to any lawful agent of the appropriate federal financial institution regulatory agency or of the department.
 - c. The business is being conducted in a fraudulent, illegal, or unsafe manner.
 - d. The institution is conducting business in a way causing losses to depositors.
 - e. The institution is operating in an unsafe or unsound condition.
 - f. The capital of the institution is impaired such that the likely realizable value of the institution's assets is insufficient to pay and satisfy the claims of all depositors and all creditors.
 - g. The institution is insolvent or in imminent danger of insolvency or has suspended ordinary business transactions of the institution due to insufficient funds.
 - h. The institution has refused or been unable to pay deposits or obligations in accordance with the terms under which those deposits or obligations of the institution were incurred.
 - i. Substantial dissipation of assets or earnings due to:
 - (1) Any violation of any law or rule; or
 - (2) An unsafe or unsound practice.
 - j. The institution is unable to continue operations.
 - k. The institution is in violation of any applicable state or federal regulation.
 - l. Neglect or refusal to comply with the terms of a final order of the department, state banking board, state credit union board, or federal financial institution's regulatory agency essential to preserve the solvency of the institution.
 - m. The institution has failed to pay the fees charged by the department under section 6-01-17 after due notice of the amount of the fee has been given.

- n. The institution's board of directors requests that the department take possession for the benefit of depositors, other creditors, shareholders, or other persons.
 - o. The institution has been advised by the federal deposit insurance corporation of the federal deposit insurance corporation's intention to withdraw deposit insurance coverage.
 - p. The institution has been advised by the national credit union association of the national credit union association's intention to withdraw share insurance coverage.
 - q. The directors or officers of the bank, or the liquidators of a bank subject to a voluntary plan of liquidation, have assumed duties or performed acts in excess of those authorized by applicable statutes or regulations, by the bank's organizational documents or plan of liquidation, or without supplying the required bond.
2. If it appears to the commissioner one or more of the conditions in this section exists as to any institution, the commissioner shall cause a notice to be served on the president or other executive officer in charge of the institution and, pursuant to such notice, take possession of the business, property, and records of the institution from the officer citing the reasons for such a demand from this section. The decision of the commissioner is final upon the president or other executive officer's receipt of the notice and the institution immediately shall surrender possession to the commissioner.

6-07.2-02. When possession terminates.

If the commissioner has taken possession of the business and property of an institution under the provisions of section 6-07.2-01, the commissioner shall hold possession of the business and property until the affairs of the institution have been finally liquidated as provided in this chapter, unless the institution has undertaken the voluntary liquidation of the affairs of the institution under this chapter, or either the federal deposit insurance corporation, or any successor federal deposit insurance agency, or the national credit union association, or any successor federal deposit insurance agency, has been appointed receiver.

6-07.2-03. Notice of possession.

1. Immediately upon taking possession of the business and property of an institution under section 6-07.2-01, the commissioner shall give notice by:
 - a. Causing the notice to be served upon the president or other executive officer in charge of the business of the institution;
 - b. Causing the notice to be provided to all correspondent banks of the institution. However, if the commissioner fails to provide the notice, the commissioner shall incur no liability for such failure to act; and
 - c. Causing the notice to be made public.
2. The rights and liabilities of an institution and of the institution's creditors, depositors, shareholders, and all other persons interested in the institution's estate, unless otherwise directed, must be fixed as of the date of the delivery of the notice of possession to the president or other executive officer actively

in charge of the business of the institution. In the case of mutual debts or mutual credits of equal priority between the institution and another person, the credits and debts must be setoff and the balance only must be allowed or paid. The right to setoff must be determined as of the date of delivery of the notice of possession of the institution to the president or other executive officer actively in charge of the business of the institution.

6-07.2-04. Appointment of receiver - Restrictions on proceedings, liens, or credits - Bonding.

1. After taking possession of the business and property of the institution, the commissioner may appoint the appropriate federal deposit insurance agency or other qualified party as the receiver of the closed institution. If the federal deposit insurance corporation or national credit union association accepts appointment as receiver, the federal deposit insurance corporation or national credit union association is not required to post bond.
2. Upon appointment as receiver, title to all assets of the institution vests in the receiver without the execution of any instruments of conveyance, assignment, transfer, or endorsement. If no other receiver is appointed as provided in this chapter, the commissioner shall act as receiver and has all of the powers and duties of a receiver as provided in this chapter.
3. Except as otherwise provided, the sole and exclusive right to liquidate and terminate the affairs of an institution is vested in the receiver appointed under this section, and another receiver, assignee, trustee, or liquidating agent may not be appointed by any court or any other person.
4. After the commissioner has taken possession of the business and property of an institution, a suit, action, or other proceeding at law or in equity may not be commenced or prosecuted against the institution upon any debt, obligation, claim, or demand. All such claims may be brought against the receiver.
5. A person holding any of the property or credits of the institution does not have a lien or charge against the property or credits for any payment, advance, or clearance made after the commissioner has taken possession. A lien may not attach to any of the assets or property of the institution by reason of the entry of any judgment recovered against the institution after the commissioner has taken possession of the institution's business and property.
6. Every receiver appointed by the commissioner, except a federal deposit insurance agency, before entering upon the discharge of the receiver's duties and before proceeding to liquidate the affairs of any institution, may be required by the commissioner to furnish a bond. Such bond must be approved as to form and amount by the commissioner. The cost of such bond must be paid from the assets of the institution being liquidated.

6-07.2-05. Powers of receiver.

The receiver of a closed institution may do the following:

1. Take possession of all books, records, and assets of the institution.
2. Collect all debts, claims, and judgments belonging to the institution and do such other acts as are necessary to preserve and liquidate the assets of the institution.

3. Execute in the name of the institution any instrument necessary or proper to effectuate the receiver's powers or perform the duties as receiver.
4. Initiate, pursue, and defend litigation involving any right, claim, interest, or liability of the institution.
5. Exercise any and all existing fiduciary functions of the institution as of the date of appointment as receiver.
6. Borrow money as necessary and secure the borrowings by the pledge or mortgage of assets. The repayment of money borrowed under this subsection and interest on the money borrowed under this section must be considered an expense of administration under section 6-07.2-09.
7. Abandon or convey title to any holder of a mortgage, deed of trust, security interest, or lien against property in which the institution has an interest if the receiver determines that to continue to claim the interest is burdensome and of no advantage to the institution or the institution's depositors, creditors, or shareholders.
8. Repudiate any leases or executory contracts to which the institution is a party in accordance with section 6-07.2-09.
9. Sell any and all real and personal property to compromise any debt, claim, or judgment due from the institution and discontinue any action or other proceedings pending.
10. Pay off all mortgages, deeds of trust, security agreements, and liens upon any real or personal property belonging to the institution and purchase at judicial sale or at sale authorized by court order, any real or personal property in order to protect the institution's equity in that property.
11. Sell in bulk the assets and liabilities of the institution.

6-07.2-06. Sale of assets - Assumptions of deposit liabilities by new institution.

The receiver may sell all or any part of the institution's assets to one or more other state or federally chartered depository institution or to a federal deposit insurance agency in the receiver's corporate capacity. The receiver may also borrow from a federal deposit insurance agency an amount necessary to facilitate the assumption of deposit liabilities by a newly chartered or existing state or federally chartered depository institution, assigning any part or all of the assets of the institution as security for the loan.

6-07.2-07. Presentation of claims - Notice of claims procedure - Rejection of claims - Statute of limitations.

1. All parties having claims against the closed institution shall present the claims of the parties supported by proof to the receiver within one hundred eighty days after the commissioner has taken possession. This period may be extended by written agreement between the claimant and the receiver. The receiver shall cause notice of the claims procedures prescribed by this section to be made public and mailed to each person whose name appears as a creditor upon books of the institution at the person's last address of record. Within one hundred eighty days following receipt of the claim, the receiver

shall notify in writing any claimant whose claim has been rejected. Notice is effective when mailed. A claimant whose claim has been rejected by the receiver may petition a court for a hearing on the claim within sixty days from the date the claim was rejected. The claim of a party against the closed institution must be disallowed, other than any portion of the claim which was allowed by the receiver, as of the end of the sixty-day period if the party having the claim fails to:

- a. Request an administrative review of any claim by the receiver in accordance with proper procedure; or
 - b. File suit on the claim, or continue an action commenced before the appointment of the receiver, before the end of the sixty-day period.
2. The disallowance is final, and the claimant has no further rights or remedies with respect to the claim.

6-07.2-08. Claims filed after one hundred eighty-day claim period.

A claim filed after the one hundred eighty-day claim period prescribed by section 6-07.2-07 and subsequently accepted by the receiver is entitled to share in the distribution of assets only to the extent of the undistributed assets in the hands of the receiver on the date the claim is accepted or allowed.

6-07.2-09. Payment of claims.

1. All claims against the institution's estate, proved to the receiver's satisfaction or approved by the circuit court, must be paid in the following order:
 - a. Administration expenses, including compensation of each regular officer or employee of the receiver for the time actually devoted to the liquidation of the institution at an amount not to exceed the compensation paid to the officer or employee for the performance of the officer's or employee's regular duties; actual expenses of each regular officer and employee necessarily incurred in the performance of the officer's or employee's duties; compensation and expenses of any special representative, assistant, accountant, agent, or attorney employed by the receiver; court costs; and if the commissioner is acting as receiver, such reasonable general overhead expenses as may be incurred by the commissioner in the liquidation of the affairs of the institution which shall be ascertained, determined, and fixed by the commissioner.
 - b. Claims given priority under other provisions of state or federal law.
 - c. Deposit obligations, except that notwithstanding sections 6-03-67 and 41-04-31, if a depositor is indebted to an insolvent bank, the insolvent bank has a right to setoff against the depositor's account.
 - d. Other general liabilities.
 - e. Debt subordinated to the claims of depositors and general creditors.
 - f. Equity capital securities.
2. Interest on a claim may not be paid until all claims within the same class have received the full principal amount of claim.

6-07.2-10. Rejection of contracts and leases.

1. Within one hundred eighty days after the date the commissioner has taken possession, the receiver may reject:
 - a. An executory contract to which the closed institution is a party without any further liability to the closed institution or the receiver; and
 - b. An obligation of the institution as a lessee of real or personal property.
2. The receiver's election to reject a lease does not create a claim for rent other than rent accrued to the date of termination.

6-07.2-11. Subrogation of federal deposit insurance agency to right of depositors.

If a federal deposit insurance agency pays or makes available for payment the insured deposit liabilities of a closed institution, the federal deposit insurance agency, whether or not the federal deposit insurance agency acts as receiver, must be subrogated by operation of law to all rights of depositors against the closed institution relating to claims for deposits so paid by the federal deposit insurance agency to the extent necessary to enable the federal deposit insurance agency, under federal law, to make insurance payments available to depositors of closed institutions.

6-07.2-12. Appointment of successor fiduciary and representative proceedings.

1. The receiver may appoint one or more successors to any or all of the rights, obligations, assets, deposits, agreements, and trusts held by the closed institution as trustee, administrator, executor, guardian, agent, and all other fiduciary or representative capacities. The approval may be obtained in connection with the proceedings authorized under section 6-07.2-06.
2. A successor's duties and obligations begin upon appointment to the same extent binding upon the closed institution and as though the successor had originally assumed the duties and obligations. Specifically, a successor must be appointed to administer trusteeships, administrations, executorships, guardianships, agencies, and other fiduciary or representative proceedings to which the closed institution is named or appointed in wills, whenever probated, or to which it is appointed by any other instrument or court order, or by operation of law.
3. This section does not impair any right of the grantor or beneficiaries of trust assets to secure the appointment of a substituted trustee or manager.
4. Within thirty days after appointment, a successor shall give written notice, insofar as practical, that the successor has been appointed in accordance with applicable law to all interested parties named in:
 - a. The books and records of the closed institution; and
 - b. Trust documents held by the successor.

6-07.2-13. Notice concerning safekeeping and safe deposit boxes.

The receiver shall cause notice to be mailed to the last address of record to the owners of any personal property in the possession of or held by a closed institution for safekeeping, and to all lessees of safe deposit boxes. The notice must require the intended recipients to appear and assert the claims of the recipients to the property within sixty days from the date of the notice. The receiver shall make such agreements or arrangements as may be necessary for the disposition of property held by the closed institution for safekeeping and the contents of safe deposit boxes, and for the termination of any leases or other contracts relating to the property or contents.

6-07.2-14. Actions for enforcement or rights, demands, or claims vested in an institution or its shareholders or creditors.

Notwithstanding any other provision of state law, the receiver may, within five years from the date of closing of the institution, institute and maintain, in the name of the receiver, any action or proceeding for the enforcement of any right, demand, or claim that is vested in the institution.

6-07.2-15. Contents of articles of dissolution.

If the proceedings described in this chapter have been completed, the receiver shall execute and file, in the manner provided in this section, articles of dissolution, setting forth the following information:

1. The name of the institution;
2. The place where the institution's main office was located;
3. The names and addresses of the directors and officers of the institution at the time the liquidation proceedings were begun;
4. A brief summary of the aggregate amount of general claims finally allowed against the institution, the order in which the claims were paid, and the aggregate amount of all other claims against the institution. A statement of the aggregate payments made on each of the groups of claims must be provided, referencing the orders of the receiver authorizing those payments and the current reports documenting such payments; and
5. A brief summary of the aggregate amount of payments made to the shareholders of the institution, whether of money or other property, and a reference to the orders of the receiver authorizing the payments and to the current reports in which documentation of the payments is made.

6-07.2-16. Execution and filing of articles with department - Certificate of dissolution.

1. The articles of dissolution must be executed in duplicate and presented in duplicate to the department of financial institutions.
 - a. Upon presentation of the articles of dissolution, the commissioner shall endorse the commissioner's approval upon each of the duplicate copies of the articles if the commissioner finds the articles conform to law.
 - b. The commissioner shall file one copy of the articles in the department and issue two certificates of dissolution. The commissioner shall file one

certificate of dissolution with the department and shall deliver the second to the receiver.

2. Upon the issuance of the certificate of dissolution, the institution is dissolved and its existence ceases. Upon the issuance of the certificate of dissolution, the receiver is authorized, as agent for the directors and shareholders of any subsidiary trust company, to file any and all documents with the secretary of state necessary to terminate the subsidiary trust company's corporate existence under applicable corporate law.

6-07.2-17. Emergency temporary suspension or conservatorship.

1. If upon the examination or investigation of an institution regulated by the commissioner, the commissioner determines the laws are not being fully observed, that any irregularities are being practiced, or that the institution's capital has been or is in danger of being impaired, the commissioner shall give immediate notice of such determination to the officers and directors of the institutions. In addition, if it is deemed necessary in order to conserve the assets of the institution or to protect the interests of depositors and creditors of the institution, the commissioner may do any one or more of the following:
 - a. Temporarily suspend the right of the institution to receive any further deposits;
 - b. Temporarily close the bank, for a period not exceeding sixty days, which period may be further extended for one or more sixty-day periods as the commissioner may deem necessary;
 - c. Require the officers and directors of the bank to liquidate its outstanding loans insofar as required;
 - d. Recapitalize the institution;
 - e. Require that any irregularities be corrected promptly;
 - f. Require the institution to make reports, daily or at such other times as may be required to the commissioner; and
 - g. Without examination, close or appoint a receiver to operate, for such period as the commissioner may deem necessary, an institution facing an emergency due to withdrawal of deposits, a liquidity event in which the institution is unable to continue operations, a cyber or technology related incident, or otherwise, or, without closing the institution, grant the institution the right to suspend or limit the withdrawal of deposits, for such period as the commissioner may determine.
2. If an institution fails or refuses to comply with any such order of the commissioner, or if the commissioner determines a receiver for the institution should be appointed, the commissioner may apply for the appointment of a receiver to take charge of the business affairs and assets of the institution and to wind up the institution's affairs as provided in this chapter.
3. A bank or credit union may request a hearing before the state banking board or state credit union board within ten days of the emergency temporary suspension or conservatorship to review the factual basis used to issue the emergency temporary suspension or conservatorship. The decision made by

the state banking board or state credit union board during the hearing is final. If a hearing is not requested, the initial decision of the commissioner is final.

6-07.2-18. Voluntary liquidation of a bank.

1. An application for approval to voluntarily liquidate the affairs of a bank must be submitted to the commissioner in the manner and form that the commissioner may prescribe, must include the information set forth in this section, and must contain such additional information the commissioner may require. The application must include duplicate copies of a resolution authorizing the dissolution and duplicate copies of a certificate, verified by the applicant's president or chief executive officer or a vice president, stating the facts pertaining to the resolution and that the applicant's liabilities have been paid in full. Each duplicate certificate must have annexed to the duplicate, over the official signatures, evidence showing:
 - a. The date on which the resolution was authorized by the affirmative vote of the holders of at least a simple majority of the outstanding shares entitled to vote on the resolution;
 - b. The number of shares of each class entitled to vote on the resolution which were outstanding on the date of the stockholders' meeting;
 - c. The number of shares of each class entitled to vote on the resolution whose owners were present in person or by proxy;
 - d. The number of shares of each class voted for and against the resolution; and
 - e. The manner in which the meeting was called and the time and manner of giving notice, with a certification that the meeting was lawfully called and held.
2. Upon receipt of the application, the commissioner shall investigate the merits of the application. If the commissioner is satisfied the application is complete and all applicable provisions of law have been complied with, the commissioner shall cause an examination to be made of the applicant institution for the purpose of verifying the payment of all the applicant's liabilities. If the examination satisfies the commissioner that all of the applicant's liabilities have been paid, the commissioner shall endorse one copy of the certificate with the commissioner's statement that the institution is voluntarily liquidating. The return of the endorsed copy of the certificate operates to free the institution from further examination and to authorize the institution, under the original corporate name of the institution, to sue and be sued, to execute conveyances and other instruments, to take, hold, and own property, and to do all such other things as may be necessary to realize upon the institution's remaining assets for the pro rata benefit of the institution's stockholders, but not to engage or continue in any new or other business under the institution's charter or otherwise. The liquidation must proceed as expeditiously as possible, and upon conclusion, the institution shall surrender its charter. In lieu of continuing the liquidation under the original corporate name, the institution may transfer the remaining assets to a trustee agreed upon by the stockholders by a majority vote and upon so doing shall surrender the institution's charter.

SECTION 10. REPEAL. Chapter 6-07 of the North Dakota Century Code is repealed.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 78

SENATE BILL NO. 2197

(Senators Klein, Holmberg)
(Representative Lefor)

AN ACT to amend and reenact sections 6-01-07.1 and 54-10-22.1 of the North Dakota Century Code, relating to confidentiality of facts and information obtained or created by the commissioner of financial institutions and the department of financial institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-01-07.1 of the North Dakota Century Code is amended and reenacted as follows:

6-01-07.1. Records - Confidential.

1. All facts and information obtained or created by the commissioner or the department in the following ways are confidential, except as provided in subsections 2 through 78:
 - a. In the course of examining financial institutions, credit unions, and other licensed entities under the supervision of the commissioner, or in the course of receiving audit reports, reports of examining committee and reports of annual meetings of stockholders and directors of such institutions and licensees. The reports of examination may be made available to the financial institution's or licensee's board of directors, or the board's specifically authorized agents or representatives, but the reports remain the property of the department.
 - b. From the federal reserve system, federal deposit insurance corporation, federal home loan bank board, national credit union administration, or any state bank or credit union supervisors or supervisors of other licensed entities of other states.
 - c. In the course of investigating an institution under the supervision of, or licensed by, the commissioner, until such investigation is complete.
 - d. In the course of a special investigation being carried out at the request of the governor or any court.
 - e. (1) In the form or nature of an application for a charter, license, or permission which meets any of the following criteria:
 - (1)(a) Trade secrets and commercial or financial information.
 - (2)(b) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

- (3)(c) Information contained in the application form which is in the nature of examination report information.
- (2) Determination of what required application information falls within each category must be made by the body before which the application is brought.
- f. In the form of a complaint or comment from the public regarding a financial institution, credit union, or other licensed entity under the supervision of the commissioner, unless the commissioner is providing aggregate, nonspecific information.
2. When the commissioner is required or permitted by law to report upon or take special action regarding the affairs of any institution or licensed entity under the commissioner's supervision, the commissioner shall divulge only such information specified in subsection 1 as is necessary and sufficient for the action taken or to be taken.
 3. The commissioner may furnish information to the attorney general, other state agencies, any prosecuting officials requiring the information for use in pursuit of official duties, and legislative investigations under chapter 54-03.2, if the commissioner determines necessary or proper to the enforcement of federal laws or the laws of this state or in the best interest of the public. Information furnished by the commissioner to any third party which is confidential in the commissioner's possession remains confidential in the possession of the third party. Information received by the commissioner from any third party which is confidential in the third party's possession remains confidential in the commissioner's possession.
 4. The commissioner may furnish information and enter sharing agreements as to matters of mutual interest to an official or examiner of the federal reserve system, federal deposit insurance corporation, federal home loan bank board, national credit union administration, office of thrift supervision, comptroller of the currency, any other federal government agency, insurance commissioner, office of the securities commissioner, regulatory trade associations, any state bank or credit union supervisors or supervisors of other licensed entities of other states, or a nationwide multistate licensing system.
 5. Information regarding complaints or comments from the public may be provided to other regulatory agencies, to the individual in response to the complaint or comment, or to the subject financial institution, credit union, or other licensed entity under the supervision of the commissioner.
 6. The commissioner shall not be required to disclose the name of any debtor of any financial institution, credit union, or licensed entity reporting to or under the supervision of the commissioner or anything relative to the private accounts, ownership, or transactions of any such institution, or any fact obtained in the course of any examination thereof, except as herein provided. All disclosures must be limited to only those documents directly relevant to the inquiry at issue.
 - 6-7. This section does not limit the right of access of stockholders, shareholders, depositors, creditors, and sureties on bonds to specified department records as, and to the extent, provided by section 6-01-07.

- ~~7-8.~~ The standards for confidentiality and disclosure by the commissioner set forth in this section, except the standard of the exercise of discretion, which shall only be exercised by the commissioner, apply equally to the state banking board, the state credit union board, and all department employees.

SECTION 2. AMENDMENT. Section 54-10-22.1 of the North Dakota Century Code is amended and reenacted as follows:

54-10-22.1. State auditor's access to information relating to operations of governmental entities subject to audit.

Notwithstanding any other specific sections of law, the state auditor and persons employed by the state auditor, when necessary in conducting an audit, shall have access to all information relating to operations of all governmental units or component units subject to audit except active investigatory work product of the attorney general as defined in section 44-04-19.1 and financial records and estate planning records a donor provides to a nonprofit organization affiliated with an institution under the control of the state board of higher education which provides support to and is organized and operated for the benefit of the institution. Except for active investigatory work product of the attorney general as defined in section 44-04-19.1 and, tax records as described in section 54-10-24, and all facts and information obtained or created by the department of financial institutions under subsection 1 of section 6-01-07.1, the state auditor may inspect any state agency's books, papers, accounts, or records that may be relevant to an ongoing audit of any other state agency or computer system audit. The state auditor and persons employed by the state auditor examining any information, which is confidential by law, shall guard the secrecy of such information except when otherwise directed by judicial order or as is otherwise provided by law.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 79

HOUSE BILL NO. 1187

(Representatives Louser, Boschee, Ertelt, Mock, Pollert, Rohr, Skroch)
(Senators Heckaman, Klein, Sorvaag, Wardner)

AN ACT to create and enact section 6-09-46.2 of the North Dakota Century Code, relating to creation of a Bank of North Dakota rebuilders loan program and a rebuilders permanent loan fund; to repeal sections 6-09-46 and 6-09-46.1 of the North Dakota Century Code, relating to a rebuilders loan program, a rebuilders home loan program, and a rebuilders home loan fund; to provide a continuing appropriation; and to provide for a transfer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 6-09-46.2 of the North Dakota Century Code is created and enacted as follows:

6-09-46.2. Rebuilders loan program - Rebuilders permanent loan fund - Continuing appropriation.

1. The Bank of North Dakota shall develop a rebuilders loan program to make or participate in loans to North Dakota residents affected by extraordinary losses as a result of a presidentially declared disaster or governor-declared disaster or emergency in the state. Under the rebuilders loan program the Bank shall develop and implement specific loan programs to respond to the specific needs resulting from a disaster or emergency. The Bank may fund the loan from any available funding in the rebuilders permanent loan fund and may accept private sector donations and funds from the federal government.
2. Upon request of the Bank of North Dakota, the governor shall furnish the Bank with information relating to the nature and amount of state and local resources that have been or will be committed to alleviating the results of the disaster or emergency, an estimate of the amount and severity of the damage and the impact on the private and public sectors, and an estimate of the type and amount of assistance needed.
3. To apply for a loan under the program, a person shall apply to the originating financial institution. Upon Bank of North Dakota approval of an application, the Bank shall make a loan in accordance with the loan program established under this section. The Bank shall establish a loan application period, which may not exceed a period of eighteen months from the date of the declaration of the disaster or emergency.
4. Excluding the rebuilders and rebuilders home loans transferred to the fund, the Bank of North Dakota shall deposit in the fund all principal and interest paid on the loans made from the fund. The Bank may deduct from interest payments received on a loan under the program a service fee for administering the fund for the Bank and the originating financial institution. The Bank shall contract with a certified public accounting firm to audit the fund as necessary. The cost of the audit, and any other actual costs incurred by the Bank on behalf of the fund, must be paid by the fund.

5. There is created in the state treasury the rebuilders permanent loan fund administered by the Bank of North Dakota. The fund consists of all moneys transferred to the fund by the legislative assembly, interest on moneys in the fund, and payments to the fund of principal and interest on loans made from the fund. All moneys in the fund are appropriated to the Bank on a continuing basis for the rebuilders loan program.
6. If approved by the industrial commission, the fund may borrow from the Bank of North Dakota to provide funding for loans under this section. A loan made to the fund by the Bank must be repaid with principal and interest payment received by the rebuilders permanent loan fund or with moneys appropriated by the legislative assembly.
7. The Bank of North Dakota shall adopt policies to implement this section.

SECTION 2. REPEAL. Sections 6-09-46 and 6-09-46.1 of the North Dakota Century Code are repealed.

SECTION 3. TRANSFER - REBUILDERS PERMANENT LOAN FUND. On July 1, 2021, the Bank of North Dakota shall transfer any outstanding loans and other moneys in the rebuilders home loan and rebuilder loan programs to the rebuilders permanent loan fund. Principal and interest payments from the rebuilders and rebuilders home loans that are transferred to the rebuilders permanent loan fund must be used to replenish the Bank's current earnings and undivided profits and to repay the state general fund pursuant to section 3 of chapter 83 of the 2013 Session Laws and subsection 5 of section 20 of chapter 14 of the 2019 Session Laws. The Bank shall transfer \$30,374,209 in loans made as part of the small employee loan fund established by the industrial commission to provide assistance during the SARS-CoV-2 pandemic to the rebuilders permanent loan program established under this Act. Payments of principal and interest from the small employee loans that are transferred to the rebuilders permanent loan fund must be deposited in the rebuilders permanent loan fund. The Bank shall transfer the remaining \$19,625,791, designated under the small employee loan fund to the rebuilders permanent loan fund in the amounts and at the times determined by the Bank.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 80

HOUSE BILL NO. 1431

(Representatives Pollert, Schmidt)
(Senators Sorvaag, Wardner)

AN ACT to create and enact a new section to chapter 6-09 and a new section to chapter 6-09.4 of the North Dakota Century Code, relating to a water infrastructure revolving loan fund and bonded debt repayments; to amend and reenact subsection 1 of section 6-09-49, and sections 6-09.4-06 and 6-09.4-10 of the North Dakota Century Code, relating to interest rates for infrastructure revolving loans, borrowing and lending authority of the public finance authority, and reserve funds associated with bonds; to repeal chapter 6-09.5 and section 61-02-78 of the North Dakota Century Code, relating to a community water development fund and an infrastructure revolving loan fund within the resources trust fund; to provide an appropriation; to provide a continuing appropriation; to provide for a transfer; to provide for a contingent transfer; to provide a bond issue limit; and to provide a loan repayment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

35 SECTION 1. AMENDMENT. Subsection 1 of section 6-09-49 of the North Dakota Century Code is amended and reenacted as follows:

1. The infrastructure revolving loan fund is a special fund in the state treasury from which the Bank of North Dakota shall provide loans to political subdivisions, the Garrison Diversion Conservancy District, and the Lake Agassiz water authority for essential infrastructure projects. The Bank shall administer the infrastructure revolving loan fund. The maximum term of a loan made under this section is thirty years. A loan made from the fund under this section must have an interest rate ~~that does not exceed two percent per year starting at two percent per year and increasing by one percent every five years, up to a maximum rate of five percent per year.~~

36 SECTION 2. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Water infrastructure revolving loan fund - State water commission - Continuing appropriation.

1. There is created in the state treasury the water infrastructure revolving loan fund to provide loans for water supply, flood protection, or other water development and water management projects. The fund consists of moneys transferred into the fund, interest earned on moneys in the fund, and principal and interest payments to the fund. All moneys in the fund are appropriated to

³⁵ Section 6-09-49 was also amended by section 16 of Senate Bill No. 2014, chapter 42, and section 17 of Senate Bill No. 2014, chapter 42.

³⁶ Section 6-09-49.2 was amended by section 18 of Senate Bill No. 2014, chapter 42.

the Bank of North Dakota on a continuing basis for loan disbursements and administrative costs.

2. The state water commission shall approve eligible projects for loans from the water infrastructure loan fund. The state water commission shall consider the following when evaluating eligible projects:
 - a. A description of the nature and purposes of the proposed infrastructure project, including an explanation of the need for the project, the reasons why the project is in the public interest, and the overall economic impact of the project.
 - b. The estimated cost of the project, the amount of loan funding requested, and other proposed sources of funding.
 - c. The extent to which completion of the project will provide a benefit to the state or regions within the state.
3. Projects not eligible for the state revolving funds under chapters 61-28.1 and 61-28.2 must be given priority for loans from the water infrastructure revolving loan fund.
4. In consultation with the state water commission, the Bank of North Dakota shall develop policies for the review and approval of loans under this section. Loans made under this section must be made at the same interest rate as the revolving loan funds established under chapters 61-28.1 and 61-28.2.
5. The Bank of North Dakota shall manage and administer loans from the water infrastructure loan fund. The Bank shall deposit in the fund all principal and interest paid on loans made from the fund. Annually, the Bank may deduct one-quarter of one percent of the outstanding loan balance as a service fee for administering the water infrastructure revolving loan fund. The Bank shall contract with a certified public accounting firm to audit the fund. The cost of the audit must be paid from the fund.

³⁷ **SECTION 3. AMENDMENT.** Section 6-09.4-06 of the North Dakota Century Code is amended and reenacted as follows:

6-09.4-06. Lending and borrowing powers generally.

1. The public finance authority may lend money to political subdivisions or other contracting parties through the purchase or holding of municipal securities which, in the opinion of the attorney general, are properly eligible for purchase or holding by the public finance authority under this chapter or chapter 40-57 and for purposes of the public finance authority's capital financing program the principal amount of any one issue does not exceed five hundred thousand dollars. However, the public finance authority may lend money to political subdivisions through the purchase of securities issued by the political subdivisions through the capital financing program without regard to the principal amount of the bonds issued, if the industrial commission approves a resolution that authorizes the public finance authority to purchase the securities. The capital financing program authorizing resolution must state that the industrial commission has determined that private bond markets will not be

³⁷ Section 6-09.4-06 was also amended by section 20 of Senate Bill No. 2014, chapter 42.

responsive to the needs of the issuing political subdivision concerning the securities or, if it appears that the securities can be sold through private bond markets without the involvement of the public finance authority, the authorizing resolution must state reasons for the public finance authority's involvement in the bond issue. The public finance authority may hold such municipal securities for any length of time it finds to be necessary. The public finance authority, for the purposes authorized by this chapter or chapter 40-57, may issue its bonds payable solely from the revenues available to the public finance authority which are authorized or pledged for payment of public finance authority obligations, and to otherwise assist political subdivisions or other contracting parties as provided in this chapter or chapter 40-57.

2. The public finance authority may lend money to the Bank of North Dakota under terms and conditions requiring the Bank to use the proceeds to make loans for agricultural improvements that qualify for assistance under the revolving loan fund program established by chapter 61-28.2.
3. The public finance authority may transfer money to the Bank of North Dakota for allocations to infrastructure projects and programs. Bonds issued for these purposes are payable in each biennium solely from amounts the legislative assembly may appropriate for debt service for any biennium or from a reserve fund established for the bonds. This section may not be construed to require the state to appropriate funds sufficient to make debt service payments with respect to the bonds or to replenish a related reserve fund. The bonds are not a debt of the Bank of North Dakota or the state. The full faith, credit, and taxing powers of the state are not pledged to the payment of the bonds. As of the date appropriated funds and reserves are not sufficient to pay debt service on the bonds, the obligation of the public finance authority with respect to the bonds must terminate, and the bonds are no longer outstanding. In addition to providing funds for the transfers, the public finance authority may use the bond proceeds to pay the costs of issuance of the bonds and establish a reserve fund for the bonds.
4. Bonds of the public finance authority issued under this chapter or chapter 40-57 are not in any way a debt or liability of the state and do not constitute a loan of the credit of the state or create any debt or debts, liability or liabilities, on behalf of the state, or constitute a pledge of the faith and credit of the state, but all such bonds are payable solely from revenues pledged or available for their payment as authorized in this chapter. Each bond must contain on its face a statement to the effect that the public finance authority is obligated to pay such principal or interest, and redemption premium, if any, and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on such bonds. Specific funds pledged to fulfill the public finance authority's obligations are obligations of the public finance authority.
5. All expenses incurred in carrying out the purposes of this chapter or chapter 40-57 are payable solely from revenues or funds provided or to be provided under this chapter or chapter 40-57 and nothing in this chapter may be construed to authorize the public finance authority to incur any indebtedness or liability on behalf of or payable by the state.

SECTION 4. AMENDMENT. Section 6-09.4-10 of the North Dakota Century Code is amended and reenacted as follows:

6-09.4-10. Reserve fund.

1. The public finance authority shall establish and maintain a reserve fund in which there must be deposited all moneys appropriated by the state for the purpose of the fund, all proceeds of bonds required to be deposited therein by terms of any contract between the public finance authority and its bondholders or any resolution of the public finance authority with respect to the proceeds of bonds, any other moneys or funds of the public finance authority which it determines to deposit therein, any contractual right to the receipt of moneys by the public finance authority for the purpose of the fund, including a letter of credit or similar instrument, and any other moneys made available to the public finance authority only for the purposes of the fund from any other source or sources. Moneys in the reserve fund must be held and applied solely to the payment of the interest on and the principal of bonds and sinking fund payments as the same become due and payable and for the retirement of bonds, including payment of any redemption premium required to be paid when any bonds are redeemed or retired prior to maturity. Moneys in the reserve fund may not be withdrawn therefrom if the withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and sinking fund payments and for the retirement of bonds in accordance with the terms of any contract between the public finance authority and its bondholders and for the payments on account of which interest or principal or sinking fund payments or retirement of bonds, other moneys of the public finance authority are not then available in accordance with the terms of the contract. The required debt service reserve must be an aggregate amount equal to at least the largest amount of money required by the terms of all contracts between the public finance authority and its bondholders to be raised in the then current or any succeeding calendar year for the payment of interest on and maturing principal of outstanding bonds, and sinking fund payments required by the terms of any contracts to sinking funds established for the payment or redemption of the bonds.
2. If the establishment of the reserve fund for an issue or the maintenance of an existing reserve fund at a required level under this section would necessitate the investment of all or any portion of a new reserve fund or all or any portion of an existing reserve fund at a restricted yield, because to not restrict the yield may cause the bonds to be taxable under the Internal Revenue Code, then at the discretion of the public finance authority no reserve fund need be established prior to the issuance of bonds or the reserve fund need not be funded to the levels required by other subsections of this section or an existing reserve fund may be reduced.
3. No bonds may be issued by the public finance authority unless there is in the reserve fund the required debt service reserve for all bonds then issued and outstanding and the bonds to be issued. Nothing in this chapter prevents or precludes the public finance authority from satisfying the foregoing requirement by depositing so much of the proceeds of the bonds to be issued, upon their issuance, as is needed to achieve the required debt service reserve. The public finance authority may at any time issue its bonds or notes for the purpose of providing any amount necessary to increase the amount in the reserve fund to the required debt service reserve, or to meet such higher or additional reserve as may be fixed by the public finance authority with respect to such fund.

4. In order to assure the maintenance of the required debt service reserve, there shall be appropriated by the legislative assembly and paid to the public finance authority for deposit in the reserve fund, such sum, if any, as shall be certified by the industrial commission as necessary to restore the reserve fund to an amount equal to the required debt service reserve. However, the commission may approve a resolution for the issuance of bonds, as provided by section 6-09.4-06, which states in substance that this subsection is not applicable to the required debt service reserve for bonds issued under that resolution.
5. If the maturity of a series of bonds of the public finance authority is three years or less from the date of issuance of the bonds, the public finance authority may determine that no reserve fund need be established for that respective series of bonds. If such a determination is made, holders of that respective series of bonds may have no interest in or claim on existing reserve funds established for the security of the holders of previously issued public finance authority bonds, and may have no interest in or claim on reserve funds established for the holders of subsequent issues of bonds of the public finance authority.
6. The industrial commission may determine that this section is inapplicable in whole or in part for bonds issued under section:
 - a. Section 6-09.4-06;
 - b. Section 6-09.4-24; or under the
 - c. The public finance authority's state revolving fund program.

SECTION 5. A new section to chapter 6-09.4 of the North Dakota Century Code is created and enacted as follows:

Debt service requirements - Bonds for infrastructure projects and programs.

Each biennium, the public finance authority shall request from the legislative assembly an appropriation from the general fund, derived from legacy fund earnings, Bank of North Dakota profits, or other sources to meet the debt service requirements for bonds issued by the authority for allocations to infrastructure projects and programs.

SECTION 6. REPEAL. Chapter 6-09.5 and section 61-02-78 of the North Dakota Century Code are repealed.

SECTION 7. PUBLIC FINANCE AUTHORITY - BOND ISSUE LIMITATION - BANK OF NORTH DAKOTA - APPROPRIATION.

1. Pursuant to the bonding authority under section 6-09.4-06, the public finance authority may issue up to \$680,000,000 of bonds for transfer to the Bank of North Dakota for allocations to infrastructure projects and programs, for the biennium beginning July 1, 2021, and ending June 30, 2023.
2. The term of any bonds issued under this section may not exceed twenty years. The public finance authority may issue bond anticipation notes or borrow from the Bank to support the allocations to infrastructure projects and programs prior to a bond issue. The public finance authority shall make

available up to ten percent of the bonds for sale directly to North Dakota residents and financial institutions.

3. After payment of any issuance costs or any transfers to a reserve fund, \$680,000,000 from the bond proceeds issued by the public finance authority is appropriated to the Bank of North Dakota for allocations to infrastructure projects and programs, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:
 - a. \$435,500,000 for the Fargo diversion project;
 - b. \$74,500,000 to the resources trust fund;
 - c. \$50,000,000 to the infrastructure revolving loan fund under section 6-09-49;
 - d. \$70,000,000 to the highway fund; and
 - e. \$50,000,000 to North Dakota state university, which is appropriated to North Dakota state university, for an agriculture products development center including a northern crops institute project.

SECTION 8. RESOURCES TRUST FUND - LOAN REPAYMENT. The state water commission shall use the bond proceeds allocated to the resources trust fund under section 7 of this Act to repay loans issued to the western area water supply authority from the resources trust fund.

SECTION 9. APPROPRIATION - RESOURCES TRUST FUND. There is appropriated out of any moneys in the resources trust fund in the state treasury, not otherwise appropriated, the sum of \$74,500,000, or so much of the sum as may be necessary, to the state water commission for Mouse River flood control, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 10. APPROPRIATION - HIGHWAY FUND - CONTINGENT TRANSFER. There is appropriated out of any moneys in the highway fund in the state treasury, not otherwise appropriated, the sum of \$70,000,000, or so much of the sum as may be necessary, derived from bond proceeds to the department of transportation for state highway bridge projects and for matching federal funds that may become available, for the biennium beginning July 1, 2021, and ending June 30, 2023. Of the \$70,000,000, \$35,000,000 is designated for state highway bridge projects, and \$35,000,000 is designated for matching federal funds that may become available for state highway projects in excess of the federal funds appropriated to the department of transportation as part of its 2021-23 biennial budget. By October 1, 2022, the director of the department of transportation shall certify to the office of management and budget the amount of funding committed to matching excess federal funds from the \$35,000,000 provided under this section. If the amount committed is less than \$35,000,000, the office of management and budget shall transfer any uncommitted amounts to the infrastructure revolving loan fund under section 6-09-49.

SECTION 11. TRANSFER - WATER PROJECT LOAN FUNDS. The Bank of North Dakota shall transfer all outstanding loans and moneys in the community water facility loan fund and all outstanding loans and moneys in the infrastructure revolving loan fund within the resources trust fund to the water infrastructure revolving loan fund on July 1, 2021.

Approved April 21, 2021

Filed April 21, 2021

CHAPTER 81

HOUSE BILL NO. 1425

(Representatives Nathe, D. Anderson, Bosch, Headland, Howe, Lefor, Mock, Porter)
(Senators Hogue, Meyer, Bell, Wardner)

AN ACT to create and enact section 6-09-49.1 and a new section to chapter 21-10 of the North Dakota Century Code, relating to the legacy infrastructure loan fund and the state investment board; to amend and reenact sections 21-10-02 and 21-10-11 of the North Dakota Century Code, relating to the state investment board and the legacy and budget stabilization fund advisory board; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 6-09-49.1 of the North Dakota Century Code is created and enacted as follows:

6-09-49.1. Legacy infrastructure loan fund - Continuing appropriation.

1. The legacy infrastructure loan fund is a special fund in the state treasury from which the Bank of North Dakota shall provide loans to political subdivisions, the Garrison Diversion Conservancy District, and the Lake Agassiz water authority for eligible infrastructure projects as authorized in this section.
2. The Bank of North Dakota may adopt policies and establish guidelines to administer the legacy infrastructure loan fund in accordance with this section.
3. A loan made from the legacy infrastructure loan fund must have an interest rate that does not exceed two percent per year. The maximum term of a loan under this section is the lesser of thirty years or the useful life of the project.
4. The Bank of North Dakota shall transfer all payments of principal and interest paid on loans made from the legacy infrastructure loan fund to the legacy fund. The Bank may use a portion of the interest paid on the outstanding loans as a servicing fee to pay for administrative costs, which may not exceed one-half of one percent of the amount of the outstanding loans.
5. An applicant shall issue an evidence of indebtedness as authorized by law.
6. When processing political subdivision loan applications under this section, the Bank of North Dakota shall calculate the maximum outstanding loan amount per qualified applicant. The maximum outstanding loan amount for infrastructure projects under subsection 7 is forty million dollars. The Bank shall consider the ability of the applicant to repay the loan while processing the application and shall issue loans only to applicants that provide reasonable assurance of sufficient future income to repay the loan.
7. Eligible infrastructure projects under this subsection are capital projects to construct new infrastructure or to replace infrastructure and which provide the fixed installations necessary for the function of a political subdivision. Capital

construction projects exclude routine maintenance and repair projects, but include:

- a. Water treatment plants;
 - b. Wastewater treatment plants;
 - c. Sewerlines and waterlines, including lift stations and pumping stations;
 - d. Water storage systems, including dams, water tanks, and water towers;
 - e. Storm water infrastructure, including curb and gutter construction;
 - f. Road and bridge infrastructure, including paved and unpaved roads and bridges;
 - g. Airport infrastructure;
 - h. Electricity transmission infrastructure;
 - i. Natural gas transmission infrastructure;
 - j. Communications infrastructure;
 - k. Emergency services facilities, excluding hospitals;
 - l. Essential political subdivision building and infrastructure; and
 - m. The Red River valley water supply project.
8. The department of transportation shall approve county road and bridge projects for purposes of loans under this section and may adopt policies for the review and approval of projects under this section.
9. For purposes of loans under this subsection, the state water commission shall review and approve eligible projects to construct new water-related infrastructure or to replace existing water-related infrastructure which provide the fixed installations necessary for the function of a political subdivision. The state water commission may adopt policies for the review and approval of projects under this section. Capital construction projects exclude routine maintenance and repair projects, but include:
- a. Flood control;
 - b. Conveyance projects;
 - c. Rural water supply;
 - d. Water supply; and
 - e. General water management.

SECTION 2. A new section to chapter 21-10 of the North Dakota Century Code is created and enacted as follows:

Prudent investor rule - Exception.

Notwithstanding section 21-10-07, for purposes of investment of the legacy fund, the state investment board shall give preference to qualified investment firms and financial institutions with a presence in the state.

SECTION 3. AMENDMENT. Section 21-10-02 of the North Dakota Century Code is amended and reenacted as follows:

21-10-02. Board - Powers and duties.

1. The board is charged with the investment of the funds enumerated in section 21-10-06. It shall approve general types of securities for investment by these funds and set policies and procedures regulating securities transactions on behalf of the various funds. Representatives of the funds enumerated in section 21-10-06 may make recommendations to the board in regard to investments.
2. The board or its designated agents must be custodian of securities purchased on behalf of funds under the management of the board.
3. The board may appoint an investment director or advisory service, or both, who must be experienced in, and hold considerable knowledge of, the field of investments. The investment director or advisory service shall serve at the pleasure of the board. The investment director or advisory service may be an individual, corporation, limited liability company, partnership, or any legal entity which meets the qualifications established herein. The board may authorize the investment director to lend securities held by the funds. These securities must be collateralized as directed by the board.
4. The board may create investment fund pools in which the funds identified in section 21-10-06 may invest.
5. For purposes of investment of the legacy fund, the board shall give preference to investment firms and financial institutions with a presence in the state.

SECTION 4. AMENDMENT. Section 21-10-11 of the North Dakota Century Code is amended and reenacted as follows:

21-10-11. Legacy and budget stabilization fund advisory board.

1. The legacy and budget stabilization fund advisory board is created to develop recommendations for the investment of funds in the legacy fund and the budget stabilization fund to present to the state investment board.
2. The goal of investment for the legacy fund is principal preservation while maximizing total return and to provide a direct benefit to the state by investing a portion of the principal in the state. Preference must be given to qualified investment firms and financial institutions with a presence in the state for investment of the legacy fund.
3. The board shall determine the asset allocation for the investment of the principal of the legacy fund including:
 - a. A target allocation of ten percent to fixed income investments within the state, of which:

- (1) Up to forty percent must be targeted for infrastructure loans to political subdivisions under section 6-09-49.1. The net return to the legacy fund under this paragraph must be fixed at a target rate of one and one-half percent;
 - (2) Up to sixty percent, with a minimum of four hundred million dollars, must be designated to the Bank of North Dakota's certificate of deposit match program with an interest rate fixed at the equivalent yield of United States treasury bonds having the same term, up to a maximum term of twenty years; and
 - (3) Any remaining amounts must be designated for other qualified fixed income investments within the state.
- b. A target allocation of ten percent to equity investments in the state, of which at least three percent may be targeted for investment in one or more equity funds, venture capital funds, or alternative investment funds with a primary strategy of investing in emerging or expanding companies in the state. Equity investments under this subdivision must:
- (1) Be managed by qualified investment firms, financial institutions, or equity funds which have a strategy to invest in qualified companies operating or seeking to operate in the state and which have a direct connection to the state; and
 - (2) Have a benchmark investment return equal to the five-year average net return for the legacy fund, excluding in-state investments.
4. The board consists of two members of the senate appointed by the senate majority leader, two members of the house of representatives appointed by the house majority leader, the director of the office of management and budget or designee, the president of the Bank of North Dakota or designee, and the tax commissioner or designee. The board shall select a chairman and must meet at the call of the chairman.
- 4-5. The board shall report at least semiannually to the budget section.
- 5-6. Legislative members are entitled to receive compensation and expense reimbursement as provided under section 54-03-20 and reimbursement for mileage as provided by law for state officers. The legislative council shall pay the compensation and expense reimbursement for the legislative members.
- 6-7. The legislative council shall provide staff services to the legacy and budget stabilization fund advisory board.
- 7-8. The staff and consultants of the state retirement and investment office shall advise the board in developing asset allocation and investment policies.
- 8-9. The board shall develop a process to select a member of the board to serve on the state investment board in a nonvoting capacity.

Approved April 8, 2021

Filed April 8, 2021

CHAPTER 82

SENATE BILL NO. 2230

(Senators Wanzek, Elkin, Klein)
(Representatives Brandenburg, Headland, Howe)

AN ACT to amend and reenact section 6-09.7-05 of the North Dakota Century Code, relating to the use of the strategic investment and improvements fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.7-05 of the North Dakota Century Code is amended and reenacted as follows:

6-09.7-05. Establishment and maintenance of adequate guarantee funds - Use of strategic investment and improvements fund.

The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The Bank may request the director of the office of management and budget to transfer funds from the strategic investment and improvements fund created by section 15-08.1-08 to maintain one hundred percent of the guarantee reserve fund balance. Transfers from the strategic investment and improvements fund may not exceed a total of ~~fifty~~^{eighty} million dollars. Moneys in the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program must be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula that will assure, as determined by the Bank, an adequate amount of reserve.

Approved April 19, 2021

Filed April 20, 2021

CONTRACTS AND OBLIGATIONS

CHAPTER 83

SENATE BILL NO. 2150

(Senator Klein)
(Representative Lefor)

AN ACT to amend and reenact section 9-01-21 of the North Dakota Century Code, relating to vehicle theft protection product warranties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 9-01-21 of the North Dakota Century Code is amended and reenacted as follows:

9-01-21. Property service contracts - Exemption.

1. The marketing, selling, offering for sale, issuing, making, providing, or proposing to make and the administering of a property service contract or vehicle theft protection product warranty is not subject to the provisions of title 26.1.
2. A property service contract is a contract or agreement for a separately stated consideration, for a specific duration, to provide for the repair, replacement, or maintenance or for the indemnification for the repair, replacement, or maintenance of new or used property if an operational or structural failure is due to a defect in materials, manufacturing, or normal wear and tear. Property covered under a property service contract may include motor vehicles; residential appliances; residential systems, including plumbing, electrical, heating, cooling, and ventilation; and other residential property. The contract may provide coverage for:
 - a. Damage to property resulting from power surges;
 - b. Accidental damage to property resulting from handling; and
 - c. Payment of indemnity for incidental damages, such as food spoilage, towing, and rental and emergency road service;
 - d. The repair or replacement of tires and wheels on a motor vehicle damaged as a result of coming into contact with a road hazard;
 - e. The removal of dents, dings, or creases on a motor vehicle which can be repaired using the process of paintless dent removal without affecting the existing paint finish and without sanding, bonding, painting, or replacing a vehicle body panel;

- f. The repair of small motor vehicle windshield chips or cracks which may include replacement of the windshield for chips or cracks that cannot be repaired;
 - g. The replacement of a motor vehicle key or key fob if the key or key fob becomes inoperable, lost, or stolen; or
 - h. In conjunction with a motor vehicle leased for use, the repair, replacement, or maintenance of property; or indemnification for repair, replacement, or maintenance; due to excess wear and use or damage to items, including tires, paint cracks or chips, missing interior or exterior parts; or excess mileage resulting in a lease-end charge; or any other charge for damage deemed excess wear and use by a lessor under a motor vehicle lease, provided the payment may not exceed the purchase price of the vehicle.
 - 3. Under a vehicle theft protection program warranty, incidental costs may be reimbursed in either a fixed amount specified in the warranty or by use of a formula itemizing specific incidental costs incurred by the warranty holder. Payments may not duplicate any benefits or expenses paid to the warranty holder by an insurer providing comprehensive coverage under a motor vehicle insurance policy covering the stolen motor vehicle. However, the payment of incidental costs at a pre-established, flat amount of seven thousand five hundred dollars or less does not duplicate any benefits or expenses payable under the comprehensive motor vehicle insurance policy.
 - 4. For the purpose of this section, unless the context otherwise requires:
 - a. "Incidental costs" means expenses specified in a vehicle theft protection program warranty and incurred by the warranty holder due to the failure of a vehicle theft protection program to perform as provided in the contract.
 - b. "Vehicle theft protection product" means a device or system installed on or applied to a motor vehicle, which is designed to prevent loss or damage to a motor vehicle from theft, and includes a vehicle theft protection program warranty.
 - c. "Vehicle theft protection product warranty" means a written agreement by a warrantor which provides, if the vehicle theft protection product fails to prevent loss or damage to a motor vehicle from theft, the warrantor will pay to or on behalf of the warranty holder specified incidental costs resulting from the failure or the vehicle theft protection product to perform pursuant to the terms of the vehicle theft protection product warranty.
 - d. "Road hazard" means a hazard encountered while driving a motor vehicle which includes potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

Approved April 1, 2021

Filed April 1, 2021

CHAPTER 84

SENATE BILL NO. 2047

(Industry, Business and Labor Committee)
(At the request of the Commission on Uniform State Laws)

AN ACT to amend and reenact section 9-15.2-13 of the North Dakota Century Code, relating to conduct prohibited under the Revised Uniform Athlete Agents Act; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 9-15.2-13 of the North Dakota Century Code is amended and reenacted as follows:

9-15.2-13. Prohibited conduct.

~~1. An athlete agent, with the intent to influence a student-athlete or, if the athlete is a minor, a parent or guardian of the athlete to enter an agency contract, may not take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the agent intentionally:~~

- ~~a-1. Give a student-athlete or, if the athlete is a minor, give a parent or guardian of the athlete materially false or misleading information or make a materially false promise or representation with the intent to influence the athlete, parent, or guardian to enter an agency contract;~~
- ~~b-2. Furnish anything of value to the athlete before the athlete enters into the contract; or~~
 - ~~e. Furnish anything of value to an individual other than the athlete or another registered athlete agent.~~
- ~~2. An athlete agent may not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the agent:~~
 - ~~a. a student-athlete or another individual, if to do so may result in loss of the athlete's eligibility to participate in the athlete's sport, unless:~~
 - ~~a. The agent notifies the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll, not later than seventy-two hours after giving the thing of value; and~~
 - ~~b. The athlete or, if the athlete is a minor, the parent or guardian of the athlete acknowledges to the agent in a record that receipt of the thing of value may result in loss of the athlete's eligibility to participate in the athlete's sport;~~
- ~~3. Initiate contact, directly or indirectly, with a student-athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the athlete or,~~

parent, or guardian to enter an agency contract unless registered under this chapter;

- ~~b-4.~~ Fail to create or, retain, or to permit inspection of the records required by section 9-15.2-12;
- ~~e-5.~~ Fail to register when required by section 9-15.2-03;
- ~~d-6.~~ Provide materially false or misleading information in an application for registration or renewal of registration;
- ~~e-7.~~ Predate or postdate an agency contract; or
- ~~f-8.~~ Fail to notify a student-athlete or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete or, parent, or guardian signs an agency contract for a particular sport that the signing may ~~make the athlete ineligible~~ result in loss of the athlete's eligibility to participate as a student-athlete in that in the athlete's sport;
- 9. Encourage another individual to do any of the acts described in subsections 1 through 8 on behalf of the agent; or
- 10. Encourage another individual to assist any other individual in doing any of the acts described in subsections 1 through 8 on behalf of the agent.

Approved March 22, 2021

Filed March 23, 2021

CORPORATIONS

CHAPTER 85

SENATE BILL NO. 2210

(Senator Klein)
(Representative Keiser)

AN ACT to create and enact subsection 5 of section 10-06.1-01 of the North Dakota Century Code, relating to filing requirements with the secretary of state; and to amend and reenact subsection 1 of section 10-01.1-08, sections 10-06.1-04, 10-06.1-05, 10-06.1-12, 10-06.1-15, 10-06.1-17, and 10-06.1-23, subsection 1 of section 10-15-42, subsection 4 of section 10-15-53.1, subsection 3 of section 10-32.1-89, subsections 1 and 2 of section 10-32.1-102, subdivision a of subsection 3 of section 10-33-01, section 10-33-13, subsection 3 of section 10-33-139, subsection 3 of section 10-36-07, sections 26.1-12.1-13, 40-04-06, and 43-54-03, subsection 3 of section 45-10.2-108, section 45-11-08.2, subsection 3 of section 45-22-21.1, sections 47-22-08 and 47-25-07, and subsection 1 of section 50-22-04 of the North Dakota Century Code, relating to filing requirements with the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 10-01.1-08 of the North Dakota Century Code is amended and reenacted as follows:

1. A represented entity may change the information currently on file under subsection 1 of section 10-01.1-05 by filing with the secretary of state a statement of change on forms prescribed by the secretary of state and signed on behalf of the entity which states:
 - a. The name of the entity; and
 - b. The information that is to be in effect as a result of the filing of the statement of change.

SECTION 2. Subsection 5 of section 10-06.1-01 of the North Dakota Century Code is created and enacted as follows:

5. "Operating the farm or ranch" means engaging in personal labor or management activities on or off the farm or ranch, which contribute to the farm or ranch operations.

SECTION 3. AMENDMENT. Section 10-06.1-04 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-04. Conversion of corporations.

A business corporation organizedregulated under chapter 10-19.1 may convert to a farming or ranching corporation by adopting an amendment to its articles of

incorporation or by applying for an amended certificate of authority which specifies that the corporation elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15. A farming or ranching corporation may convert to a business corporation by adopting an amendment to its articles of incorporation or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17, and the manner in which the corporation has divested itself of its owned or leased land holdings and its business of farming or ranching.

SECTION 4. AMENDMENT. Section 10-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-05. Conversion of limited liability company.

A ~~domestic~~ business limited liability company ~~organized~~regulated under chapter 10-32.1 may convert to a farming or ranching limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority which specifies that the limited liability company elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15. A farming or ranching limited liability company may convert to a ~~domestic~~ business limited liability company by adopting an amendment to its articles of organization or by applying for an amended certificate of authority. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 and the manner in which the limited liability company has divested itself of its owned or leased land holdings and its business of farming or ranching.

SECTION 5. AMENDMENT. Section 10-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-12. Corporation or limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit a ~~domestic~~ corporation or a ~~domestic~~ limited liability company from owning real estate and engaging in the business of farming or ranching, if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all the requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. If a corporation, the corporation must not have more than fifteen shareholders. If a limited liability company, the limited liability company must not have more than fifteen members.
2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, second cousin, or the spouse of a person so related.
3. Each shareholder or member must be an individual or one of the following:

- a. A trust for the benefit of an individual or a class of individuals who are related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.
 - b. An estate of a decedent who was related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.
4. A trust or an estate may not be a shareholder or member if the beneficiaries of the trust or the estate together with the other shareholders or members are more than fifteen in number.
 5. Each individual who is a shareholder or member must be a citizen of the United States or a permanent resident alien of the United States.
 6. If a corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch and at least one of the corporation's shareholders must be an individual residing on or operating the farm or ranch. If a limited liability company, the governors and managers of the limited liability company must be members who are actively engaged in operating the farm or ranch and at least one of its members must be an individual residing on or operating the farm or ranch.
 7. An annual average of at least sixty-five percent of the gross income of the corporation or limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from farming or ranching operations.
 8. The income of the corporation or limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities cannot exceed twenty percent of the gross income of the corporation or limited liability company.
 9. The corporation or limited liability company must own or lease farmland or ranchland in this state.

SECTION 6. AMENDMENT. Section 10-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-15. Initial report - Shareholder and member requirements.

1. Every farming or ranching corporation or limited liability company shall file an initial report with its articles of incorporation, articles of organization, or certificate of authority. The report must be signed by the incorporators or organizers or, in the case of a certificate of authority, an authorized person, and must contain the following:
 - a. The name of the corporation or limited liability company.
 - b. With respect to each shareholder or member:
 - (1) The name and address of each, including the names and addresses and relationships of trusts and estates that own shares or membership interests;

- (2) The number of shares or membership interests or percentage of shares or membership interests owned by each;
 - (3) The relationship of each;
 - (4) A statement of whether each is a citizen or permanent resident alien of the United States; and
 - (5) A statement of whether each ~~is~~will be actively engaged in operating the farm or ranch; ~~and whether each resides~~will reside on the farm or ranch; ~~and whether each depends principally on farming or ranching for a livelihood.~~
- c. With respect to management:
- (1) If a corporation, then the names and addresses of the officers and members of the board of directors; or
 - (2) If a limited liability company, then the names and addresses of the managers and members of the board of governors.
- d. ~~All the purchase or lease of farmland or ranchland is final at the time of the initial report, a~~ statement listing the acreage [hectarage] and location listed by section, township, range, and county of all land in the state owned or leased by the corporation or limited liability company and used for farming or ranching. ~~If the purchase or lease of farmland or ranchland is not yet final at the time of the initial report, a statement that there is a bona fide, and imminent intent and a plan to purchase or lease farmland or ranchland in the state.~~
- e. A statement that at least sixty-five percent of the gross income of the corporation or limited liability company will be derived from farming or ranching operations, and that twenty percent or less of the gross income of the corporation or limited liability company will be from nonfarm rent, nonfarm royalties, dividends, interest, and annuities.
2. A corporation or a limited liability company may not commence farming or ranching in this state until the secretary of state has received and filed the articles of incorporation or articles of organization and the initial report required by this section. The corporation or limited liability company shall furnish to the official county newspaper of each county or counties in which any land is owned or leased by the corporation or limited liability company a legal notice reporting the following:
- a. The name of the corporation or limited liability company and its shareholders or members as listed in the initial report.
 - b. A statement to the effect that the corporation or limited liability company has reported that it owns or leases land used for farming or ranching in the county and that a description of that land is available for inspection at the secretary of state's office.

SECTION 7. AMENDMENT. Section 10-06.1-17 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-17. Annual report - Contents - Filing requirements.

~~Before April sixteenth of each year, Except for the first annual report, the annual report of a corporation engaged in farming or ranching after June 30, 1981, and a limited liability company engaged in farming or ranching shall file with~~ must be delivered to the secretary of state ~~an~~ before April sixteenth of each year. The first annual report must be delivered before April sixteenth in the year following the calendar year of the effective date of the articles of incorporation, articles of organization, or certificate of authority. The annual report must be signed as provided in subsection 58 of section 10-19.1-01 if a corporation and subsection 4749 of section 10-32.1-02 if a limited liability company, and submitted on a form prescribed by the secretary of state. If the corporation or limited liability company is in the hands of a receiver or trustee, it must be signed on behalf of the corporation or limited liability company by the receiver or trustee. An annual report must include the following information with respect to the preceding calendar year:

1. The name of the corporation or limited liability company.
2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the corporation or limited liability company in this state.
3. With respect to each corporation:
 - a. A statement of the aggregate number of shares the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.
 - b. A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.
4. With respect to each shareholder or member:
 - a. The name and address of each, including the names and addresses and relationships of beneficiaries of trusts and estates which own shares or membership interests;
 - b. The number of shares or membership interests or percentage of shares or membership interests owned by each;
 - c. The relationship of each;
 - d. A statement of whether each is a citizen or permanent resident alien of the United States; and
 - e. A statement of whether at least one is an individual residing on or operating the farm or ranch.
5. With respect to management:
 - a. If a corporation, then the ~~names~~name and ~~addresses~~address of the ~~officer~~each officer and ~~members~~member of the board of directors, and a statement of whether each is a shareholder actively engaged in operating the farm or ranch; or

- b. If a limited liability company, then the ~~names~~name and ~~addresses~~address of the ~~manager~~each manager and ~~members~~member of the board of governors, and a statement of whether each is a member actively engaged in operating the farm or ranch.
6. A statement providing the land description and listing the acreage [hectareage] and location listed by section, township, range, and county of all land in the state owned or leased by the corporation or limited liability company and used for farming or ranching. The statement must also designate which, if any, of the acreage [hectareage] is leased from or jointly owned with any shareholder or member and list the name of the shareholder or member with that acreage [hectareage].
7. A statement of the percentage of the annual average gross income of the corporation or limited liability company which has been derived from farming or ranching operations over the previous five years or for each year of existence if less than five years.
8. A statement of the percentage of gross income of the corporation or limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.
9. A corporation engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-19.1, except that the penalties must be calculated from the date of the report required by this section.
10. A limited liability company engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in chapter 10-32.1, except that the penalties must be calculated from the date of the report required by this section.

SECTION 8. AMENDMENT. Section 10-06.1-23 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-23. Attorney general to conduct random compliance program.

Each year the attorney general shall select at random at least five percent of the total number of corporations and limited liability companies authorized by this chapter for requests for information to determine compliance with this chapter. For such purpose, the attorney general may request affidavits, share transfer records, certified copies of marriage licenses, birth certificates, deeds, leases, and such other records and documents necessary to determine compliance. The corporation or limited liability company shall comply with any request for information made under this section.

SECTION 9. AMENDMENT. Subsection 1 of section 10-15-42 of the North Dakota Century Code is amended and reenacted as follows:

1. Articles of merger or consolidation shall set forth the approved plan and such other information as is required by section 10-15-38. They shall be signed by two principal officers of each association merging or consolidating, sealed with the seal of each such association if any, and filed as an amendment to the articles. Unless otherwise specified in the plan, the merger or consolidation is effective when the articles are so filed.

SECTION 10. AMENDMENT. Subsection 4 of section 10-15-53.1 of the North Dakota Century Code is amended and reenacted as follows:

4. ~~The~~Except for the first annual report, the annual report of a cooperative or foreign cooperative must be delivered to the secretary of state with the fees provided in section 10-15-54 before April first of each year, ~~except the. The first annual report of a cooperative or foreign cooperative must be delivered before April first in the year following the calendar year of the effective date stated in the articles of association, and the first annual report of a foreign cooperative~~ must be delivered before April first of the year following the calendar year in which the ~~certificate of incorporation or~~ certificate of authority was issued by the secretary of state. The secretary of state shall file the report if the report conforms to the requirements of subsections 1 and 2.
- a. If the report does not conform to those requirements, the report must be returned to the cooperative or foreign cooperative for any necessary corrections.
- b. If the report is filed before the deadlines provided in this section, any penalty for the failure to file a report within the time provided does not apply if the report is corrected to conform to the requirements of subsections 1 and 2 and returned to the secretary of state within thirty days after the annual report was returned by the secretary of state for corrections.

SECTION 11. AMENDMENT. Subsection 3 of section 10-32.1-89 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~The~~Except for the first annual report, the annual report of a limited liability company or foreign limited liability company must be delivered to the secretary of state before November sixteenth of each year, ~~except that the. The first annual report of a limited liability company or must be delivered before November sixteenth in the year following the calendar year of the effective date stated in the articles of organization, and the first annual report of a foreign limited liability company must be delivered before November sixteenth of the year following the calendar year in which the certificate of organization or~~ certificate of authority was issued by the secretary of state. The secretary of state must file the report if the report conforms to the requirements of subsections 1 and 2.
- a. If the report does not conform, then it must be returned to the limited liability company or foreign limited liability company for any necessary corrections.
- b. If the report is filed before the deadlines provided in this subsection, then penalties for the failure to file a report within the time provided do not apply if the report is corrected to conform to the requirements of subsections 1 and 2 and returned to the secretary of state within thirty days after the annual report was returned by the secretary of state for correction.

SECTION 12. AMENDMENT. Subsections 1 and 2 of section 10-32.1-102 of the North Dakota Century Code are amended and reenacted as follows:

1. An operating agreement of a limited liability company regulated under this chapter and not under chapter 10-06.1, 10-31, or 10-36 may establish or

provide for the establishment of a designated series of members, managers, transferable interests, or assets that:

- a. Has separate rights, powers, or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations; or
 - b. Has a separate business purpose or investment objective.
2. A series established in accordance with subsection 1 may carry on any business, purpose, or activity, ~~whether or not for profit~~, which is not prohibited by this chapter. A series may not carry on any business, purpose, or activity that is required to meet the requirements under chapter 10-06.1, 10-31, or 10-36.

SECTION 13. AMENDMENT. Subdivision a of subsection 3 of section 10-33-01 of the North Dakota Century Code is amended and reenacted as follows:

- a. In the case of a corporation incorporated under or governed by this chapter, articles of incorporation, articles of amendment, a resolution of election to become governed by this chapter, a statement of change of registered office, registered agent, or name of registered agent, articles of merger, articles of consolidation, articles of abandonment, and articles of dissolution, ~~and any annual report in which a registered office or registered agent has been established or changed.~~

SECTION 14. AMENDMENT. Section 10-33-13 of the North Dakota Century Code is amended and reenacted as follows:

10-33-13. Change of registered office - Appointment or change of registered agent - Change of name of registered agent.

1. A corporation may change its registered office, change its registered agent, or state a change in the name of its registered agent as provided in chapter 10-01.1.
2. A registered agent of a corporation may resign as provided in chapter 10-01.1.
3. ~~The fees provided in section 10-01.1-03 for change of registered agent and change of registered office do not apply if the registered agent or registered office is established or changed in the annual report.~~

SECTION 15. AMENDMENT. Subsection 3 of section 10-33-139 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~The~~Except for the first annual report, the annual report of a nonprofit corporation or a foreign nonprofit corporation must be delivered to the secretary of state before February second of each year, ~~except that the~~. The first annual report of a nonprofit corporation must be delivered before February second of the year following the calendar year of the effective date stated in the articles of incorporation, and the first annual report of a foreign nonprofit corporation must be delivered before February second of the year following the calendar year in which the certificate of incorporation or certificate of authority was issued by the secretary of state. The secretary of state must file the report if the report conforms to the requirements of subsection 2.

- a. If the report does not conform, it must be returned to the corporation for any necessary corrections.
- b. If the report is filed before the deadlines provided in this subsection, penalties for the failure to file a report within the time provided do not apply, if the report is corrected to conform to the requirements of subsection 2 and returned to the secretary of state within thirty days after the annual report was returned by the secretary of state for correction.

SECTION 16. AMENDMENT. Subsection 3 of section 10-36-07 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~The~~Except for the first annual report, the annual report of a nonprofit limited liability company or foreign nonprofit limited liability company must be delivered to the secretary of state before February second of each year; except that the ~~The first annual report of a nonprofit limited liability company must be delivered before February second of the year following the calendar year of the effective date stated in the articles of organization, and the first annual report of a foreign nonprofit limited liability company must be delivered before February second of the year following the calendar year in which the certificate of organization or certificate of authority was issued by the secretary of state. The secretary of state must file the report if the report conforms to the requirements of subsection 2.~~
 - a. If the report does not conform, it must be returned to the nonprofit limited liability company or foreign nonprofit limited liability company for any necessary corrections.
 - b. If the report is filed before the deadlines provided in this subsection, penalties for the failure to file a report within the time provided do not apply, if the report is corrected to conform to the requirements of subsection 2 and returned to the secretary of state within thirty days after the annual report was returned by the secretary of state for correction.

SECTION 17. AMENDMENT. Section 26.1-12.1-13 of the North Dakota Century Code is amended and reenacted as follows:

26.1-12.1-13. Incorporation.

A mutual insurance holding company resulting from the reorganization of a domestic mutual insurance company must be incorporated under chapter ~~40-49.410-33~~. The articles of incorporation of the mutual insurance holding company are subject to approval of the commissioner in the same manner as those of an insurance company.

SECTION 18. AMENDMENT. Section 40-04-06 of the North Dakota Century Code is amended and reenacted as follows:

40-04-06. Patent to city to be recorded - Use as evidence.

A patent issued by the governor under the provisions of this chapter shall be recorded in the office of the secretary of state ~~in a book kept for that purpose~~. Any patent so issued and recorded and the record thereof, or a certified copy thereof, shall be conclusive evidence in all courts and places of the due incorporation of the city mentioned therein and of all the facts therein recited.

SECTION 19. AMENDMENT. Section 43-54-03 of the North Dakota Century Code is amended and reenacted as follows:

43-54-03. Registering of home inspectors.

An applicant for a registration as a home inspector shall file a written application in the form prescribed by the registrar. An applicant:

1. Must be at least eighteen years of age;
2. Shall submit proof of satisfactory completion of an examination on home inspection offered by the American society of home inspectors, ~~the national association of home inspectors~~, the ~~national~~international association of certified home inspectors, the examination board of professional home inspectors, or the international code council;
3. Shall submit proof of current errors and omissions insurance coverage in an amount of one hundred thousand dollars or more covering all home inspection activities; and
4. Shall pay a fee of two hundred dollars.

SECTION 20. AMENDMENT. Subsection 3 of section 45-10.2-108 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~The~~Except for the first annual report, the annual report of a limited partnership or foreign limited partnership must be delivered to the secretary of state before April first of each year, ~~except the~~ The first annual report of a limited partnership or must be delivered before April first of the year following the calendar year of the effective date of the limited partnership certificate and the first annual report of a foreign limited partnership must be delivered before April first of the year following the calendar year in which the certificate of limited partnership or certificate of authority was filed by the secretary of state. The secretary of state shall file the report if the report conforms to the requirements of subsection 2.
 - a. If the report does not conform, then the report must be returned to the limited partnership or foreign limited partnership for any necessary corrections.
 - b. If the report is filed before the deadlines provided in this subsection, then penalties for the failure to file a report within the time provided do not apply if the report is corrected to conform to the requirements of subsection 2 and returned to the secretary of state within thirty days after the annual report was returned by the secretary of state for correction.

SECTION 21. AMENDMENT. Section 45-11-08.2 of the North Dakota Century Code is amended and reenacted as follows:

45-11-08.2. Cancellation.

The secretary of state shall cancel:

1. Any fictitious name filed before August 1, 1997, by a limited liability partnership upon written request for cancellation, from one or more partners, without a filing fee.

2. Any other fictitious name upon ~~written~~ request for cancellation on forms prescribed by the secretary of state, from one or more partners, with the filing fee of ten dollars.
3. Any fictitious name when the registrant is a limited partnership, a limited liability partnership, or limited liability limited partnership that has ceased to exist for six months.

SECTION 22. AMENDMENT. Subsection 3 of section 45-22-21.1 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~The~~Except for the first annual report, the annual report of a limited liability partnership or foreign limited liability partnership must be delivered to the secretary of state before April first of each year, ~~except the~~. The first annual report of a limited liability partnership must be delivered before April first of the year following the calendar year of the effective date stated in the registration and the first annual report of a foreign limited liability partnership must be delivered before April first of the year following the calendar year in which the registration is filed by the secretary of state. A limited liability partnership in existence on July 1, 1999, shall file the first annual report before April first in the year of the expiration of the registration in effect on July 1, 1999. The secretary of state must file the annual report if the annual report conforms to the requirements of subsection 2.
 - a. If the annual report does not conform, the annual report must be returned to the limited liability partnership for any necessary corrections.
 - b. If the annual report is filed before the deadlines provided in this subsection, penalties for the failure to file a report within the time provided do not apply if the annual report is corrected to conform to the requirements of subsection 2 and returned to the secretary of state within thirty days after the annual report was returned by the secretary of state for correction.

SECTION 23. AMENDMENT. Section 47-22-08 of the North Dakota Century Code is amended and reenacted as follows:

47-22-08. Cancellation.

The secretary of state shall cancel from the register:

1. Any registration concerning which the secretary of state shall receive a voluntary ~~written and signed~~ request for cancellation thereof from the registrant or the assignee of record on forms prescribed by the secretary of state.
2. All registrations granted under this chapter and not renewed in accordance with the provisions hereof.
3. Any registration concerning which a state district court shall find any of the following:
 - a. That the registered mark has been abandoned.
 - b. That the registrant is not the owner of the mark.

- c. That the registration was granted improperly.
 - d. That the registration was obtained fraudulently.
 - e. That the registration mark is so similar, as to be likely to cause confusion or mistake or to deceive, to a mark registered by another person in the United States patent office, prior to the date of the filing of the application for registration by the registrant hereunder, and not abandoned; provided, however, that should the registrant prove that the registrant is the owner of a concurrent registration of the registrant's mark in the United States patent office covering an area including this state, the registration hereunder shall not be canceled.
4. When a district court shall order cancellation of a registration on any ground.
 5. Any mark whose registered owner is a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership that has ceased to exist for six months.

SECTION 24. AMENDMENT. Section 47-25-07 of the North Dakota Century Code is amended and reenacted as follows:

47-25-07. Cancellation.

The secretary of state shall cancel from the register:

1. Any registration concerning which the secretary of state receives a voluntary ~~written and signed~~ request for cancellation from the registrant or the assignee of record on forms prescribed by the secretary of state. In the case of a registrant who is a deceased individual, the request for cancellation may be made by the personal representative of the registrant's estate.
2. Any registration concerning which a state district court finds any of the following:
 - a. That the registered trade name has been abandoned.
 - b. That the registrant is not the owner of the trade name.
 - c. That the registration was granted improperly.
 - d. That the registration was obtained fraudulently.
 - e. That the trade name registered is so similar to a trade name registered by another person as to be likely to cause confusion or mistake or to deceive.
3. Any registration a district court orders canceled on any grounds.
4. Any trade name when the registrant is a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership that has ceased to exist for six months.

SECTION 25. AMENDMENT. Subsection 1 of section 50-22-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Every charitable organization that is required to file or that files a registration statement pursuant to section 50-22-02 shall file an annual report. The annual report must be delivered to the secretary of state, along with a ten dollar fee with the secretary of state, on or before September first of each year. The report must be postmarked by the United States postal service or other carrier, in a properly addressed, postage prepaid, sealed envelope.

The secretary of state may extend the filing date for the annual report of any charitable organization, if a written application for extension is received before the filing deadline an extension may be granted for a single year, or permanently at the request of the charitable organization. A charitable organization with a fiscal year ending within three months prior to the filing deadline may make a written request for an extension to apply to reports for subsequent years until the fiscal year is changed. A filing date may not be extended under this subsection beyond December first of any given year an annual report is due.

Information submitted must be given as of the close of the business on the thirty-first day of December next preceding the date herein provided for the filing of the report, or, in the alternative, the date of the end of the fiscal year next preceding this report may be used.

Approved April 1, 2021

Filed April 1, 2021

CHAPTER 86

HOUSE BILL NO. 1085

(Industry, Business and Labor Committee)
(At the request of the Securities Commissioner)

AN ACT to amend and reenact subsection 3 of section 10-04-02, sections 10-04-05, 10-04-06, 10-04-07.1, 10-04-08.1, 10-04-08.3, and 10-04-08.4, and subsection 2 of section 10-04-10 of the North Dakota Century Code, relating to the definition of broker-dealer, registration by coordination, federal covered securities, and qualifications of registered agents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 10-04-02 of the North Dakota Century Code is amended and reenacted as follows:

3. "Broker-dealer" means a person engaged in the business of effecting transactions in securities issued by another person or by such person for the account of others or for the person's own account. The term does not include:
 - a. An agent; or
 - b. A bank or savings institution if its activities as a broker-dealer are limited to those specified in subsections 3(a)(4)(B)(i) through (vi), (viii) through (x), and (xi) if limited to unsolicited transactions; 3(a)(5)(B) and 3(a)(5)(C) of the Securities Exchange Act of 1934 or a bank that satisfies the conditions described in subsection 3(a)(4)(E) of the Securities Exchange Act of 1934; or
 - c. An issuer, including an officer, director, employee, or trustee of, or member or manager of, or partner in, or a general partner of, an issuer, that sells, offers for sale, or does any act in furtherance of the sale of a security that represents an economic interest in that issuer, provided no commission, fee, or other similar remuneration is paid to or received by the issuer for the sale.

SECTION 2. AMENDMENT. Section 10-04-05 of the North Dakota Century Code is amended and reenacted as follows:

10-04-05. Exempt securities.

Sections 10-04-04, 10-04-07.1, 10-04-07.2, 10-04-08, and 10-04-08.4 do not apply to any of the following securities:

1. A security, including a revenue obligation or a separate security as defined in rule 131 adopted under the Securities Act of 1933, issued, insured, or guaranteed by the United States, by a state, by a political subdivision of a state, by a public authority, agency, or instrumentality of one or more states, by a political subdivision of one or more states, or by a person controlled or supervised by and acting as an instrumentality of the United States under authority granted by the Congress, or a certificate of deposit for any of the

foregoing, except that this exemption does not include a municipal security with respect to the offer or sale in this state if the security is payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise, unless such payments are made or unconditionally guaranteed by a person whose securities are exempt from registration or the issuer first files a notice in a record specifying the terms of the proposed offer or sale and pays a nonrefundable filing fee of one hundred dollars.

2. Securities issued by and representing or that will represent an interest in or a direct obligation of, or be guaranteed by a banking institution organized under the laws of the United States, a member bank of the federal reserve system, or a depository institution a substantial portion of the business of which consists or will consist of receiving deposits or share accounts that are insured to the maximum amount authorized by statute by the federal deposit insurance corporation, the national credit union share insurance fund, or a successor authorized by federal law or exercising fiduciary powers that are similar to those permitted for national banks under the authority of the comptroller of currency pursuant to section 1 of Public Law 87-722 or issued or guaranteed as to both principal and interest by an international bank of which the United States is a member.
3. Securities issued by a building and loan association subject to supervision by an agency of the state of North Dakota, or policy contracts, including variable annuity contracts, of an insurance company subject to supervision by an agency of the state of North Dakota.
4. Securities issued or guaranteed by a railroad, other common carrier, public utility, or public utility holding company that is regulated in respect to its rates and charges by the United States or a state, regulated in respect to the issuance or guarantee of the security by the United States, a state, Canada, or a Canadian province or territory, or a public utility holding company registered under the Public Utility Holding Company Act of 1935 or a subsidiary of such a registered holding company within the meaning of that Act.
5. Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, fraternal, charitable, social, or reformatory purposes; provided that prior to any offer of such security each person must meet the following conditions:
 - a. Apply for and obtain the written approval of the commissioner.
 - b. File an application, offering disclosure document, and pay a nonrefundable filing fee of one hundred fifty dollars, which document and fee must accompany the application.
 - c. File a notice identifying the basis of its qualification under this exemption with such additional information as the commissioner may require.
 - d. Provide a copy of the offering disclosure document to each person to whom an offer to sell or sale is made.

The approval is effective for a period of one year from the date of approval. At least thirty days prior to the expiration date, there must be filed an application, offering disclosure document, and a nonrefundable fee of one hundred dollars

for the renewal of the filing for additional periods of one year.

6. Any note, draft, bill of exchange, or bankers' acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, is not the subject of a public offering, is prime quality negotiable commercial paper which has at the time of issuance a definite maturity of not exceeding nine months, is payable in cash only, and is not convertible into and does not carry an option or right to receive payment or any bonus in any other security.
7. Securities, other than common stock, providing for a fixed return, which have been outstanding and in the hands of the public for not less than five years and upon which no default has occurred during the five years next preceding the date of sale.
8. Securities, including patronage dividends or refunds, issued by any cooperative organized under the statutes of this state.
9. An equipment trust certificate with respect to equipment leased or conditionally sold to, a person, if any security issued by the person would be exempt under this section or would be a federal covered security under section 18(b)(1) of the Securities Act of 1933.
10. Any bond, note, or other evidence of debt issued by a holding corporation or limited liability company and secured by collateral consisting of any of the securities described in subsections 4 and 9, if the collateral securities equal in fair value at least one hundred twenty-five percent of the par value of the bonds, notes, or other evidences of debts secured thereby.
11. The execution of orders for purchase of securities by a registered broker-dealer provided such broker-dealer acts as agent for the purchaser, has made no solicitation of the order to purchase such securities, has no direct material interest in the sale or distribution of the securities ordered, receives no commission, profit, or other compensation other than the commissions involved in the purchase and sale of the securities and delivery to the purchaser of written confirmation of the order which clearly itemizes the commissions paid to the registered broker-dealer. Clear and complete records of all transactions exempted under this subsection shall be maintained by the registered broker-dealer.
12. Any security issued, insured, or guaranteed by a foreign government with which the United States currently maintains diplomatic relations, or any of its political subdivisions, if the security is recognized as a valid obligation by the issuer, insurer, or guarantor.
13. a. A federal covered security specified in section 18(b)(1) of the Securities Act of 1933 or by rule adopted under that provision or a security listed or approved for listing on:
 - (1) The New York stock exchange;
 - (2) The American stock exchange;
 - (3) The national association of securities dealers automated quotation national market system;

- (4) Tier I of the Philadelphia stock exchange, incorporated;
 - (5) Tier I of the Pacific exchange, incorporated;
 - (6) Chicago board options exchange, incorporated; or
 - (7) Any other stock exchange or automated quotation system which the securities and exchange commission approves by rule.
- b. A put or call option contract; a warrant; a subscription right on or with respect to such securities; or an option or similar derivative security on a security or an index of securities or foreign currencies issued by a clearing agency registered under the Securities Exchange Act of 1934 and listed or designated for trading on a national securities exchange, a facility of a national securities exchange, or a facility of a national securities association registered under the Securities Exchange Act of 1934 or an offer or sale, of the underlying security in connection with the offer, sale, or exercise of an option or other security that was exempt when the option or other security was written or issued; or an option or a derivative security designated by the securities and exchange commission under section 9(b) of the Securities Exchange Act of 1934.
14. Securities issued by North Dakota united dues credit trust to members of North Dakota united.
15. A security of a foreign issuer that is a margin security defined in regulations or rules adopted by the board of governors of the federal reserve system.

SECTION 3. AMENDMENT. Section 10-04-06 of the North Dakota Century Code is amended and reenacted as follows:

10-04-06. Exempt transactions.

Except as hereinafter in this section expressly provided, sections 10-04-04, 10-04-07.1, 10-04-07.2, 10-04-08, 10-04-08.4, and 10-04-10 do not apply to any of the following transactions:

1. A transaction by an executor, administrator of an estate, sheriff, marshal, receiver, guardian, conservator, or trustee in bankruptcy.
2. The sale, in good faith and not for the purpose of avoiding the provisions of this chapter, by a pledgee of securities pledged for a bona fide debt.
3. An isolated sale of any security made by or on behalf of a bona fide owner for the owner's account, such owner not being an issuer, underwriter, broker-dealer, or agent and such sale not being made in the course of repeated and successive transactions of a like character. This subsection shall not exempt any broker-dealer or agent participating in an isolated sale from registering in accordance with section 10-04-10.
4. A transaction by an issuer for:
 - a. Securities dividends or other distributions by a corporation, cooperative, limited partnership, limited liability limited partnership, or limited liability company out of its earnings or surplus; or

- b. The sale or distribution of additional capital stock of a corporation or cooperative, interest of a partnership, or membership interest of a limited liability company to or among its own stockholders, partners, or members.
5. A sale or offer to sell to:
- a. An institutional investor;
 - b. A federal covered investment adviser; or
 - c. Any other person exempted by rule adopted or order issued by the commissioner.
6. Any transaction incident to a vote by stockholders, partners, or members pursuant to the articles of incorporation, bylaws, partnership agreement, articles of organization, member-control agreement, or the applicable corporation, partnership, or limited liability company statute on a merger, consolidation, exchange of securities, or sale of corporate, partnership, or limited liability company assets in consideration of the issuance of securities of another corporation, partnership, or limited liability company, other reorganization to which the issuer, or its parent or subsidiary and the other person or its parent or subsidiary, are parties, or any transaction incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, or the solicitation of tenders of securities by an offeror in a tender offer in compliance with rule 162 adopted under the Securities Act of 1933.
7. A transaction under an offer to existing securityholders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options, or warrants, if a commission or other remuneration, other than a standby commission, is not paid or given, directly or indirectly, for soliciting a securityholder in this state.
8. A nonissuer transaction by or through a broker-dealer and agent, both of which are registered or exempt from registration under this chapter, or a resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, in a security of a class that has been outstanding in the hands of the public for at least ninety days, if, at the date of the transaction:
- a. The issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;
 - b. Such securities are sold at prices reasonably related to the current market price;
 - c. Such securities do not constitute the whole or part of an unsold allotment to, or subscription or participation by, the broker-dealer as an underwriter of the security or a redistribution;

- d. Such securities are listed in Mergent's Industrial Manual, Mergent's Bank and Finance Manual, Mergent's Transportation Manual, Mergent's Public Utility Manual, or Fitch investor service, incorporated, are on the OTCQX or OTCQB markets operated by OTC Markets Group Incorporated, or are filed under section 13 or 15(d) of the Securities Exchange Act of 1934 [ch. 404, title I, sec. 1; 48 Stat. 881; 15 U.S.C. 78 et seq.]; and
- e. Any one of the following requirements is met:
 - (1) The issuer of the security has a class of equity securities listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934 or designated for trading on the national association of securities dealers automated quotation system;
 - (2) The issuer of the security is a unit investment trust registered under the Investment Company Act of 1940;
 - (3) The issuer of the security, including its predecessors, has been engaged in continuous business for at least three years; or
 - (4) The issuer of the security has total assets of at least two million dollars based on an audited balance sheet as of a date within eighteen months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had the audited balance sheet, a pro forma balance sheet for the combined organization.
- 9. a. Any transaction pursuant to an offer directed by the offeror to not more than thirty-five persons, other than those designated in subsection 5, in this state during any period of twelve consecutive months, whether or not the offeror or any of the offerees is then present in this state, if all of the following conditions are met:
 - (1) The seller reasonably believes that all the buyers in this state, other than those designated in subsection 5, are purchasing for investment.
 - (2) Except for offers or sales with respect to persons designated in subsection 5, no security may be offered or sold under this subdivision except through or by a broker-dealer and agent registered in accordance with section 10-04-10, unless it is offered and sold through an officer, director, governor, or partner of the issuer and no commission or other remuneration is paid, either directly or indirectly.
 - (3) The offeror applies for and obtains the written approval of the commissioner prior to making any offers in this state and pays a nonrefundable filing fee of one hundred fifty dollars, which fee must accompany the application for approval.

The commissioner may, as to any security or transaction or any type of security or transaction, withdraw or further condition this exemption, or increase or decrease the number of offerees permitted, or waive the condition in paragraph 1.

- b. Any offer or sale in this state of common stock, preferred stock, limited liability company membership interests, or limited partnership interests of

an issuer during any period of twelve consecutive months if all of the following conditions are met:

- (1) The issuer reasonably believes that all the buyers in this state, other than those designated in subsection 5, are purchasing for investment.
- (2) Except with respect to offers and sales made to persons designated in subsection 5, no security may be sold under this subdivision except through or by a broker-dealer and agent registered in accordance with section 10-04-10, unless it is offered and sold through an officer, director, governor, or partner of the issuer and no commission or other remuneration is paid, either directly or indirectly.
- (3) The issuer is both organized under the laws of this state and has its principal place of business in this state.
- (4) No public advertising matter or general solicitation, except tombstone advertisements approved by the commissioner, is used in connection with any offers or sales.
- (5) An offering disclosure document in the form approved by the commissioner must be delivered to each offeree prior to the sale of the security.
- (6) The gross proceeds of the offering may not exceed five million dollars.
- (7) The issuer must apply for and obtain the written approval of the commissioner prior to making any offer or sale in this state by filing an application prescribed by the commissioner, a copy of the offering disclosure document, and any other information or documents the commissioner may require, together with a nonrefundable filing fee of one hundred fifty dollars.
- (8) All funds raised in the offering are placed in an escrow account until the total offering amount has been sold.

The commissioner may withdraw or further condition this exemption or waive the conditions in paragraphs 5 and 6.

- c. The issuer must file a report of all offers and sales made in this state pursuant to subdivision a or b on a form prescribed by the commissioner within thirty days after the completion of the offering or expiration of the twelve-month approval period, whichever occurs first.
- d. The exemptions provided under subdivisions a and b may not be combined.
- e. An exemption under this subsection is not available for the securities of any issuer if the issuer or any promoter, officer, director, manager, partner, or underwriter of the issuer:
 - (1) Has filed a registration statement that is the subject of a currently effective registration stop order entered pursuant to any federal or state securities law within five years prior to the filing of the application required under this exemption.

- (2) Has been convicted within five years prior to the filing of the application required under this exemption of any felony or misdemeanor in connection with the offer, purchase, or sale of any security or any felony involving fraud or deceit, including forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud.
 - (3) Is currently subject to any state administrative enforcement order or judgment entered by any state securities administrator or the securities and exchange commission within five years prior to the filing of the application required under this exemption or is subject to any federal or state administrative enforcement order or judgment in which fraud or deceit, including making untrue statements of material facts, was found and the order of judgment was entered within five years prior to the filing of the application required under this exemption.
 - (4) Is subject to any federal or state administrative enforcement order or judgment which prohibits, denies, or revokes the use of any exemption from registration in connection with the offer, purchase, or sale of securities.
 - (5) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to any order, judgment, or decree of any court of competent jurisdiction, permanently restraining or enjoining, such part from engaging in or continuing any conduct or practice in connection with the purchase or sale of a security or involving the making of any false filing with any state or with the securities and exchange commission entered within five years prior to the filing of the application required under this exemption.
 - (6) Has been or is the subject of any order issued by the United States postal service that was entered within five years prior to reliance on this exemption and alleged any fraudulent or unlawful conduct.
- f. Subdivision e does not apply if the commissioner determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption should not be denied.
10. The sale of capital stock of a corporation or membership interests of a limited liability company if the corporation or limited liability company is organized under the statutes of this state or the sale of memberships, including dues, in a nonprofit corporation incorporated in North Dakota if the corporation or limited liability company is organized and operated for the primary purpose of promoting community development.
 11. Any security issued in connection with an employees' stock purchase, savings, option, profit-sharing, pension, or similar employees' benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees, including offers or sales of such securities to:

- a. Directors; general partners; trustees, if the issuer is a business trust; officers; consultants; and advisers;
 - b. Family members who acquire such securities from those persons through gifts or domestic relations orders;
 - c. Former employees, directors, general partners, trustees, officers, consultants, and advisers if those individuals were employed by or providing services to the issuer when the securities were offered; and
 - d. Insurance agents who are exclusive insurance agents of the issuer, or the issuer's subsidiaries or parents, or who derive more than fifty percent of their annual income from those organizations.
12. The sale of a security issued by the United States, or the state of North Dakota, or any political subdivision or instrumentality of the state of North Dakota; provided, that the offer for sale and sale are made by an official or employee of the issuer or of the Bank of North Dakota acting in an official capacity and not for personal pecuniary profit, or by a bank or similar financial association or institution or an official or employee thereof solely as an accommodation to customers of such association or institution and without asking or receiving a commission or remuneration other than an accommodation fee not to exceed one hundred dollars in connection with the transaction.
13. Any offer or sale of shares of capital stock issued by a professional corporation, professional limited liability company, or professional limited liability partnership which is organized and operated pursuant to chapter 10-31.
14. The offer or sale of a security issued by North Dakota united dues credit trust to members of North Dakota united.
15. a. An offer, but not a sale, of a security made by or on behalf of an issuer for the sole purpose of soliciting an indication of interest in receiving a prospectus or similar disclosure document for the security if all of the following conditions are satisfied:
- (1) The issuer is or will be a business entity organized under the laws of one of the states or possessions of the United States or one of the provinces or territories of Canada; is engaged in or proposes to engage in a business other than petroleum exploration or production, mining, or other extractive industries; and is not a blind pool offering or other offering for which the specific business or properties cannot now be described.
 - (2) The issuer may solicit indications of interest in a project or business only within a period of twelve months after receiving approval from the commissioner and does not pay a commission or fee to any person for soliciting a potential investor or prospective purchaser in this state unless the person who receives the commission or fee is registered as a broker-dealer or agent in this state.
 - (3) The issuer intends to register securities in this state, rely upon subsection 8 of section 10-04-05 for the issuance of a security, or

receive approval for an exemption under subsection 5 of section 10-04-05 or subsection 9 of this section.

- (4) The issuer files a solicitation of interest form and copies of any advertising or marketing materials, including scripts for use in telephone, television, electronic, or computer publications, for approval by the commissioner at least ten business days before the issuer begins soliciting indications of interest from potential purchasers and at least ten business days before publishing or distributing any materials or information to any person.
- (5) The issuer obtains approval of the commissioner for any amendments or changes in filed forms, marketing materials, or advertisements at least ten business days before distributing the amended marketing materials or amended advertising information to any person.
- (6) The issuer does not use any solicitation of interest form, script, advertisement, or other material which the issuer has been notified by the commissioner not to distribute, to solicit indications of interest.
- (7) Except for scripted broadcasts and published notices, the issuer does not communicate with any offeree about the contemplated offering unless the offeree is provided with the most current solicitation of interest form at or before the time of the communication or within five days from the communication.
- (8) The issuer stops all communications with prospective investors made in reliance on this exemption immediately after filing an application to register or qualify the securities with the commissioner or with the securities and exchange commission.
- (9) The issuer does not accept money or sign completed contracts for sales of securities with any person while soliciting indications of interest and does not complete any sales of securities until at least ten business days after completing a securities registration or approval to offer and sell securities in this state.
- (10) The issuer does not make a sale until three days after delivery to the purchaser of a prospectus or similar disclosure document.
- (11) The issuer does not know, and in the exercise of reasonable care could not know, that the issuer or any officer, director, manager, ten percent shareholder, promoter, partner, or agent of the issuer:
 - (a) Has been the subject of or filed a registration statement that is the subject of a stop order, administrative enforcement order, judgment, injunction, or restraining order issued by any federal or state securities agency, any court of competent jurisdiction, or the United States postal service and which prohibits, denies, or revokes the registration or use of any exemption from registration in connection with the offer, sale, or purchase of a security, franchise, commodity, or other financial transaction or which involves fraud, deceit, misstatements of material facts, forgery, embezzlement, obtaining money under false pretenses, larceny,

conspiracy to defraud, or similar deceptive acts within five years prior to the filing of the solicitation of interest form; or

- (b) Has been convicted of any felony or misdemeanor involving the offer, purchase, or sale of a security, franchise, commodity, or financial transaction, or any felony or misdemeanor involving fraud, deceit, forgery, embezzlement, conspiracy to defraud, or a similar financial crime.

The prohibitions listed above shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities-related business in the state in which the administrative order or judgment was entered against such person or if the broker-dealer employing such party is licensed or registered in this state and the form B-D filed with this state discloses the order, conviction, judgment, or decree relating to such person. A person disqualified under this subsection may not act in a capacity other than that for which the person is licensed or registered. Any disqualification caused by this section is automatically waived if the agency, which created the basis for disqualification, determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

- b. The issuer shall comply with the requirements set forth below. Failure to comply will not result in the loss of the exemption from the requirements of section 10-04-04, but is a violation of this chapter, is actionable by the commissioner under section 10-04-16, and constitutes grounds for denying or revoking the exemption as to a specific security or transaction.
 - (1) Any published notice must contain at least the identity of the chief executive officer of the issuer, a brief and general description of its business and products, and the following legends:
 - (a) NO MONEY OR OTHER CONSIDERATION IS BEING SOLICITED AND NONE WILL BE ACCEPTED;
 - (b) NO SALES OF THE SECURITIES WILL BE MADE OR COMMITMENT TO PURCHASE ACCEPTED UNTIL DELIVERY OF A PROSPECTUS OR SIMILAR DISCLOSURE DOCUMENT THAT INCLUDES COMPLETE INFORMATION ABOUT THE ISSUER AND THE OFFERING;
 - (c) AN INDICATION OF INTEREST MADE BY A PROSPECTIVE INVESTOR INVOLVES NO OBLIGATION OR COMMITMENT OF ANY KIND; and
 - (d) THIS OFFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE FEDERAL AND STATE SECURITIES LAWS. NO SALE MAY BE MADE UNTIL THE OFFERING STATEMENT IS QUALIFIED BY THE SECURITIES AND EXCHANGE COMMISSION AND IS REGISTERED OR APPROVED IN THIS STATE.

- (2) Any script for broadcast must contain at least the identity of the chief executive of the issuer, a brief description of its business and products, its address and telephone number, and the following legends:
- (a) THIS IS FOR AN INDICATION OF INTEREST ONLY AND INVOLVES NO OBLIGATION OR COMMITMENT OF ANY KIND UPON A PROSPECTIVE INVESTOR;
 - (b) NO MONEY OR OTHER CONSIDERATION IS BEING SOLICITED; and
 - (c) THIS OFFER IS MADE PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER FEDERAL AND STATE SECURITIES LAWS.
- c. Offers made on reliance of this exemption will not result in a violation of section 10-04-04 by virtue of being integrated with subsequent offers or sales of securities unless such subsequent offers and sales would be integrated under federal securities laws.
16. An offer or sale of common stock, limited liability company membership interests, or limited partnership interests by a person to a person or other subscribers, not exceeding ten in number, for the sole purpose of organization in this state, if the securities are not acquired for the purpose of resale to others for a period of twelve months, advertising has not been published or circulated in connection with the offer or sale, and all sales are consummated within ten days after the date of organization.
17. Any offer or sale of a security by an issuer in a transaction provided all of the following conditions are met:
- a. Sales of securities may be made only to persons who are, or the issuer reasonably believes are, accredited investors as defined in 17 CFR 230.501(a) promulgated by the securities and exchange commission.
 - b. The exemption is not available to an issuer that is in the development stage that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.
 - c. The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to, or for, sale in connection with a distribution of the security. Any resale of a security sold in reliance of this exemption within twelve months of sale must be presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under section 10-04-04 or to an accredited investor pursuant to an exemption available under subsection 5.
 - d. (1) The exemption is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of ten percent or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director, or officer of such underwriter:

- (a) Within the last five years, has filed a registration statement that is the subject of a currently effective registration stop order entered by any state securities administrator or the securities and exchange commission;
 - (b) Within the last five years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security, or involving fraud or deceit;
 - (c) Is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five years, finding fraud or deceit in connection with the purchase or sale of any security; or
 - (d) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction, entered within the last five years, temporarily, preliminarily, or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.
- (2) Paragraph 1 does not apply if:
- (a) The party subject to the disqualification is licensed or registered to conduct securities-related business in the state in which the order, judgment, or decree creating the disqualification was entered against such party;
 - (b) Before the first offer under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification; or
 - (c) The issuer establishes that it did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification existed under this subdivision.
- e. (1) A general announcement of the proposed offering may be made by any means.
- (2) The general announcement must include only the following information, unless additional information is specifically permitted by the commissioner:
- (a) The name, address, and telephone number of the issuer of the securities;
 - (b) The name, a brief description, and price, if known, of any security to be issued;
 - (c) A brief description of the business of the issuer in twenty-five words or less;
 - (d) The type, number, and aggregate amount of securities being offered;

- (e) The name, address, and telephone number of the person to contact for additional information; and
 - (f) A statement that:
 - [1] Sales will only be made to accredited investors;
 - [2] No money or other consideration is being solicited or will be accepted by way of this general announcement; and
 - [3] The securities have not been registered with or approved by any state securities agency or the securities and exchange commission and are being offered and sold pursuant to an exemption from registration.
 - f. The issuer, in connection with an offer, may provide information in addition to the general announcement under subdivision e, if such information:
 - (1) Is delivered through an electronic database that is restricted to persons who have been prequalified as accredited investors; or
 - (2) Is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor.
 - g. Telephone solicitation is not permitted unless prior to placing the call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.
 - h. Dissemination of the general announcement of the proposed offering to persons who are not accredited investors does not disqualify the issuer from claiming the exemption.
 - i. The issuer shall file with the department a notice of transaction, a consent to service of process, a copy of the general announcement, and a nonrefundable filing fee of one hundred dollars within fifteen days after the first sale in this state.
 - j. The security offered or sold under this subsection is offered or sold by a broker-dealer and agent registered in accordance with section 10-04-10, or offered and sold through an officer, director, governor, or partner of the issuer and no commission or other remuneration is paid.
18. The offer or sale of a security issued by an organization organized under and operated in compliance with chapter 10-06.1.
19. Any offer or sale of an agricultural-related cooperative security by or on behalf of an agricultural producer, as defined by section 32-44-01, to a person for the purpose of producing and selling agricultural products, as defined by section 32-44-01, to the cooperative. Commissions or other remuneration may not be paid or given directly or indirectly for soliciting any prospective buyer in this state, except to a broker-dealer or agent registered in this state, to an agent of a bank or a commercial trust department, to a licensed real estate agent, or to a licensed auctioneer if the sale is made at a bona fide public auction.

20. A transaction in a note, bond, debenture, or other evidence of indebtedness secured by a mortgage or other security agreement if:
 - a. The note, bond, debenture, or other evidence of indebtedness is offered and sold with the mortgage or other security agreement as a unit;
 - b. A general solicitation or general advertisement of the transaction is not made; and
 - c. A commission or other remuneration is not paid or given, directly or indirectly, to a person not registered under this chapter as a broker-dealer or as an agent.
21. A nonissuer transaction by a federal covered investment adviser with investments under management in excess of one hundred million dollars acting in the exercise of discretionary authority in a signed record for the account of others.

SECTION 4. AMENDMENT. Section 10-04-07.1 of the North Dakota Century Code is amended and reenacted as follows:

10-04-07.1. Registration by announcement - Secondary.

1. Securities that have been outstanding and in the hands of the public for not less than one year as the result of prior original registration in North Dakota or through securities and exchange commission registration, by the issuer, or by the underwriter on behalf of an issuer, are entitled to registration by announcement in the manner and subject to the conditions provided by this section.

In addition to the foregoing, stock, having equal voting rights with other classes, of life insurance companies may also qualify for registration under this section provided the company has been in continuous operation for twenty years immediately preceding the date of filing for registration and provided further that in addition to supplying the information required by subdivisions a through c of subsection 2 the applicant can supply all of the following:

- a. A balance sheet and an earnings statement showing statutory net earnings after all dividends (returned premiums) to policyholders and after all expenses including state and federal income taxes for the fiscal period ended not more than twelve months prior to the filing date upon which either an unqualified or a qualified opinion has been expressed by a certified public accountant; provided, however, that any qualification of opinion relates only to generally accepted principles of accounting which may have been modified to meet the reporting requirements of the various state insurance departments.
- b. Such balance sheet separates the surplus account into its component parts and shows a positive balance in the accumulated unrestricted retained earnings account, on statutory basis.
- c. Earnings statements for the four fiscal years immediately preceding the beginning date of the earnings statement required in subdivision a prepared by the same certified public accountant showing statutory net earnings after the deductions enumerated in subdivision a for each fiscal

- year; provided, however, that these statements need not be accompanied by an unqualified or a qualified opinion of the certified public accountant unless such certified public accountant did actually perform an audit of the company for any year or years covered by the earnings statements in which case the requirements of subdivision a apply for the year or years so audited.
- d. A statement prepared by a certified public accountant or actuary showing a net gain in insurance in force for each of the last five fiscal years.
 2. Securities entitled to registration by announcement may be registered only by a broker-dealer registered with the department as provided for in section 10-04-10 by filing with the department a written announcement of intention to trade in the securities containing the following:
 - a. Name of issuer and location of the headquarters or principal office.
 - b. A brief description of the security, including price and current earnings.
 - c. A statement that the securities have been outstanding and in the hands of the public not less than one year as aforesaid.
 - d. A balance sheet not more than twelve months old.
 - e. A statement that the security has been registered in North Dakota or by the securities and exchange commission.
 3. The filing of such announcement with the department constitutes the registration of the security, unless advised to the contrary within forty-eight hours or advised to furnish additional information, and such broker-dealer shall pay to the commissioner a filing fee of twenty-five dollars. Upon registration, such securities may be sold in this state for a period of one year from date of registration by registered broker-dealers at a price or prices reasonably related to the current market price of such security at the time of sale, subject, however, to any and all rights and authority granted the commissioner and to any person or purchaser under chapter 10-04, in respect of securities registered by the commissioner by ~~description~~coordination or qualification. No security registered under this section shall be sold directly or indirectly for the benefit of the issuer, or an underwriter of such securities, or for the promotion of any scheme or enterprise with the intent of violating or evading any provision of this chapter; provided, that no security, the registration of which has been revoked by the commissioner, or application for registration of which has been denied by the commissioner, or withdrawn by the applicant, shall be registered under this section.
 4. Securities registered pursuant to section ~~10-04-07~~10-04-07.2 or 10-04-08 become eligible for trading in the secondary market at current market prices upon completion of the original offering when said securities are outstanding and in the hands of the public and remain so until the end of the registration year when renewal for secondary is permissible. Notification of completion of initial offering should be sent to the commissioner when the offering is completed requesting change to secondary.

SECTION 5. AMENDMENT. Section 10-04-08.1 of the North Dakota Century Code is amended and reenacted as follows:

10-04-08.1. Authority of commissioner.

1. The right to sell securities in this state shall not be granted in any case when it appears to the commissioner that the sale of such securities would work a fraud or deception on purchasers or the public, or that the proposed disposal of the securities is on unfair terms, or if the proposed plan of business of the applicant appears to be unfair, unjust, or inequitable. When the commissioner deems it necessary the commissioner has power, in connection with pending applications and at the expense of the applicant, to require the applicant to furnish additional information, to order appraisals, audits, or other examinations and reports, and, when the applicant is the issuer of the securities, or the proposed sale is to be on behalf of the issuer, to make an investigation of the books, records, property, business, and affairs of such issuer.
2. Upon compliance with all the provisions of this chapter relating to applications for approval or registration by announcement, coordination, or qualification and the requirements of the commissioner, the commissioner shall either approve or register such securities or if the commissioner is of the opinion that sale of the securities would be contrary to the provisions of this section, the commissioner shall deny the application. The commissioner has power to place such conditions, limitations, and restrictions on any approval or registration as may be necessary to carry out the purposes of this chapter. Registration or approval must be by entry in the register of securities, which entry must show the securities approved or registered and for whom approved or registered, and the conditions, limitations, and restrictions, if any, or shall make proper reference to a formal order of the commissioner on file showing such conditions, limitations, and restrictions. Included among any other reasonable conditions, limitations, and restrictions which the commissioner may deem necessary are the following:
 - 1- a. The commissioner may by rule, order, or directive require that any security issued or to be issued to a promoter for a consideration different from the public offering price, or to any person for a consideration other than cash, be deposited in escrow with the commissioner or some other depository satisfactory to the commissioner under an escrow agreement that the owners of such securities shall not be entitled to sell or transfer such securities or to withdraw such securities from escrow until all other stockholders who have paid for their stock in cash shall have been paid a dividend or dividends aggregating not less than six percent of the initial offering price shown to the satisfaction of the commissioner to have been held actually earned on the investment in any common stock as held. In case of dissolution or insolvency during the time such securities are held in escrow, the owners of such securities shall not participate in the assets until after the owners of all other securities have been paid in full.
 - 2- b. The commissioner may by rule, order, or directive require that all the proceeds from the sale of the approved or registered security be impounded until the issuer receives a specified amount of funds, which amount shall be determined by the commissioner.
 - 3- c. The commissioner may refuse to allow the granting of any stock options to any person, but if such an option is allowed, the commissioner may prescribe that the price at which the option can be exercised shall be increased each year in which it is not exercised in an amount to be

determined by the commissioner and that the option shall lapse altogether after a specified period to be set by the commissioner.

- 4- d. If any stock is given for past services or consideration, the commissioner may require that the issuer submit to the commissioner a strict and comprehensive evaluation of such past services or consideration and may limit the amount of stock so given in order that it is commensurate with the value of the past services and in no case shall the commissioner allow stock to be given for future services.
- 5- e. The commissioner may limit the price at which the securities, either of par or no par value, may be sold, and if such securities are quoted by a recognized quotation list, such price shall be limited to an amount not unreasonably in excess of the amount quoted.
- 6- f. The commissioner may by rule, order, or directive limit compensation, and all other expenses paid or incurred, directly or indirectly, in connection with the organization, approval, registration, or sale of securities, to an amount not in excess of compensation paid or expenses incurred in connection with the organization, approval, registration, or sale of similar securities.
- 7- g. If more than one class of stock is issued and one class of stock is issued for the purpose of giving preference as to dividends, the commissioner may require that a greater consideration, commensurate with the value of the dividend preference, be paid per share for such stock.
- 8- h. The commissioner may by rule, order, or directive require that any security approved or registered be sold only on a specified form of subscription or sale contract, and that a signed or conformed copy of each contract be filed with the commissioner or preserved by the corporation, partnership, or limited liability company for any period up to three years specified in the rule, order, or directive.
- 9- i. So long as the approval or registration is effective, the commissioner may by rule or order require the person who filed for approval or registration to file reports, not more often than quarterly, to provide reasonably current information upon the matters contained in the application or registration statement, and to disclose the progress of the offering.
- 10- j. The commissioner has the authority to disapprove an application for approval or registration of any security when it is established that one or more of the promoters are not of good business reputation or character.
- 3- The provisions of this section do not apply to a federal covered security.

SECTION 6. AMENDMENT. Section 10-04-08.3 of the North Dakota Century Code is amended and reenacted as follows:

10-04-08.3. Unlawful representations concerning registration or exemption.

1. Neither the fact that an application for approval under section 10-04-05 or 10-04-06 or registration under section 10-04-07.1, 10-04-07.2, 10-04-08, or 10-04-10 or a notice filing under section 10-04-08.4 has been filed nor the fact that a security or person is effectively approved or registered constitutes a finding by the commissioner that any document filed under this chapter is true, complete, and not misleading. Neither any such fact nor the fact that an

exemption or exception is available for a security or a transaction means that the commissioner has passed in any way upon the merits or qualifications of, or recommended or given approval to, any security, transaction, or person.

2. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with subsection 1.

SECTION 7. AMENDMENT. Section 10-04-08.4 of the North Dakota Century Code is amended and reenacted as follows:

10-04-08.4. Federal covered security.

A federal covered security may be offered and sold in this state without registration, subject to the following:

1. Any federal covered security that is subject to section 18(b)(2) of the Securities Act of 1933, as amended, may be offered and sold upon the electronic filing of:
 - a. A copy of the issuer's registration statement or a notice of intent ~~in writing or electronically~~ for an indefinite or definite dollar amount for each security or class of security on a form prescribed by the commissioner.
 - b. A unit investment trust may file an initial notice filing for a definite dollar amount or an indefinite dollar amount. At the time of the initial notice filing for a definite dollar amount, the issuer shall pay a filing fee of one-tenth of one percent of the first seven hundred fifty thousand dollars and one-twentieth of one percent of any amount in excess of seven hundred fifty thousand dollars of the aggregate offering price of each security or class of security. In no event, however, may such filing fee be less than one hundred twenty-five dollars for each security or class of security.
 - c. An investment company or unit investment trust may file an initial notice filing for an indefinite dollar amount and pay a filing fee of four hundred dollars for each security or class of security.
 - d. A notice filing for a definite dollar amount may be increased before the expiration date on the certificate of effectiveness at the same reduced fee, which must be calculated as provided in subdivision b as a separate fee for each additional amount.
 - e. A notice filing for a definite dollar amount may be renewed for additional periods of one year by filing, at least fifteen days prior to its expiration, a renewal and sales report notice with a fee of one hundred dollars to renew the unsold balance.
 - f. A notice filing for an indefinite dollar amount may be renewed by filing, within sixty days following the issuer's fiscal year, a renewal and sales report notice with a fee of one hundred twenty-five dollars.
 - g. A notice filing may be terminated by the issuer upon providing the commissioner a notice of such termination.
 - h. The provision for each security or class of security in this subsection is effective when the federal registration statement becomes effective with the securities and exchange commission or the date the notice of intent is

received by the commissioner, whichever is later. A filing notice for a definite dollar amount is effective for a period of eighteen months from the date of effectiveness.

- i. A copy of any document filed with the securities and exchange commission as the commissioner may require.
2. a. Any federal covered security that is subject to section 18(b)(4)(D) of the Securities Act of 1933, as amended, may be offered and sold under the following conditions:
 - a. (1) A notice of intent is filed ~~in writing or electronically on SEC form D or other prescribed form~~ with a consent to service of process and a nonrefundable filing fee of one hundred dollars within fifteen calendar days after the first sale in this state.
 - b. (2) A copy of any document filed with the securities and exchange commission is provided, as the commissioner may require.
 - c. (3) The notice filing is effective for a period of one year from the date the filing is received by the commissioner.
 - d. (4) The filing fee shall be two hundred fifty dollars in the event the filing is not made within the time period specified in subdivision a.
 - (5) An issuer conducting an offering under this subsection may renew the offering for an additional period of twelve months by electronically filing SEC form D marked "renewal" and payment of the renewal filing fee of one hundred dollars. The renewal filing fee is two hundred fifty dollars if the filing is made after the expiration date of the current notice filing.
- b. No security may be offered or sold under this subsection, except through or by a broker-dealer and agent registered in accordance with section 10-04-10, unless it is offered and sold through an officer, director, governor, or partner of the issuer and no commission or other remuneration is paid, either directly or indirectly.
3. The commissioner, by rule or otherwise, may require the filing of a notice or any document filed with the securities and exchange commission under the Securities Act of 1933 with respect to a federal covered security under section 18(b)(3) or 18(b)(4) of the Securities Act of 1933, together with a filing fee.
4. a. The following provisions apply to offerings made under tier 2 of federal Regulation A and section 18(b)(3) of the Securities Act of 1933 [15 U.S.C. 77r(b)(3)]:
 - (1) (a) An issuer planning to offer and sell securities in this state in an offering exempt under tier 2 of federal Regulation A shall submit electronically the following at least twenty-one calendar days before the initial sale in this state:
 - [1] A completed uniform notice filing of regulation A - tier 2 offering form;

- (2) An issuer conducting an offering under this subsection may renew the offering for an additional period of twelve months by electronically filing the uniform notice of federal crowdfunding offering form marked "renewal" and payment of the renewal filing fee of one hundred dollars.
- b. A security may not be offered or sold under this subsection, except through or by a broker-dealer and agent registered in accordance with section 10-04-10, unless the security is offered and sold through an officer, director, governor, or partner of the issuer and no commission or other remuneration is paid, either directly or indirectly.
6. The commissioner may issue a stop order suspending the offer and sale of a federal covered security, except a federal covered security under section 18(b)(1) of the Securities Act of 1933, as amended, if it is found to be in the public interest or there is a failure to comply with any of the provisions stated in this section.

SECTION 8. AMENDMENT. Subsection 2 of section 10-04-10 of the North Dakota Century Code is amended and reenacted as follows:

2. a. Agent. It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this chapter as an agent or is exempt from registration. The following individuals are exempt from the registration requirements:
- a. (1) An individual who represents a broker-dealer in effecting transactions in this state limited to those in section 15(h)(2) of the Securities Exchange Act of 1934;
- b. (2) An individual who represents a broker-dealer that is exempt under subsection 1;
- c. (3) An individual who represents an issuer that effects transactions solely in federal covered securities of the issuer, but an individual who effects transactions in a federal covered security under section 18(b)(3) or 18(b)(4)(D) of the Securities Act of 1933 is not exempt if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities; or
- d. (4) An individual who represents a broker-dealer registered in this state or exempt from registration in the offer and sale of securities for an account of a nonaffiliated federal covered investment adviser with investments under management in excess of one hundred million dollars acting for the account of others pursuant to discretionary authority in a signed record.
- b. Application for registration as an agent must be made in writing or electronically in a form prescribed by the commissioner, must be signed by the applicant and by the registered broker-dealer or issuer employing or proposing to employ such applicant, duly verified by oath, must be filed with the department, and must contain information the commissioner determines to be necessary concerning the applicant.
- c. The commissioner shall require as a condition of registration that the applicant pass a written examination as evidence of knowledge of the

~~securities business; provided, that not more than two officers or managers of an issuer may be registered as an agent for a particular original offering of the issuer's securities without being required to pass such written examination; and provided, further, that no such officer or manager may again register within three years as such agent for this or any other issuer without passing the written examination.~~

- d. The commissioner may also require such additional information as to the applicant's previous business experience as the commissioner deems necessary to determine whether or not the applicant should be registered as an agent under the provisions of this law. If an agent proposes to be self-employed, the agent shall specifically state the particular security or securities the agent proposes to sell in this state in the application, and if said security or securities are exempt under section 10-04-05 or 10-04-06, or have been registered by announcement under section 10-04-07.1, or have been registered by coordination under section 10-04-07.2, or have been registered by qualification under section 10-04-08, then the commissioner may require that said self-employed agent file an indemnity bond running to the state of North Dakota conditioned for the faithful compliance by said self-employed agent with all the applicable provisions of this chapter and for the faithful performance and payment of all obligations hereunder. The bond must be in a form approved and in the amount required by the commissioner.
- e. When an applicant has fully complied with the provisions of this subsection, the commissioner may register such applicant as an agent unless the commissioner finds that such applicant is not of good business reputation, or that the broker-dealer named on the application is not a registered broker-dealer. When the commissioner has registered an applicant as an agent, the commissioner shall immediately notify the broker-dealer of such registration.
- f. Every registered broker-dealer or issuer shall promptly shall notify the department of the termination of the employment by the broker-dealer or issuer of a registered agent.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 87

SENATE BILL NO. 2138

(Senators Hogan, Heckaman, Lee)
(Representatives Buffalo, Dobervich)

AN ACT to amend and reenact subsection 2 of section 10-33-75 of the North Dakota Century Code, relating to remote communication for nonprofit corporations; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 10-33-75 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~To the extent authorized~~ Unless otherwise provided by the articles or bylaws ~~and determined by the board:~~
 - a. A meeting of the members may be held solely by one or more means of remote communication:
 - (1) If notice of the meeting is given to every member entitled to vote; and
 - (2) If the number of voting members participating in the meeting is sufficient to constitute a quorum at a meeting.
 - b. A member not physically present at a regular or special meeting of members may by means of remote communication participate in a meeting of members held at a designated place.

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

Approved March 31, 2021

Filed April 1, 2021

COUNTIES

CHAPTER 88

HOUSE BILL NO. 1483

(Representative Christensen)

AN ACT to create and enact a new section to chapter 11-11 of the North Dakota Century Code, relating to lease purchase.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-11 of the North Dakota Century Code is created and enacted as follows:

Lease purchase - Building authority.

Unless a lease purchase or building authority agreement is approved by a vote of the majority of the qualified electors of a county, the governing body of a county may not enter a lease purchase or building authority agreement for the acquisition of any property or construction of any structure having a cost of more than four million dollars.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 89

HOUSE BILL NO. 1053

(Government and Veterans Affairs Committee)
(At the request of the State Historical Society)

AN ACT to amend and reenact section 11-11-53.1 of the North Dakota Century Code, relating to the donation of historical artifacts from a county historical society.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-11-53.1 of the North Dakota Century Code is amended and reenacted as follows:

11-11-53.1. Donation of historical artifacts.

Any historical object or artifact given, donated, or otherwise acquired by a county historical society shall, upon acceptance by the state historical society, may revert to the state historical society if such local society should cease to function, exist, or no longer operate, unless the donor of such object or artifact should attach other conditions to the gift or artifact. If the county historical society should terminate its operations or should find that it no longer needs a historical object or an artifact, such society may give or trade such object or artifact to any other county historical society.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 90

SENATE BILL NO. 2244

(Senators Kreun, Elkin, Larson)
(Representatives Heinert, Klemin, O'Brien)

AN ACT to amend and reenact sections 11-15-07, 11-15-08, and 14-08.1-04 of the North Dakota Century Code, relating to civil process fees and commissions on collections and to sheriff's fees from the child support agency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-15-07 of the North Dakota Century Code is amended and reenacted as follows:

11-15-07. County fees.

The sheriff shall charge and collect the following fees on behalf of the county:

1. For serving a summons, writ of attachment, writ of execution, subpoena, notice of motion, or other notice or order of the court, order of replevin, injunctive order, citation, or any other mesne process and making a return thereon, in addition to the actual incurred costs of postage and long-distance telephone calls a total of ~~twenty~~thirty dollars for each person served.
2. For making a return of not-found, ~~twenty~~thirty dollars.
3. For taking and filing a bond in claim and delivery or any other undertaking to be furnished and approved by the sheriff, twenty dollars.
4. For making a copy of any process, bond, or paper, other than as is herein provided, two dollars per page.
5. For levying or executing any writ, ~~forty~~fifty dollars.
6. For calling an inquest to appraise any goods and chattels that the sheriff may be required to have appraised, twenty-five dollars, and each appraiser is entitled to receive one hundred dollars to be taxed as costs.
7. For advertising a sale by means of a sheriff's notice of sale, in addition to any publishing fees, twenty dollars.
8. For making a deed to land sold on execution or under an order of sale, twenty dollars.
9. For issuing a certificate of redemption when property has been redeemed from a sale under execution or upon the foreclosure of a mortgage, twenty dollars.
10. For selling real or personal property under foreclosure of any lien or mortgage, seventy-five dollars.

11. For boarding prisoners, a sum to be determined by the board of county commissioners, by resolution in advance, which sum must be per meal for meals actually served, and may not be less than two dollars for breakfast, two dollars and fifty cents for dinner, and three dollars and fifty cents for supper.

SECTION 2. AMENDMENT. Section 11-15-08 of the North Dakota Century Code is amended and reenacted as follows:

11-15-08. Commissions collected by sheriff.

1. Except as provided in section 11-15-09, the sheriff is entitled to collect commissions on behalf of the county on all moneys received and disbursed by the sheriff on an execution, order of sale, order of attachment, requisition in claim and delivery, or decree for the sale of real or personal property as follows:
 - a. On the first one thousand dollars, seventy-five dollars.
 - b. On all moneys in excess of one thousand dollars, ~~one~~two percent for personal property and one percent for real property.
2. Except as provided in subsection 3, if no sale is held under subsection 1, the sheriff may not collect a commission.
3. If personal property is taken by the sheriff on an execution, under a requisition in claim and delivery, or under a writ of attachment and applied in satisfaction of the debt without sale, the sheriff is entitled to collect the commission specified in subsection 1 based upon the appraised value of the property. The sheriff shall deliver the commissions to the county treasurer under section 11-15-14.

SECTION 3. AMENDMENT. Section 14-08.1-04 of the North Dakota Century Code is amended and reenacted as follows:

14-08.1-04. Duty of child support agency - Sheriff's fees.

The child support agency shall commence any appropriate action or proceeding under sections 14-08.1-02 and 14-08.1-03. Except for public assistance cases as determined by the child support agency, a sheriff may charge and collect from the child support agency service of process fees ~~consistent with section 11-15-07 of twenty dollars.~~

Approved April 22, 2021

Filed April 23, 2021

CHAPTER 91

HOUSE BILL NO. 1186

(Representatives Nehring, Fegley, Porter, Thomas)

AN ACT to create and enact sections 11-28.3-15 and 11-28.3-16 of the North Dakota Century Code, relating to rural ambulance service districts; and to amend and reenact sections 11-28.3-01, 11-28.3-02, 11-28.3-03, 11-28.3-05, 11-28.3-06, 11-28.3-07, 11-28.3-09, 11-28.3-12, 11-28.3-13, 11-28.3-14, and 57-15-30.2 of the North Dakota Century Code, relating to rural ambulance service districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-28.3-01 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-01. Territory to be organized - Petition.

Whenever ~~twentyfifty~~ fifty qualified electors, or if there are fewer than fifty qualified electors, fifty percent of the qualified electors, ~~as determined by the vote cast in the last preceding gubernatorial election,~~ residing in any rural territory, as defined by the state department of health, equivalent in area to one township or more not presently served by an existing emergency medical ambulance service district, elect to form, organize, establish, equip, and maintain a rural ambulance service district, ~~they~~ the qualified electors shall signify their intention by presenting to the county auditor of the county or counties in which the territory is situated a petition setting forth the desires and purposes of the petitioners. The petition ~~shall~~ must contain the full names and post-office addresses of the petitioners, the suggested name of the proposed district, the area in square miles [hectares] to be included therein, and a complete description according to government survey, wherever possible, of the boundaries of the real properties intended to be embraced in the proposed rural ambulance service district. A plat or map showing the suggested boundaries of the proposed district ~~shall~~ must accompany the petition, and the petitioner also shall ~~also~~ deposit with the county auditor a sum sufficient to defray the expense of publishing the notices required by sections 11-28.3-02 and 11-28.3-03. Provided further that any city located within the area, whether such city has emergency medical services or not, may be included in the rural ambulance district if twenty percent or more of the qualified electors residing in the city sign the petition.

SECTION 2. AMENDMENT. Section 11-28.3-02 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-02. Election in affected counties.

When a petition is filed in the office of the county auditor pursuant to section 11-28.3-01, the county auditor shall determine and certify that the petition has been signed by at least ~~twentyfifty~~ fifty qualified electors, or if there are fewer than fifty qualified electors residing in the territory, fifty percent of the qualified electors voting at the last general election for governor and eligible voters residing within the boundaries of the proposed district. If the proposed district is situated within two or more counties, the county auditor of the county wherein most of the petitioners reside shall confer with

the other affected county auditors for the purpose of determining the adequacy of the petitions in all the counties affected.

If the county auditor or county auditors determine that the petitions submitted are adequate according to the provisions of this chapter, the question of whether the rural ambulance service district ~~shall~~is to be formed and organized ~~shall~~must be submitted to a vote of the qualified electors residing in the proposed district at the next ensuing countywide special, primary, or general election. The election provided for by this chapter ~~shall~~must be conducted in the same manner as other county elections are conducted, except as otherwise provided by this chapter.

SECTION 3. AMENDMENT. Section 11-28.3-03 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-03. Notice of election.

In addition to the usual requirements of notices of election, the notice for an election at which the question provided for in this chapter will be voted upon ~~shall~~must include a statement describing the boundaries of the proposed rural ambulance service district, expressed, wherever possible, in terms of the government survey, a statement setting forth a ~~specified~~maximum allowed mill levy for the proposed district, which levy ~~shall~~may not exceed the limitation in section 11-28.3-09. The notice of election ~~shall~~ also must state the voting areas in which the question provided by this chapter will be on the ballot.

SECTION 4. AMENDMENT. Section 11-28.3-05 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-05. Notice by county auditor of meeting to organize district.

If a rural ambulance service district is approved as provided in this chapter, the county auditor of the county in which the proposed district is located shall issue notice of a public meeting to organize the rural ambulance service district. The notice ~~shall~~must be given by publication once a week for two consecutive weeks, the last notice appearing seven days before the date of the meeting in a newspaper of general circulation within the proposed district. The notice ~~shall~~must be addressed to all qualified electors residing within the boundaries of the district, ~~shall~~ describe the boundaries of the district, and ~~shall~~ state the date, time, and place of the meeting. If the district is located within two or more counties, the county auditors of the counties shall confer and set the date, time, and place of the meeting and shall cause the publication of the meeting notice in each of said counties.

SECTION 5. AMENDMENT. Section 11-28.3-06 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-06. Organization - Board of directors.

At the time and place fixed by the county auditor for the public meeting as provided in section 11-28.3-05, the qualified electors present who reside within the boundaries of the district shall proceed to organize the district. Permanent organization must be effected by the election of a board of directors consisting of not less than five nor more than ten residents of the district. The board of directors shall meet as soon after the organizational meeting as possible to elect a president, a vice president, and a secretary-treasurer. All directors and officers must be elected for two years and hold office until their successors have been elected and qualified, except that at the first election the vice president must be elected as provided in this section for a one-year term, and one-half, or as close to one-half as possible depending upon

the total number of directors, of the directors elected at the first election after July 1, 1977, must be selected by lot in the presence of a majority of such directors to serve one-year terms. A district may specify in its bylaws a specified number of directors within the limitations in this section, provided each township or group of townships receives equal representation on the board with respect to the regions. The bylaws also may allow for a combination of regional directors and at-large directors. If a vacancy occurs in a board position due to a resignation, a special meeting must be called and held within sixty days of the resignation for the purpose of electing a director to serve the remainder of the term. All officers and directors shall serve without pay, except the secretary-treasurer, who may be paid a salary determined by the board of directors.

SECTION 6. AMENDMENT. Section 11-28.3-07 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-07. Regular meeting to be held - Special meeting.

~~A regular~~An annual meeting of the electors who reside within the boundaries of a district ~~shall~~must be held in the first quarter of each calendar year, ~~and special meetings may be called by the board of directors at any time.~~ The secretary-treasurer shall give notice of the annual meeting by one publication in a legal newspaper of general circulation in each county in which the district is situated. The meeting shall be held not less than seven nor more than fourteen days after the date of publication of the notice. With proper notice as required under section 44-04-20, the board of directors may call special meetings as necessary.

SECTION 7. AMENDMENT. Section 11-28.3-09 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-09. Emergency medical service policy - Levy - Financial report.

1. The board of directors shall establish a general emergency medical service policy for the district and annually shall ~~annually~~ estimate the probable expense for carrying out that policy. The estimate ~~shall~~must be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year. In the year for which the levy is sought, a board of directors of a rural ambulance service district seeking approval of a property tax levy under this chapter ~~must~~shall file with the county auditor of the counties within the rural ambulance service district, at a time and in a format prescribed by the county auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the rural ambulance service district during that year. The board or boards of county commissioners may levy a tax not to exceed the mill rate approved by the electors of the district under section 11-28.3-04, ~~and in no event exceeding.~~ If the board wishes to levy a tax in excess of that approved by the electors, the board, upon its own motion, may place the question of increasing the maximum allowable mill levy for the electors to approve at a regular or special election. The amount levied under this section may not exceed a mill rate of fifteen mills upon the taxable property within the district for the maintenance of the rural ambulance service district for the fiscal year as provided by law. A rural ambulance service district may be dissolved by approval of electors of the district as provided in section 11-28.3-13.
2. The tax levied for a rural ambulance service district ~~shall~~must be:
 - a. Collected as other taxes are collected in the county.

- b. Turned over to the secretary-treasurer of the rural ambulance service district, who ~~shall~~must be bonded in the amount of at least five thousand dollars.
 - c. Deposited by the secretary-treasurer in a state or national bank in a district account.
 - d. Paid out upon warrants drawn upon the district account by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president.
3. ~~In no case shall the~~The amount of the tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense, including the amount of principal and interest upon the indebtedness of the district for the ensuing year. The district may include in its operating budget no more than ten percent of its annual operating budget as a depreciation expense to be set aside in a dedicated emergency medical services sinking fund deposited with the treasurer for the replacement of equipment and ambulances. The ten percent emergency medical services sinking fund may be in addition to the actual annual operating budget, but the total of the annual operating budget and the annual ten percent emergency medical services sinking fund shall not exceed the amount of revenue that would be generated by application of the maximum mill levy approved by the electors.

SECTION 8. AMENDMENT. Section 11-28.3-12 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-12. Rural ambulance service district may enter into contract.

Any rural ambulance service district may enter ~~into~~ a contract with another rural ambulance service district, or other emergency service operation, to consolidate or cooperate for mutual ambulance services or emergency vehicle services, or may enter ~~into~~ a contract with any federal, state, or local government agency for ambulance services or emergency vehicle services, upon terms suitable to all concerned.

SECTION 9. AMENDMENT. Section 11-28.3-13 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-13. Boundaries of rural ambulance service district - Dissolution of the district.

The boundaries of any rural ambulance service district organized under ~~the provisions of this chapter may be changed in the manner prescribed by sections 11-28.3-01 through 11-28.3-06~~section 11-28.3-15 or 11-28.3-16, but a change in the boundary of a district does not impair or affect its organization or its right in or to property; nor does it impair, affect, or discharge any contract, obligation, lien, or charge for or upon which it might be liable had such change of boundaries not been made. ~~When a boundary change is requested, the petition, notice of election, and ballot must all indicate that the purpose of the election is to alter the boundaries of an existing rural ambulance service district. The petition and notice of election must describe with particularity both the present and the proposed boundaries of the district.~~

Dissolution of a rural ambulance service district may be accomplished in the manner prescribed by ~~sections 11-28.3-01 through 11-28.3-04~~section 11-28.3-15 or 11-28.3-16. The petition and notice of election must state that the purpose of the election is to dissolve the rural ambulance service district and must describe its boundaries. The ballot to dissolve a rural ambulance service district must be in substantially the following form:

Shall (name of taxing district or districts) cease to levy a tax for the purpose of maintaining a rural ambulance service district, and shall such district be dissolved?

Yes ☐

No ☐

If a majority of all votes cast on the question are in favor of dissolution, then the district is dissolved thirty days after the canvass of the votes. After all debts and obligations of the district are paid, any remaining funds must be deposited in the general fund of the county in which the district was contained. If the dissolved district was located in more than one county, then any funds remaining after all debts and obligations are paid must be divided among those counties in the same proportion as the geographical area of the district in each county bears to the total geographical area of the dissolved district.

SECTION 10. AMENDMENT. Section 11-28.3-14 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-14. Payments by certain organizations.

Any property tax-exempt club, lodge, chapter, charitable home, dormitory, state or county fair association, or like organization located within a rural ambulance service district and outside the boundaries of any city shall pay to the board of directors of the district annually for emergency medical service an amount agreed upon, but not less than twenty-five percent of the amount which would be levied against the property under the provisions of this chapter if the property were subject to levy.

Funds derived from such payments ~~shall~~must be expended by the district for emergency medical service supplies and equipment and the training of emergency medical service personnel.

SECTION 11. Section 11-28.3-15 of the North Dakota Century Code is created and enacted as follows:

11-28.3-15. Territory to be annexed.

1. Any territory adjacent to the boundary of an existing ambulance district may be annexed to the district. If the territory to be annexed is served by the district under section 57-40.6-10, the board, upon its own motion, may annex the territory, provided a majority of qualified electors residing in the existing and proposed territory approve of the annexation at a regular or special election.
2. If the area to be annexed is not serviced by the district under section 57-40.6-10, the proceedings for the annexation may be initiated by a presentation to the county auditor. If more than one county is in the proposed annexed territory, the auditor serving the larger portion shall coordinate with other county auditors to create a petition stating the desires and purposes of the petitioners signed by fifty qualified electors, or if there are not fifty qualified

electors in the proposed territory, fifty percent of qualified electors residing within the boundaries of the territory. The petition must contain a description of the boundaries of the territory proposed to be annexed and must be accompanied by a map or plat and a deposit for publication costs.

3. The county auditor shall determine and certify whether the petition complies with the requirements of this section and ensure the qualified electors signing the petition reside within the boundaries. The county auditor shall forward a completed petition, map or plat, and certificate to the board of directors of the district the annexed property is seeking to join.
4. Within thirty days after receiving the petition, map or plat, and certificate of the county auditor, the board of directors shall send a written report approving or denying the proposal to the county auditor.
5. If the report of the board of directors denies the proposal, the petition must be rejected. If the report is favorable, the county auditor promptly shall designate a time and place for an election upon the petition and shall give notice of the election in the manner prescribed by section 11-28.3-03. At the election, any qualified elector residing within the boundaries of the territory to be annexed may cast a vote. If the majority cast a vote in favor of the question of annexation, the new territory must be annexed.

SECTION 12. Section 11-28.3-16 of the North Dakota Century Code is created and enacted as follows:

11-28.3-16. Withdrawal from ambulance service district - Restrictions.

1. Any elector who resides in an area subject to a mill levy under section 11-28.3-09 and wishes to withdraw from the ambulance service district may do so if the territory to be withdrawn from the district:
 - a. Borders on the outer boundary of the district; and
 - b. Has a written agreement with an adjacent emergency medical services operation licensed by the state department of health to provide coverage to the territory if the territory is withdrawn successfully.
2. Notwithstanding section 57-40.6-10, the district is not obligated to maintain the withdrawn district within the primary response area of the district.
3. The territory to be withdrawn from the district under this section remains subject to and chargeable for the payment and discharge of the proportion of obligations outstanding at the time of the filing of the petition for the withdrawal of the territory. The taxable valuation of property in the territory to be withdrawn bears to the taxable valuation of all property within the district before the withdrawal.
4. Mill levies imposed under section 11-28.3-09 remain in effect until the proportionate share of outstanding obligations are paid.
5. The proceedings for withdrawal must be initiated by the filing of a petition with the appropriate county auditor or signed by fifty electors, or if there are not fifty electors residing in the area, fifty percent of the qualified electors in the territory sought to be withdrawn and the petition must contain a description of

the boundaries of the territory sought to be withdrawn and a map or plat illustrating the area.

6. The county auditor shall determine whether the petition complies with the requirements of subsection 5. If the petition is accepted, the county auditor promptly shall designate a time and place for an election upon the petition and shall give notice of the election in the manner prescribed by section 11-28.3-03. At the election, any qualified elector residing within the boundaries of the territory to be withdrawn may cast a vote. If the majority cast a vote in favor of the question of withdrawal, the territory is considered withdrawn from the district.
7. The county auditor shall determine and certify the respective percentage proportions of the taxable valuation of the territory petitioned to be withdrawn to the taxable valuation of all property in the district before withdrawal to the board of directors of the district withdrawn.
8. Within thirty days after receipt of the petition, verification, and computation of respective percentage proportions, the board of directors of the district withdrawn shall attach to the petition a statement of outstanding obligations of the district and shall forward the petition to the appropriate board or boards of county commissioners.
9. The board or boards of county commissioners, at a regular meeting, shall compute the indebtedness proportionately assignable to the territory sought to be withdrawn, and shall describe, by written order, the boundaries of the territory withdrawn and the indebtedness of the district assigned to the territory and subject to continued levy under section 11-28.3-09. The order and computation must be filed in the office of the county auditor.
10. The annual estimate required under section 11-28.3-09 must reflect the annual expense of retiring principal and interest upon the proportionate share of district indebtedness assigned to the withdrawn territory.

SECTION 13. AMENDMENT. Section 57-15-30.2 of the North Dakota Century Code is amended and reenacted as follows:

57-15-30.2. Financial reporting requirements for taxing entities.

The governing body of any county, city, township, school district, park district, recreation service district, rural fire protection district, rural ambulance service district, soil conservation district, conservancy district, water authority, or any other taxing entity authorized to levy property taxes or have property taxes levied on its behalf, in the year for which the levy will apply, ~~must~~shall file with the county auditor of each county in which the taxing entity is located, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund or account held by the taxing entity during that year.

Approved March 29, 2021

Filed March 30, 2021

CORRECTIONS, PAROLE, AND PROBATION

CHAPTER 92

HOUSE BILL NO. 1410

(Representatives Vetter, Damschen, Karls, Klemin, B. Koppelman, K. Koppelman, Pollert, Satrom)
(Senators Kannianen, Meyer, Vedaa)

AN ACT to create and enact a new section to chapter 25-01 of the North Dakota Century Code, relating to prohibiting department of human services from substantially burdening the exercise of religion by a patient or resident under the department's care; to amend and reenact sections 12-44.1-14 and 12-47-26, subsection 12 of section 23-01-05, and section 37-17.1-05 of the North Dakota Century Code, relating to prohibiting a correctional facility or facility under the control of the department of corrections and rehabilitation from substantially burdening the exercise of religion by an offender in the facility's custody, the state health officer's authority, and the governor's authority during a declared disaster or emergency; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-44.1-14 of the North Dakota Century Code is amended and reenacted as follows:

12-44.1-14. Inmate rights.

1. Subject to reasonable safety, security, discipline, and correctional facility administration requirements, the administrator of each correctional facility shall:
 1. a. Ensure inmates have confidential access to attorneys and their authorized representatives.
 2. b. Ensure that inmates are not subjected to discrimination based on race, national origin, color, creed, sex, economic status, or political belief.
 3. c. Ensure equal access by male and female inmates to programs and services available through the correctional facility.
 4. d. Ensure access to mail, telephone use, and visitors.
 5. e. Ensure that inmates are properly fed, clothed, and housed.
 6. f. Ensure that inmates have adequate medical care. Adequate medical care means necessary treatment for a medical or health condition for which serious pain or hardship would occur if care is not given. A correctional facility may not deny adequate medical care to an inmate who does not

have health insurance or does not have the ability to pay the costs of the medical or health care.

7. g. Ensure that inmates may reasonably exercise their religious beliefs.
2. Correctional facility staff or an administrator of a correctional facility may not:
 - a. Substantially burden the exercise of religion by an offender in the custody of the correctional facility unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any comparable secular conduct unless the correctional facility demonstrates the disparate treatment is necessary to further a compelling penological interest and is the least restrictive means of furthering that compelling penological interest; or
 - c. Deny clergy access to an offender in the custody of the correctional facility for the purpose of providing religious services unless the correctional facility demonstrates the denial is necessary to further a compelling penological interest and is the least restrictive means of furthering that compelling penological interest.
3. An offender in the custody of a correctional facility claiming to be aggrieved by a violation of subsection 2 may assert, after exhausting appropriate administrative remedies, that violation as a claim or defense in a judicial proceeding and, if the offender is the prevailing party, may obtain appropriate relief, including costs and reasonable attorney's fees.

SECTION 2. AMENDMENT. Section 12-47-26 of the North Dakota Century Code is amended and reenacted as follows:

12-47-26. Uniform kindly treatment of inmates.

1. The warden and all officers of the penitentiary uniformly shall treat the inmates thereof of the penitentiary with kindness, and the warden shall require of the officers and guards that, in the execution of ~~their~~the officers' and guards' respective duties, ~~they~~the officers and guards in all cases shall refrain from boisterous and unbecoming language in giving ~~their~~ orders and commands. ~~No corporal~~Corporal or other painful or unusual punishment ~~shall~~may not be inflicted upon the inmates of the penitentiary for violation of the rules and regulations ~~thereof~~of the penitentiary.
2. A facility under the control of the department of corrections and rehabilitation may not:
 - a. Substantially burden the exercise of religion by an offender in the custody of the facility unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any comparable secular conduct unless the facility demonstrates the disparate treatment is necessary to further a compelling penological interest and is the least restrictive means of furthering that compelling penological interest; or

- c. Deny clergy access to an offender in the custody of the facility for the purpose of providing religious services unless the facility demonstrates the denial is necessary to further a compelling penological interest and is the least restrictive means of furthering that compelling penological interest.
3. An offender in the custody of a facility claiming to be aggrieved by a violation of subsection 2 may assert, after exhausting appropriate administrative remedies, that violation as a claim or defense in a judicial proceeding and, if the offender is the prevailing party, may obtain appropriate relief, including costs and reasonable attorney's fees.

³⁸ **SECTION 3. AMENDMENT.** Subsection 12 of section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
 - a. Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (1) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (2) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing evidence that a particular religious activity poses an extraordinary health risk; or
 - (3) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
 - b. A person claiming to be aggrieved by a violation of subdivision a may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

SECTION 4. A new section to chapter 25-01 of the North Dakota Century Code is created and enacted as follows:

Religious exercise of patient or resident under the care of the department of human services.

1. The department of human services may not:

³⁸ Section 23-01-05 was also amended by section 1 of House Bill No. 1118, chapter 191, section 107 of House Bill No. 1247, chapter 352, section 1 of House Bill No. 1418, chapter 190, and section 1 of Senate Bill No. 2181, chapter 192.

- a. Substantially burden the exercise of religion by patient or resident under the department's care unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any comparable secular conduct unless the department demonstrates the disparate treatment is necessary to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest; or
 - c. Deny clergy access to a patient or resident for the purpose of providing religious services unless the department demonstrates the denial is necessary to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.
2. A patient or resident of the department of human services claiming to be aggrieved by a violation of this section, may assert, after exhausting appropriate administrative remedies, that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

³⁹ **SECTION 5. AMENDMENT.** Section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-05. The governor and disasters or emergencies - Penalty.

1. The governor is responsible to minimize or avert the adverse effects of a disaster or emergency.
2. Under this chapter, the governor may issue executive orders and proclamations, and amend or rescind them. Executive orders, proclamations, and regulations have the force of law.
3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The state of disaster or emergency shall continue until the governor determines that the threat of an emergency has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions which have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be promptly filed with the department of emergency services, the secretary of state, and the county or city auditor of the jurisdictions affected.

³⁹ Section 37-17.1-05 was also amended by section 2 of House Bill No. 1118, chapter 191, section 3 of House Bill No. 1118, chapter 191, section 1 of House Bill No. 1180, chapter 272, and section 2 of Senate Bill No. 2181, chapter 192.

4. An executive order or proclamation of a state of disaster or emergency shall activate the state and local operational plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to a disaster or emergency.
5. During the continuance of any state of disaster or emergency declared by the governor, the governor is commander in chief of the emergency management organization and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or emergency operational plans, but nothing herein restricts the governor's authority to do so by orders issued at the time of the disaster or emergency.
6. In addition to any other powers conferred upon the governor by law, the governor may:
 - a. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in managing a disaster or emergency.
 - b. Utilize all available resources of the state government as reasonably necessary to manage the disaster or emergency and of each political subdivision of the state.
 - c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.
 - d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if the governor finds this necessary to manage the disaster or emergency.
 - e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary for the preservation of life or other disaster or emergency mitigation, response, or recovery.
 - f. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.
 - g. Control ingress and egress in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.
 - h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not including ammunition.
 - i. Make provision for the availability and use of temporary emergency housing.

- j. Make provisions for the control, allocation, and the use of quotas for critical shortages of fuel or other life and property sustaining commodities.
 - k. Designate members of the highway patrol, North Dakota national guard, or others trained in law enforcement, as peace officers.
7. Any person who willfully violates any provision of an executive order or proclamation issued by the governor pursuant to this chapter is guilty of an infraction.
8. ~~Authorize~~The governor may authorize the adjutant general to recall to state active duty, on a volunteer basis, former members of the North Dakota national guard. Those recalled must possess the qualifications required by the disaster or emergency. Recall under this subsection is effective only for the duration of the disaster or emergency and recalled personnel will be released from state active duty upon competent authority that the requirement of their service under this subsection has passed. Compensation for personnel recalled under this subsection will be based upon section 37-07-05.
9. Notwithstanding any other provision of law, an order, proclamation, rule, or regulation issued pursuant to this section may not:
- a. Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing evidence that a particular religious activity poses an extraordinary health risk; or
 - c. Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
10. A person claiming to be aggrieved by a violation of subsection 9 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 93

HOUSE BILL NO. 1069

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact section 12-47-31 of the North Dakota Century Code, relating to the discharge of offenders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-47-31 of the North Dakota Century Code is amended and reenacted as follows:

12-47-31. Discharge of offenders - Clothing - Transportation.

The department of corrections and rehabilitation shall provide an offender released from the department appropriate clothing and transportation to a reasonable point within the state as specified in the release plan, based upon need.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 94

SENATE BILL NO. 2108

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact subsection 3 of section 12-47-36 of the North Dakota Century Code, relating to exceptions to exempt and confidential records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁰ **SECTION 1. AMENDMENT.** Subsection 3 of section 12-47-36 of the North Dakota Century Code is amended and reenacted as follows:

3. Notwithstanding any other provisions of law relating to privilege or confidentiality, except for the confidentiality requirements of federal drug and alcohol treatment and rehabilitation laws, the following persons, organizations, or agencies without prior application to the court may inspect case history, medical, psychological, or treatment records:
 - a. The governor;
 - b. The pardon advisory board, if the governor has appointed a pardon advisory board;
 - c. The parole board;
 - d. Any division, department, official, or employee of the department of corrections and rehabilitation;
 - e. Another state receiving a parolee or probationer under the provisions of chapter 12-65;
 - f. A federal, state, regional, or county correctional facility receiving physical custody of a person under the legal custody of the department of corrections and rehabilitation;
 - g. The employees in the office of the attorney general and investigators, consultants, or experts retained by the state;
 - h. The risk management division of the office of management and budget for the purpose of investigating and defending actions or claims under chapter 32-12.2;
 - i. The district court of the county where the judgment of conviction was entered;
 - j. A state or federal court where a person who is or was in the custody or under the supervision and management of the adult services division of

⁴⁰ Section 12-47-36 was also amended by section 16 of House Bill No. 1247, chapter 352.

the department of corrections and rehabilitation has commenced litigation and, the parties, their counsel, and representatives of the parties in proceedings, if the records are relevant to the litigation and the subject of the records has signed an authorization;

- k. A criminal justice agency as defined in section 44-04-18.7; or
- l. The United States social security administration and veterans administration; or
- m. A state, federal, or tribal agency that evaluates sex offenders for civil commitment or assesses sex offender risk level for registration.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 95

SENATE BILL NO. 2178

(Senators Lee, Dwyer, Hogue)
(Representatives M. Johnson, Klemin, Roers Jones)

AN ACT to amend and reenact subsection 2 of section 12-48.1-02 and section 12-59-02 of the North Dakota Century Code, relating to eligibility for release programs and parole board compensation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 12-48.1-02 of the North Dakota Century Code is amended and reenacted as follows:

2. The director of the department may authorize participation in outside programs for an offender who has ten years or less remaining on a sentence and has been committed to ~~ten years or less~~ to the legal and physical custody of the department. The parole board, with the approval of the director of the department, may authorize participation in outside programs for offenders who have more than ten years remaining on a sentence and have been committed to the legal and physical custody of the department ~~for more than ten years~~.

SECTION 2. AMENDMENT. Section 12-59-02 of the North Dakota Century Code is amended and reenacted as follows:

12-59-02. Meetings - Compensation - Rules.

The governor shall appoint a member of the parole board to be chairman. The chairman of the parole board shall designate three members of the parole board for each meeting of the parole board. Meetings of the parole board must be held in accordance with rules established by the parole board and must be held as often as required to properly conduct the business of the board, but in any event not less than six times per year. The parole board may only take action upon the concurrence of at least two members who participated in the same meeting. The final decision of at least two parole board members who participated in the same parole board meeting constitutes the decision of the parole board. Members are entitled to be compensated at the same rate of seventy-five dollars per day for each day actually and necessarily spent in the performance of their duties as board members ~~paid to members of the legislative assembly for attendance at interim committee meetings~~ plus the same mileage and expenses as are authorized for state officials and employees. The director of the department of corrections and rehabilitation or the director's designee is the clerk for the parole board.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 96

HOUSE BILL NO. 1070

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact section 12-59-12 of the North Dakota Century Code, relating to modification of parole board action.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-59-12 of the North Dakota Century Code is amended and reenacted as follows:

12-59-12. Board may reconsider action.

The board may reconsider its action in granting a parole to any ~~convict~~individual at any time before ~~such convict~~the individual has been released and finally discharged from the penitentiary, ~~a local correctional facility, a federal correctional facility, or a correctional facility of another state.~~ Such action may be taken on the board's own motion or on the petition of interested parties. Upon notice to a parolee and with good cause, the board may modify or enlarge conditions of parole at any time before the expiration or termination of the parole.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 97

HOUSE BILL NO. 1294

(Representatives Roers Jones, M. Johnson, Jones, Klemm, Satrom, Vetter)
(Senators Bakke, Dwyer, Luick, Meyer, K. Roers)

AN ACT to create and enact section 12-60-16.12 of the North Dakota Century Code, relating to the unauthorized dissemination of criminal history record information; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 12-60-16.12 of the North Dakota Century Code is created and enacted as follows:

12-60-16.12. Criminal history record information - Civil action - Penalty.

A person that disseminates, publishes, or maintains or causes to be disseminated, published, or maintained, the criminal history record information of an individual which pertains to that individual's charge or arrest for a criminal offense, and solicits, requests, or accepts money or other thing of value for removing the criminal history record information is civilly liable to that individual in the amount of five hundred dollars or actual damages, whichever is greater, plus reasonable attorney's fees and court costs.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 98

HOUSE BILL NO. 1073

(Judiciary Committee)

(At the request of the Department of Environmental Quality)

AN ACT to create and enact a new section to chapter 23-01 and a new section to chapter 23.1-01 of the North Dakota Century Code, relating to criminal history background checks for applicants for licenses and permits issued by the state department of health and the department of environmental quality; and to amend and reenact subdivisions n and vv of subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴¹ **SECTION 1. AMENDMENT.** Subdivision n of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- n. The state department of health for a final applicant for ~~or an employee in a specified occupational job opening or a current employee~~ with the department as designated by the state health officer; an individual being investigated by the department; or, when requested by the department, an applicant for registration, certification, or licensure by the department as a designated caregiver or a compassion center agent under chapter 19-24.1.

⁴² **SECTION 2. AMENDMENT.** Subdivision vv of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- vv. The department of environmental quality for a final applicant for ~~or an employee specified in occupational job opening or a current employee~~ with the department; an individual being investigated by the department; or, when requested by the department, an applicant for ~~registration, certification, or licensure by the department~~ a radioactive materials license under chapter 23.1-03 or a solid waste permit under chapter 23.1-08.

SECTION 3. A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

⁴¹ Section 12-60-24 was also amended by section 2 of House Bill No. 1073, chapter 98, section 18 of House Bill No. 1247, chapter 352, section 1 of House Bill No. 1253, chapter 164, section 1 of Senate Bill No. 2062, chapter 452, section 1 of Senate Bill No. 2110, chapter 218, section 1 of Senate Bill No. 2131, chapter 378, section 1 of Senate Bill No. 2174, chapter 447, section 1 of Senate Bill No. 2187, chapter 323, section 1 of Senate Bill No. 2338, chapter 379.

⁴² Section 12-60-24 was also amended by section 1 of House Bill No. 1073, chapter 98, section 18 of House Bill No. 1247, chapter 352, section 1 of House Bill No. 1253, chapter 164, section 1 of Senate Bill No. 2062, chapter 452, section 1 of Senate Bill No. 2110, chapter 218, section 1 of Senate Bill No. 2131, chapter 378, section 1 of Senate Bill No. 2174, chapter 447, section 1 of Senate Bill No. 2187, chapter 323, section 1 of Senate Bill No. 2338, chapter 379.

Criminal history background checks.

The state department of health may require a final applicant for a job opening or a current employee with the department, as designated by the state health officer, complete a state and national criminal history record check as provided under section 12-60-24.

SECTION 4. A new section to chapter 23.1-01 of the North Dakota Century Code is created and enacted as follows:

Criminal history background checks.

The department may require an applicant for a license or permit to complete a state and nationwide criminal history record check as provided in section 12-60-24. If the applicant is not an individual, the department may require an individual responsible for the applicant to complete a state and a nationwide criminal history record check as provided in section 12-60-24. The applicant or responsible individual shall submit personal information and fingerprints with the application necessary to complete the state and nationwide criminal history background record check. All costs associated with the state and nationwide criminal history record check are the responsibility of the applicant.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 99

HOUSE BILL NO. 1196

(Representatives Roers Jones, Heinert, Ista, Keiser, Mock, O'Brien)
(Senator Dwyer)

AN ACT to amend and reenact sections 12-60.1-01 and 12-60.1-02 and subsection 8 of section 12-60.1-04 of the North Dakota Century Code, relating to sealing criminal records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-60.1-01 of the North Dakota Century Code is amended and reenacted as follows:

12-60.1-01. Definitions.

As used in this chapter:

1. "Court record" includes:
 - a. Any document or information collected, received, or maintained by court personnel in connection with a judicial proceeding;
 - b. Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created or prepared by court personnel relating to a judicial proceeding; and
 - c. Information maintained by court personnel pertaining to the administration of the court or clerk of court office and not associated with a particular case.
2. "Criminal record" means court and prosecution records subject to sealing under this chapter. A criminal record does not include criminal history record information as defined in subsection 5 of section 12-60-16.1 or criminal justice data information maintained in the criminal justice data information sharing system under section 54-12-34.
3. ~~"Employee" has the same meaning as in section 14-02.4-02.~~
4. ~~"Employer" has the same meaning as in section 14-02.4-02.~~
5. "Prosecutor" means the office or agency with jurisdiction over the offense for purposes of postconviction proceedings.
- 6-4. "Seal" means to prohibit the disclosure of the existence or contents of court or prosecution records unless authorized by court order.

SECTION 2. AMENDMENT. Section 12-60.1-02 of the North Dakota Century Code is amended and reenacted as follows:

12-60.1-02. Grounds to file petition to seal criminal record.

1. An individual may file a petition to seal a criminal record if:
 - a. The individual pled guilty to or was found guilty of a misdemeanor offense and the individual has not been ~~charged with~~convicted of a new crime for at least three years ~~from the date of release from incarceration, parole, or probation before filing the petition~~;
 - b. The individual pled guilty to or was found guilty of a felony offense and the individual has not been ~~charged with~~convicted of a new crime for at least five years ~~from the date of release from incarceration, parole, or probation before filing the petition~~.
2. This chapter does not apply to:
 - a. A felony offense involving violence or intimidation during the period in which the offender is ineligible to possess a firearm under subdivision a of subsection 1 of section 62.1-02-01; or
 - b. An offense for which an offender has been ordered to register under section 12.1-32-15.

SECTION 3. AMENDMENT. Subsection 8 of section 12-60.1-04 of the North Dakota Century Code is amended and reenacted as follows:

8. Except as provided in this section ~~and if good cause is shown~~, ~~if a petition is denied an individual a district court denying a petition may not file prohibit a petitioner from filing a subsequent petition to seal a criminal record for at least up to three years following the denial. The order denying the petition must provide the reasons establishing good cause for prohibiting the petition.~~

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 100

HOUSE BILL NO. 1126

(Representatives Roers Jones, Buffalo, Heinert, Ista, Jones, Mock, Porter)
(Senators Bakke, Dwyer)

AN ACT to amend and reenact section 12-63-02.2 of the North Dakota Century Code, relating to tribal police officers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-63-02.2 of the North Dakota Century Code is amended and reenacted as follows:

12-63-02.2. Tribal police officers.

1. A tribal police officer of a federally recognized Indian tribe in this state who meets the requirements of this chapter and the rules adopted by the board is eligible for a peace officer license or part-time peace officer license. The board may waive the training program required for licensure for a tribal police officer.
2. The board shall issue a peace officer license or part-time peace officer license to a tribal police officer who is eligible for a peace officer license or part-time peace officer license under this section and who has paid the prescribed license fee if:
 - a. The tribal police officer has been appointed as a special deputy in accordance with section 11-15-02;
 - b. The tribal police officer is employed by the state or a political subdivision;
or
 - c. There is an agreement between the state or a political subdivision and the tribe for tribal police officers to perform law enforcement services; or
 - d. The tribal police officer has completed the training program unless waived by the board.
3. A tribal police officer who is a member of a police force of a tribal government and who is licensed under this section may exercise the powers of a peace officer of this state within the exterior boundaries of the reservation, or off the reservation, in accordance with the terms and conditions of the special deputy appointment, the employment agreement, or the agreement between the state or political subdivision and the tribe.
4. A tribal police officer who has a peace officer license under this section is subject to this chapter and the rules adopted by the board, including requirements for license renewal or reinstatement, annual sidearm qualification, and continuing education.

5. The state or political subdivision is not liable for any act or omission of a tribal police officer exercising peace officer powers authorized by an agreement between the state or a political subdivision and a tribe.
6. Notwithstanding section 12-63-02, a tribal police officer is not required to be licensed in this state to provide emergency law enforcement services or to provide mutual aid to a law enforcement officer of the state or a political subdivision within the exterior boundaries of the reservation or off the reservation.
7. This section does not diminish or expand the jurisdiction of any tribe or the state.

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

Approved March 16, 2021

Filed March 16, 2021

CHAPTER 101

HOUSE BILL NO. 1122

(Representatives Roers Jones, Heinert, Porter)
(Senators Hogue, Larson)

AN ACT to create and enact section 12-63-02.3 of the North Dakota Century Code, relating to reserve peace officers; and to amend and reenact section 12-63-03 of the North Dakota Century Code, relating to peace officer duties or activities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 12-63-02.3 of the North Dakota Century Code is created and enacted as follows:

12-63-02.3. Reserve peace officer - License.

1. Except as otherwise provided in this section, all provisions of this chapter apply to licensed reserve peace officers and a licensed reserve peace officer has the same authority as a licensed peace officer.
2. The board shall issue a reserve peace officer license to an individual who is appointed by a criminal justice agency and meets the requirements of this chapter and the rules established by the board.
3. A criminal justice agency may appoint a licensed reserve peace officer to supplement and assist a licensed peace officer. If a criminal justice agency appoints a licensed reserve peace officer, the licensed reserve peace officer must be under the supervision of a licensed peace officer designated by the criminal justice agency.
4. A licensed reserve peace officer may not exercise reserve peace officer functions when off duty.
5. The board shall establish criteria for reserve licenses.

SECTION 2. AMENDMENT. Section 12-63-03 of the North Dakota Century Code is amended and reenacted as follows:

12-63-03. Persons and practices not affected.

This chapter does not prevent or restrict the practice of peace officer duties or activities of:

1. Auxiliary personnel such as members of organized groups for purposes such as posse, search and rescue, and security at dances, if the group operates personnel operate as adjunct to the police or sheriff's department, and does do not have arrest powers or peace officer authority delegated to its members the personnel by the department.

- ~~2. A reserve officer such as an individual used by a municipal, county, or state law enforcement agency to provide services to that jurisdiction on a nonsalaried basis and who is granted full arrest authority.~~
3. A person who provides private investigative services in this state.
- ~~4.3.~~ A person doing private security work or any private security agency.
- ~~5.4.~~ A person performing peace officer duties in an official capacity as a federal officer.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 102

SENATE BILL NO. 2105

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact section 12-65-02 of the North Dakota Century Code, relating to warrant and probable cause requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-65-02 of the North Dakota Century Code is amended and reenacted as follows:

12-65-02. Custody and detention of offender for violation of terms and conditions of compact supervision - Hearing and waiver - Report to sending state.

1. Whenever it is alleged that an offender under compact supervision by the state has violated any terms and conditions of supervision under the compact for the supervision of adult offenders, the compact administrator may issue a warrant to take the offender into custody and detain the offender and request that the sending state retake the offender. The warrant must be entered into the national crime information center file with nationwide extradition and no bond amount. If there is probable cause to believe an offender has violated any of the terms or conditions of supervision under the compact for the supervision of adult offenders, a parole and probation officer or any peace officer directed by a parole and probation officer ~~may~~shall take the offender into custody and detain the offender in a correctional facility pending application for a warrant of arrest and authority to detain. The offender may not be released on bail pending the probable cause hearing under this chapter. The offender is entitled to a hearing to be held in accordance with this chapter within a reasonable time after being taken into custody to determine whether there is probable cause to find that the offender violated any of the terms and conditions of parole or probation while under compact supervision. The offender may waive the hearing and admit there is probable cause to find that the offender violated any of the terms and conditions of parole or probation while under compact supervision. As soon as practical after the hearing or waiver of the hearing, the compact administrator shall furnish a copy of the hearing record and make a report to the sending state with findings of fact regarding the violations of the terms and conditions of parole or probation while under compact supervision and shall make recommendations regarding the disposition of the offender. If it appears to the compact administrator that the sending state will retake the offender, the compact administrator may detain the offender for a reasonable period after the hearing or waiver in order for the sending state to arrange for retaking the offender.
2. Whenever a receiving state that is supervising an offender for the state issues a mandatory retaking of that offender, the parole board or the court with jurisdiction shall issue a warrant. The warrant must be entered into the national crime information center file with nationwide extradition and no bond

amount. If requested by the state, the receiving state shall establish probable cause when the offender is apprehended.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 103

SENATE BILL NO. 2106

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact section 12-65-08 of the North Dakota Century Code, relating to transfer fees and travel fees for adults under supervision.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-65-08 of the North Dakota Century Code is amended and reenacted as follows:

12-65-08. Interstate transfer or travel of probationers and parolees - Fees.

1. Upon the approval by the department of corrections and rehabilitation of a request of a probationer or parolee who is under the supervision of the department of corrections and rehabilitation to transfer residence to another state under the interstate compact for adult offender supervision, the probationer or parolee shall pay to the department an application fee of one hundred fifty dollars. The department may waive the offender's application fee. ~~If the department waives the offender's payment of the fee, the department shall pay the offender's application fee.~~ In addition to the application fee paid by the probationer ~~or the department~~, the county having jurisdiction over the probationer, upon approval of the application for transfer ~~of that probationer~~, shall pay to the department a fee of one hundred fifty dollars. In addition to the application fee paid by the parolee, the department, upon approval of the application for transfer of that parolee, shall pay to the department a fee of one hundred fifty dollars. However, if the balance in the fund created pursuant to subsection 3 exceeds seventy-five thousand dollars on June thirtieth of the immediately preceding fiscal year, the department shall waive the entire fee otherwise required to be paid by the county or department.
2. Any probationer or parolee residing in the state who requests a travel permit to travel to another state shall pay to the department a travel permit fee of ten dollars. ~~In the case of illness or death in the probationer's family, the department may waive the travel permit fee for hardship, unless waived by the department.~~
3. The department shall transfer all funds collected or paid under this section to the state treasury for deposit in the probationer and parolee violation transportation fund. The funds deposited in this fund may be spent pursuant to legislative appropriation for the purpose of defraying the costs of returning to the state probationers and parolees who violate their conditions of supervision. The department may contract with a private entity to assist in the administration of the fund.
4. The department shall adopt rules for implementation of this section.

Approved March 22, 2021

Filed March 23, 2021

CRIMINAL CODE

CHAPTER 104

HOUSE BILL NO. 1181

(Representatives Skroch, Klemin, Vetter)
(Senators Burckhard, Clemens)

AN ACT to to create and enact section 12.1-04-04.1 of the North Dakota Century Code, relating to a defendant's fitness to proceed; and to amend and reenact sections 12.1-04-04, 12.1-04-06, 12.1-04-07, and 12.1-04-08 of the North Dakota Century Code, relating to a defendant's fitness to proceed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-04-04 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-04. ~~Disposition of mentally unfit defendants~~Definitions.

~~No person who, as a result of mental disease or defect, lacks capacity to understand the proceedings against the person or to assist in the person's own defense shall be tried, convicted, or sentenced for the commission of an offense so long as such incapacity endures.~~As used in this chapter, unless the context otherwise requires:

1. "Fitness to proceed" means sufficient present ability to consult with the individual's counsel with a reasonable degree of rational understanding and a rational as well as factual understanding of the proceedings against the individual.
2. "Least restrictive appropriate setting" means available treatment or service that best meets the identified need and is no more restrictive of physical or social liberties than what is necessary to meet the need.
3. "Therapeutically appropriate treatment" means treatment that provides the individual the greatest probability of improvement or cure.

SECTION 2. Section 12.1-04-04.1 of the North Dakota Century Code is created and enacted as follows:

12.1-04-04.1. Disposition of defendants - Lack of fitness to proceed - Records.

1. A defendant is presumed to be fit to stand trial, to plead, or to be sentenced.
2. An individual who lacks fitness to proceed may not be tried, convicted, or sentenced for the commission of an offense.

3. Any report filed pursuant to this chapter regarding "diagnosis, treatment, or treatment plans" must be kept confidential and may be reviewed only by the court or an appellate court, the state, the defense, the facility providing treatment as required by order of the court, and any other person as directed by the court.

SECTION 3. AMENDMENT. Section 12.1-04-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-06. Examination— Temporary commitmentdetention for purposes of examination.

Whenever there is reason to doubt the defendant's fitness to proceed, the court may order ~~the temporary~~ detention of the defendant for the purpose of an examination by a tier 1a mental health professional. The temporary detention must be in the least restrictive appropriate setting, including the state hospital, the life skills and transition center, or other suitable facility for a reasonable period, not to exceed thirty days, for such examination. In lieu of detention, the court may allow the defendant to remain in the defendant's present residential setting or other suitable residential setting for the purpose of evaluation by a suitable facility or personnel examination, subject to any reasonable limitation the court may impose. A human service center may ~~not~~ be considered a suitable facility and may not be considered suitable personnel under this section ~~unless~~ if the court is aware an inquiry was made before the court ordered the evaluation to ensure appropriate resources exist at the human service center being ordered to conduct the evaluationexamination. The court, by subsequent order and for good cause shown, may extend the detention for a period not to exceed thirty additional days. While the defendant is detained, the defendant's legal counsel, family, and others necessary to assist in the defendant's case must have reasonable opportunity to examine and confer with the defendant.

SECTION 4. AMENDMENT. Section 12.1-04-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-07. Examination - Report - Hearing when contested.

1. The report of the examining psychiatrists or psychologists must be given in writing to the court within three days of expiration of the period of commitment or, if the defendant is not committed, within thirty days after the outpatient evaluation. The court shall cause copies to be delivered to the prosecutor and counsel for the defendant. Whenever there is reason to doubt the defendant's fitness to proceed, the court shall order the defendant be examined by a tier 1a mental health professional.
2. An examination must occur within fifteen days from notice of entry of the order served upon the tier 1a mental health professional. Attorneys shall disclose any materials necessary to examine the fitness of the individual to the tier 1a examiner contemporaneously with the order. For good cause shown, the court may grant an extension allowing an additional seven days to complete the examination.
3. The report of the examining mental health professional, whether for a retrospective evaluation of fitness or an evaluation of the defendant's current fitness, must be provided to the court in writing within thirty days of the date of the examination.
4. The report must include:

- a. The identity of the individuals interviewed and records and other information considered.
 - b. Procedures, tests, and techniques utilized in the assessment.
 - c. The date and time of the examination of the defendant, and the identity of each individual present during the examination.
 - d. The relevant information obtained, other information not obtained, and the defendant's responses to questions related to the defendant's fitness to proceed, except for any restricted, proprietary, copyrighted, or other information subject to trade secret protection which the examiner believes may be relevant, and the findings made.
 - e. An opinion as to whether the defendant is fit to proceed ~~or, is unable to understand the nature or purpose of the proceedings against the defendant, is able to effectively communicate with counsel, and whether the defendant will attain fitness to proceed or ability to effectively communicate with counsel in the foreseeable future.~~
3. within the time frames set forth in section 12.1-04-08. If the examiner is unable to determine whether the defendant will attain fitness within a specified period of time, the report must include the reasoning. The report may include a general description of the type of treatment needed and of the therapeutically appropriate treatment or other appropriate treatment.
5. If the findings of the report are contested, the court shall hold a hearing ~~prior to before~~ deciding whether the defendant currently lacks fitness to proceed ~~or currently lacks ability to effectively communicate with counsel~~ and whether the defendant will attain fitness to proceed ~~or ability to effectively communicate with counsel in the foreseeable future~~. Upon hearing, the prosecution and defense have the right to summon and cross-examine the persons responsible for the report and to offer evidence upon the issues.

SECTION 5. AMENDMENT. Section 12.1-04-08 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-08. Suspension or dismissal of proceedings - Referral for services.

1. If the court determines based upon a preponderance of the evidence that the defendant currently lacks fitness to proceed ~~or to effectively communicate with counsel~~ but that the defendant may attain fitness to proceed ~~or effectively communicate with counsel in the foreseeable future, and the report as required under section 12.1-04-07 indicates a likelihood the defendant will attain fitness within a specified period of time from the date of the finding upon completion of a course of therapeutically appropriate treatment,~~ the proceedings against the defendant must be suspended, ~~except as provided in section 12.1-04-09. For a defendant charged with a felony, the proceedings must be suspended for a period of up to one hundred eighty days. The court may extend the suspension for an additional three hundred sixty-five days if there is medical evidence to believe the defendant's fitness to proceed will be restored during the extended period. For a defendant charged with a misdemeanor, the proceedings must be suspended for a period no longer than the maximum term of imprisonment for the most serious offense charged. When the court determines, after a hearing if a hearing is requested, that the defendant has regained fitness to proceed or to effectively communicate with counsel, the~~

proceeding must be resumed. If prosecution of the defendant has not resumed prior to the expiration of the maximum period for which the defendant could be sentenced; or it is determined by the court, after a hearing if a hearing is requested, that the defendant will not regain fitness to proceed or to effectively communicate with counsel within the allotted time, the charges against the defendant must be dismissed. The court may at any time make a referral for other appropriate services, treatment, or civil commitment.

2. If the court determines based upon a preponderance of the evidence that the defendant currently lacks fitness to proceed and that the defendant will not attain fitness to proceed in the foreseeable future, the proceedings must be dismissed. The court may at any time make a referral for other appropriate services, treatment, or civil commitment.
3. Other appropriate services or treatment include:
 - a. Determination of incapacity, by a district court with appropriate jurisdiction following petition by the state's attorney, for the appointment of a guardian or conservator pursuant to chapter 30.1-28 or 30.1-29; or
 - b. Civil commitment of the person pursuant to chapter 25-03.1; or
 - c. Treatment of the person by a human service center or other appropriate public or private provider.
3. If the court determines the defendant currently lacks fitness to proceed and the defendant may attain fitness to proceed under subsection 1, the court may enter an order for a course of treatment considering the least restrictive form of treatment therapeutically appropriate.
 - a. Unless excused by the court, in a proceeding to determine therapy in an attempt to attain fitness, the defendant shall be represented by trial counsel.
 - b. If the court finds the individual is not able to retain the services of a tier 1a mental health professional and that those services are not otherwise available, the court shall authorize reasonable expenditures from public funds to examine the individual.
 - c. In a motion hearing to resume prosecution, the state or prosecuting authority must show by a preponderance of the evidence the defendant has attained fitness to proceed.
4. If the court orders the defendant committed to a treatment facility in an attempt to attain fitness to proceed under subsection 1, the court shall provide the special custody and commitment terms in the order. The special terms of commitment must include an order for the defendant to accept all nonexperimental, generally accepted medical, psychiatric, or psychological treatment recommended by the treatment facility, including the use of involuntary treatment with prescribed medication without the need for a separate commitment under chapter 25-03.1.
 - a. If the order does not indicate the terms of commitment, the director or superintendent of the treatment facility may determine the nature of the

constraints necessary within the treatment facility to carry out the order of the court.

- b. If the court orders an individual committed for therapeutic treatment to attain fitness to proceed, the court shall set a date consistent with the timeline established in this section for a review of the defendant's fitness to proceed. At least sixty days before the date specified for review, the director or director's designee or the superintendent of the treatment facility shall inquire as to whether the individual is represented by counsel and file a written report of the facts ascertained with the court.
5. If the parties to the action have reason to modify the special terms of the commitment order under this section, the parties shall make a motion to the court and the court shall determine by a preponderance of the evidence if the modification of the special terms is necessary and the least restrictive therapeutic alternative therapy in an attempt to attain fitness to proceed.
6. The custodian, guardian, or other person charged with the control of the defendant may take an appeal from the court's order in the manner provided by law. ~~The procedure provided in this section is not exclusive, but is in addition to any other procedure for the commitment of individuals to the life-skills and transition center, state hospital, or other state facility.~~

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 105

SENATE BILL NO. 2116

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to create and enact a new subsection to section 12.1-05-02 of the North Dakota Century Code, relating to the use of deadly force when protecting nuclear assets; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 12.1-05-02 of the North Dakota Century Code is created and enacted as follows:

A member of the armed forces is justified in using deadly force when it reasonably appears to be necessary to prevent the loss, theft, destruction, sabotage, or unauthorized control of a nuclear weapon, critical nuclear component, or nuclear explosive device.

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

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 106

HOUSE BILL NO. 1498

(Representatives B. Koppelman, K. Koppelman, Marshall, Paulson, D. Ruby)
(Senators Clemens, Kannianen, Lemm, Myrdal, Vedaa)

AN ACT to create and enact a new section to chapter 62.1-02 of the North Dakota Century Code, relating to brandishing a dangerous weapon; and to amend and reenact sections 12.1-05-06, 12.1-05-07, and 12.1-05-07.2 of the North Dakota Century Code, relating to use of force in defense of property, limits on the use of force and deadly force, and immunity from civil liability.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-05-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-05-06. Use of force in defense of premises and property.

Force is justified if it is used to prevent or terminate an unlawful entry or other trespass in or upon premises, or to prevent an unlawful carrying away or damaging of property, ~~if the person using such force first requests the person against whom such force is to be used to desist from his interference with the premises or property, except that a request is not necessary if it would be useless or dangerous to make the request or substantial damage would be done to the property sought to be protected before the request could effectively be made.~~

SECTION 2. AMENDMENT. Section 12.1-05-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-05-07. Limits on the use of force - Excessive force - Deadly force.

1. An individual is not justified in using more force than is necessary and appropriate under the circumstances.
2. Deadly force is justified in the following instances:
 - a. When it is expressly authorized by law or occurs in the lawful conduct of war.
 - b. When used in lawful self-defense, or in lawful defense of others, if such force is necessary to protect the actor or anyone else against death, serious bodily injury, or the commission of a felony involving violence. The use of deadly force is not justified if it can be avoided, with safety to the actor and others, by retreat or other conduct involving minimal interference with the freedom of the individual menaced. An individual seeking to protect another individual must, before using deadly force, try to cause the other individual to retreat, or otherwise comply with the requirements of this provision, if safety can be obtained thereby. However, the duty to retreat or avoid force does not apply under the following circumstances:

- (1) A public servant justified in using force in the performance of the public servant's duties or an individual justified in using force in assisting the public servant need not desist from the public servant's or individual's efforts because of resistance or threatened resistance by or on behalf of the other individual against whom the public servant's or individual's action is directed; and
 - (2) An individual who is not engaged in an unlawful activity that gives rise to the need for the use of deadly force and has not provoked the individual against whom the deadly force is used, unless the circumstances in subdivision b of subsection 2 of section 12.1-05-03 apply, is not required to retreat within or from that individual's dwelling or place of work or from an occupied motor home or travel trailer as defined in section 39-01-01, unless the individual was the original aggressor or is assailed by another individual who the individual knows also dwells or works there or who is lawfully in the motor home or travel trailer any place the individual otherwise is legally allowed to be.
- c. When used by an individual in possession or control of a dwelling, place of work, motor vehicle, or an occupied motor home or travel trailer as defined in section 39-01-01, or by an individual who is licensed or privileged to be there, if the force is necessary to prevent commission of arson, burglary, robbery, or a felony involving violence upon or in the dwelling, place of work, motor vehicle, or occupied motor home or travel trailer, and the use of force other than deadly force for these purposes would expose any individual to substantial danger of serious bodily injury.
 - d. When used by a public servant authorized to effect arrests or prevent escapes, if the force is necessary to effect an arrest or to prevent the escape from custody of an individual who has committed or attempted to commit a felony involving violence, or is attempting to escape by the use of a deadly weapon, or has otherwise indicated that the individual is likely to endanger human life or to inflict serious bodily injury unless apprehended without delay.
 - e. When used by a guard or other public servant, if the force is necessary to prevent the escape of a prisoner from a detention facility, unless the guard or public servant knows that the prisoner is not an individual as described in subdivision d. A detention facility is any place used for the confinement, pursuant to a court order, of an individual charged with or convicted of an offense, charged with being or adjudicated a juvenile delinquent, held for extradition, or otherwise confined under court order.
 - f. When used by a duly licensed physician, or an individual acting at the physician's direction, if the force is necessary to administer a recognized form of treatment to promote the physical or mental health of a patient and if the treatment is administered in an emergency; with the consent of the patient, or, if the patient is a minor or an incompetent person, with the consent of the patient's parent, guardian, or other person entrusted with the patient's care and supervision; or by order of a court of competent jurisdiction.
 - g. When used by an individual who is directed or authorized by a public servant, and who does not know that the public servant is not authorized to use deadly force under the circumstances.

SECTION 3. AMENDMENT. Section 12.1-05-07.2 of the North Dakota Century Code is amended and reenacted as follows:

12.1-05-07.2. Immunity from civil liability for justifiable use of force.

1. An individual who uses force as permitted under this chapter is immune from civil liability for the use of the force to the individual against whom force was used or to that individual's estate unless that individual is a law enforcement officer who was acting in the performance of official duties and the officer provided identification, if required, in accordance with any applicable law or warrant from a court, or if the individual using force knew or reasonably should have known that the individual was a law enforcement officer.
2. The court shall award ~~loss of income,~~ reasonable attorney's fees and, court costs, and disbursements incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune from civil liability as provided in subsection 1.

SECTION 4. A new section to chapter 62.1-02 of the North Dakota Century Code is created and enacted as follows:

Brandishing a dangerous weapon.

Unless otherwise provided by law and subject to sections 12.1-17-04, 12.1-17-05, and 12.1-31-01, an individual may brandish a dangerous weapon while on property owned or leased by the individual.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 107

SENATE BILL NO. 2166

(Senators Vedaa, Hogue, O. Larsen, Larson)
(Representatives D. Anderson, Thomas)

AN ACT to amend and reenact sections 12.1-23-05 and 12.1-23-10 of the North Dakota Century Code, relating to theft offenses; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-23-05 of the North Dakota Century Code is amended and reenacted as follows:

12.1-23-05. Grading of theft offenses.

1. Notwithstanding subsection 3, theft under this chapter is a class A felony if the property or services stolen exceed fifty thousand dollars in value.
2. Notwithstanding the provisions of subsection 3, theft under this chapter is a class B felony if the property or services stolen exceed ten thousand dollars in value but do not exceed fifty thousand dollars or are acquired or retained by a threat to commit a felony.
3. Theft under this chapter is a class C felony if:
 - a. The property or services stolen exceed one thousand dollars in value;
 - b. The property or services stolen are acquired or retained by threat and (1) are acquired or retained by a public servant by a threat to take or withhold official action, or (2) exceed one hundred dollars in value;
 - c. The property or services stolen exceed one hundred dollars in value and are acquired or retained by a public servant in the course of official duties;
 - d. The property stolen is a firearm, ammunition, or an explosive or destructive device;
 - e. The property consists of any government file, record, document, or other government paper stolen from any government office or from any public servant;
 - f. The defendant is in the business of buying or selling stolen property and the defendant receives, retains, or disposes of the property in the course of that business;
 - g. The property stolen consists of any implement, paper, or other thing uniquely associated with the preparation of any money, stamp, bond, or other document, instrument, or obligation of this state;

- h. The property stolen consists of livestock taken from the premises of the owner;
 - i. The property stolen consists of a key or other implement uniquely suited to provide access to property the theft of which would be a felony and it was stolen to gain such access;
 - j. The property stolen is a card, plate, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit, or is a debit card, electronic fund transfer card, code, or other means of access to an account for the purposes of initiating electronic fund transfers; or
 - k. The property stolen is a prescription drug as defined in section 43-15.3-01, except when the quantity stolen is five or fewer capsules, pills, or tablets.
4. All other theft under this chapter is a class A misdemeanor, unless the requirements of subsection 5 are met.
5. a. Theft under this chapter of property or services of a value not exceeding five hundred dollars is a class B misdemeanor for a first offense if:
- a- (1) The theft was committed by shoplifting; or
 - (2) The following three factors are met:
 - (a) The theft was not committed by threat;
 - b-(b) The theft was not committed by deception by one who stood in a confidential or fiduciary relationship to the victim of the theft; and
 - e-(c) The defendant was not a public servant or an officer or employee of a financial institution who committed the theft in the course of official duties.
- b. The special classification provided in this—subsection paragraph 2 of subdivision a applies if the offense is classified under this subsection in the charge or if, at sentencing, the required factors are established by a preponderance of the evidence.
- c. A second or third offense under paragraph 1 of subdivision a occurring within three years is a class A misdemeanor. A fourth or subsequent violation under paragraph 1 of subdivision a occurring within four years is a class C felony.
- d. A sentence imposed under this subsection must be accompanied by a written statement by the court providing notice of any offense under this section which provides an enhanced penalty, including the penalty for a subsequent offense.
6. Notwithstanding subsection 3 of section 12.1-06-01, an attempt to commit a theft under this chapter is punishable equally with the completed offense when the actor has completed all of the conduct which the actor believes necessary on the actor's part to complete the theft except receipt of the property.

7. For purposes of grading, the amount involved in a theft under this chapter is the highest value by any reasonable standard, regardless of the actor's knowledge of such value, of the property or services which were stolen by the actor, or which the actor believed that the actor was stealing, or which the actor could reasonably have anticipated to have been the property or services involved. Thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be charged as one offense and the amounts proved to have been stolen may be aggregated in determining the grade of the offense.

SECTION 2. AMENDMENT. Section 12.1-23-10 of the North Dakota Century Code is amended and reenacted as follows:

12.1-23-10. Definitions for theft and related offenses.

In this chapter:

1. "Dealer in property" means a person who buys or sells property as a business.
2. "Deception" means:
 - a. Creating or reinforcing a false impression as to fact, law, status, value, intention, or other state of mind; or obtaining or attempting to obtain public assistance by concealing a material fact, making a false statement or representation, impersonating another, concealing the transfer of property without adequate consideration, or using any other fraudulent method; but deception as to a person's intention to perform a promise may not be inferred from the fact alone that the person did not substantially perform the promise unless it is part of a continuing scheme to defraud;
 - b. Preventing another from acquiring information which would affect his judgment of a transaction;
 - c. Failing to correct a false impression which the actor previously created or reinforced, or which he knows to be influencing another to whom he stands in a fiduciary or confidential relationship;
 - d. Failing to correct an impression which the actor previously created or reinforced and which the actor knows to have become false due to subsequent events;
 - e. Failing to disclose a lien, adverse claim, or other impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained or in order to continue to deprive another of his property, whether such impediment is or is not valid, or is or is not a matter of official record;
 - f. Using a credit card, charge plate, or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer (1) where such instrument has been stolen, forged, revoked, or canceled, or where for any other reason its use by the actor is unauthorized, and (2) where the actor does not have the intention and ability to meet all obligations to the issuer arising out of his use of the instrument; or

- g. Any other scheme to defraud. The term "deception" does not, however, include falsifications as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. "Puffing" means an exaggerated commendation of wares in communications addressed to the public or to a class or group.
3. "Deprive" means:
- a. To withhold property or to cause it to be withheld either permanently or under such circumstances that a major portion of its economic value, or its use and benefit, has, in fact, been appropriated;
 - b. To withhold property or to cause it to be withheld with the intent to restore it only upon the payment of a reward or other compensation; or
 - c. To dispose of property or use it or transfer any interest in it under circumstances that make its restoration, in fact, unlikely.
4. "Fiduciary" means a trustee, guardian, executor, administrator, receiver, or any other person acting in a fiduciary capacity, or any person carrying on fiduciary functions on behalf of a corporation, limited liability company, or other organization which is a fiduciary.
5. "Financial institution" means a bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.
6. "Obtain" means:
- a. In relation to property, to bring about a transfer or purported transfer of an interest in the property, whether to the actor or another.
 - b. In relation to services, to secure performance thereof.
7. "Property" means any money, tangible or intangible personal property, property (whether real or personal) the location of which can be changed (including things growing on, affixed to, or found in land and documents although the rights represented thereby have no physical location), contract right, chose-in-action, interest in or claim to wealth, credit, or any other article or thing of value of any kind. "Property" also means real property the location of which cannot be moved if the offense involves transfer or attempted transfer of an interest in the property.
8. "Property of another" means property in which a person other than the actor or in which a government has an interest which the actor is not privileged to infringe without consent, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person or government might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement. "Owner" means any person or a government with an interest in property such that it is "property of another" as far as the actor is concerned.

9. "Receiving" means acquiring possession, control, or title, or lending on the security of the property.
10. "Services" means labor, professional service, transportation, telephone, mail or other public service, gas, electricity and other public utility services, accommodations in hotels, restaurants, or elsewhere, admission to exhibitions, and use of vehicles or other property.
11. "Shoplifting" means to willfully take possession of any merchandise owned, held, offered, or displayed for sale, by a merchant, store, or other mercantile establishment, with the intent to deprive the owner of the merchandise. The term includes:
 - a. Removing merchandise from a store or other mercantile establishment without paying for the merchandise;
 - b. Concealing a nonpurchased good or merchandise;
 - c. Altering, transferring, or removing a price marking on a good or merchandise;
 - d. Transferring a good from one container to another; and
 - e. Causing the amount paid for a good or merchandise to be less than the stated retail price.
12. "Stolen" means property which has been the subject of theft or robbery or a vehicle which is received from a person who is then in violation of section 12.1-23-06.
- 42-13. "Threat" means an expressed purpose, however communicated, to:
 - a. Cause bodily injury in the future to the person threatened or to any other person;
 - b. Cause damage to property;
 - c. Subject the person threatened or any other person to physical confinement or restraint;
 - d. Engage in other conduct constituting a crime;
 - e. Accuse anyone of a crime;
 - f. Expose a secret or publicize an asserted fact, whether true or false, tending to subject a person living or deceased, to hatred, contempt, or ridicule or to impair another's credit or business repute;
 - g. Reveal any information sought to be concealed by the person threatened;
 - h. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense;
 - i. Take or withhold official action as a public servant, or cause a public servant to take or withhold official action;

- j. Bring about or continue a strike, boycott, or other similar collective action to obtain property or deprive another of his property which is not demanded or received for the benefit of the group which the actor purports to represent;
- k. Cause anyone to be dismissed from his employment, unless the property is demanded or obtained for lawful union purposes; or
- l. Do any other act which would not in itself substantially benefit the actor or a group he represents but which is calculated to harm another person in a substantial manner with respect to his health, safety, business, employment, calling, career, financial condition, reputation, or personal relationship.

Upon a charge of theft, the receipt of property in consideration for taking or withholding official action shall be deemed to be theft by threat regardless of whether the owner voluntarily parted with his property or himself initiated the scheme.

~~13.14.~~ "Traffic" means:

- a. To sell, transfer, distribute, dispense, or otherwise dispose of to another person; or
- b. To buy, receive, possess, or obtain control of, with intent to sell, transfer, distribute, dispense, or otherwise dispose of to another person.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 108

SENATE BILL NO. 2156

(Senators Dwyer, Bell)

(Representatives Hanson, Headland, Heinert, K. Koppelman)

AN ACT to amend and reenact sections 12.1-31-03, 12.1-31-03.1, 12.1-31-03.3, and 51-32-01 of the North Dakota Century Code, relating to the prohibition of an individual under twenty-one years of age from purchasing, possessing, or using tobacco products or electronic smoking devices; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-31-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-31-03. Sale of tobacco, electronic smoking devices, or alternative nicotine products to minorsan individual under twenty-one years of age and use by minorsan individual under twenty-one years of age prohibited.

1. a. It is an infraction for any person to sell or furnish to a minoran individual under twenty-one years of age, or procure for a minoran individual under twenty-one years of age, cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. As used in this subdivision, "sell" includes dispensing from a vending machine under the control of the actor.
- b. It is an infraction for any person to display or offer for sale cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through a self-service display. This subdivision does not apply to:
 - (1) Vending machine or other coin-operated machine that is permitted under section 12.1-31-03.1; or
 - (2) Self-service display that is located in a tobacco specialty store.
2. It is a noncriminal offense for a minoran individual under twenty-one years of age to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. However, an individual under ~~eighteen~~twenty-one years of age may purchase and possess tobacco, electronic smoking devices, or alternative nicotine products as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or association of tobacco, electronic smoking devices, or

alternative nicotine products retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority.

3. Subsections 1 and 2 do not apply to an individual under twenty-one years of age who possesses cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be used for smoking or chewing, electronic smoking devices, or alternative nicotine products when required in the performance of the individual's duties as an employee.
4. It is a noncriminal offense for ~~a minor~~ an individual under twenty-one years of age to present or offer to another individual a purported proof of age which is false, fraudulent, or not actually ~~the minor's~~ that individual's own proof of age, for the purpose of attempting to purchase or possess cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products.
- ~~4-5.~~ A city or county may adopt an ordinance or resolution regarding the sale of tobacco, electronic smoking devices, or alternative nicotine products to ~~minors~~ individuals under twenty-one years of age and use of tobacco, electronic smoking devices, or alternative nicotine products by ~~minors~~ individuals under twenty-one years of age which includes prohibitions in addition to those in subsection 1, 2, or ~~34~~. Any ordinance or resolution adopted must include provisions deeming a violation of subsection 2 or ~~34~~ a noncriminal violation and must provide for a fee of not less than twenty-five dollars for ~~a minor~~ an individual fourteen years of age or older who has been charged with an offense under subsection 2 or ~~34~~. The failure to post a required bond or pay an assessed fee by an individual found to have violated the ordinance or resolution is punishable as a contempt of court, except ~~a minor~~ an individual under twenty-one years of age may not be imprisoned for the contempt.
- ~~5-6.~~ ~~A minor~~ An individual fourteen years of age or older found to have violated subsection 2 or ~~34~~ must pay a fee of twenty-five dollars.
 - a. Any individual who has been cited for a violation of subsection 2 or ~~34~~ may appear before a court of competent jurisdiction and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.
 - b. If an individual cited for a violation of subsection 2 or ~~34~~ does not choose to follow the procedures provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the

violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.

- c. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except ~~a minor~~ an individual may not be imprisoned for the contempt.

6-7. The prosecution must prove the commission of a cited violation under subsection 2 or 34 by a preponderance of the evidence.

7-8. A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.

8-9. A person adjudged guilty of contempt for failure to pay a fee or fine may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or to an alternative sentence or sanction including community service.

9-10. As used in this section:

- a. "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term does not include any cigarette, cigar, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, any electronic smoking device, or any product regulated as a drug or device by the United States food and drug administration under chapter V of the Federal Food, Drug, and Cosmetic Act [21 U.S.C 501 et seq.].
- b. "Electronic smoking device" means any electronic product that delivers nicotine or other substances to the individual inhaling from the device, including, an electronic cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a product, whether or not sold separately. Electronic smoking device does not include drugs, devices, or combination products approved for sale by the United States food and drug administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act [52 Stat. 1040; 21 U.S.C. 301 et seq.].
- c. "Self-service display" means a display that contains cigarettes, cigarette papers, cigars, snuff, tobacco in any other form which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products and is located in an area that is openly accessible to the retailer's customers, and from which customers can readily access those products without the assistance of a salesperson. A display case that holds those products behind locked doors does not constitute a self-service display.
- d. "Tobacco specialty store" means a retail store that:
 - (1) Derives at least seventy-five percent of its revenue from the sale of cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products; and

(2) Does not permit minors to enter the premises unless accompanied by a parent or legal guardian.

- e. "Vending machine" means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or other means of payment that is designed or used for vending purposes, including machines or devices that use remote control locking mechanisms.

SECTION 2. AMENDMENT. Section 12.1-31-03.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-31-03.1. Vending machines prohibited - Penalty.

1. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through a vending machine, except as provided in subsection 2.
2. Subsection 1 does not apply to:
 - a. A vending machine that is located in an area in which minors~~individuals~~ under twenty-one years of age are not permitted access; or
 - b. A vending machine that dispenses cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through the operation of a device that requires a salesperson to control the dispensation of such product.
3. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through any vending machine, if those products are placed together with any nontobacco product, other than matches, in the vending machine.
4. As used in this section, "electronic smoking devices" and "alternative nicotine products" have the same meaning as in section 12.1-31-03.

SECTION 3. AMENDMENT. Section 12.1-31-03.3 of the North Dakota Century Code is amended and reenacted as follows:

12.1-31-03.3. Sale of flavored e-liquid to minors prohibited - Penalty.

1. A person may not sell, offer for sale, or distribute in this state any flavored e-liquid or electronic smoking device containing flavored e-liquid to a minor~~an individual under twenty-one years of age~~.
2. A person that violates subsection 1 and is not a manufacturer is subject to a fine of five hundred dollars for each individual package of flavored e-liquid product or electronic smoking device containing flavored e-liquid sold or offered for sale.

SECTION 4. AMENDMENT. Section 51-32-01 of the North Dakota Century Code is amended and reenacted as follows:

51-32-01. Prohibited acts regarding sale of tobacco products, electronic smoking devices, or alternative nicotine products to minors an individual under twenty-one years of age.

1. It is unlawful for any person in the business of selling tobacco products to take an order for a tobacco product, other than from a person who is in the business of selling tobacco products, through the mail or through any telecommunications means, including by telephone, facsimile, or the internet, if in providing for the sale or delivery of the product pursuant to the order, the person mails the product or ships the product by carrier, and the person fails to comply with each of the following procedures:
 - a. Before mailing or shipping the product, the person receives from the individual who places the order the following:
 - (1) A copy of a valid government-issued document that provides the name, address, and date of birth of the individual; and
 - (2) A signed statement from the individual providing a certification that the individual:
 - (a) Is a smoker of legal minimum purchase age in the state;
 - (b) Has selected an option on the statement as to whether the individual wants to receive mailings from a tobacco company; and
 - (c) Understands that providing false information may constitute a violation of law.
 - b. Before mailing or shipping the product, the person:
 - (1) Verifies the date of birth or age of the individual against a commercially available database; or
 - (2) Obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the individual placing the order.
 - c. Before mailing or shipping the product, the person provides to the prospective purchaser, by electronic mail or other means, a notice that meets the requirements of section 51-32-04.
 - d. In the case of an order for a product pursuant to an advertisement on the internet, the person receives payment by credit card, debit card, or check for the order before mailing or shipping the product.
 - e. (1) The person employs a method of mailing or shipping the product requiring that the individual purchasing the product:
 - (a) Be the addressee;
 - (b) Have an individual of legal minimum purchase age sign for delivery of the package; and
 - (c) If the individual appears to the carrier making the delivery to be under twenty-seven years of age, take delivery of the package only

after producing valid government-issued identification that bears a photograph of the individual, indicates that the individual is not under the legal age to purchase cigarettes, and indicates that the individual is not younger than the age indicated on the government-issued document.

- (2) The bill of lading clearly states the requirements in subdivision e and specifies that state law requires compliance with the requirements.
- f. The person notifies the carrier for the mailing or shipping, in writing, of the age of the addressee as indicated by the government-issued document.
2. It is unlawful for any person in the business of selling electronic smoking devices or alternative nicotine products to take an order for an electronic smoking device or alternative nicotine product, other than from a person who is in the business of selling electronic smoking devices or alternative nicotine products through the mail or through any telecommunications means, including by telephone, facsimile, or the internet, if in providing for the sale or delivery of the product pursuant to the order, the person mails the product or ships the product by carrier, and the person fails to comply with each of the following procedures:
- a. Before the sale of the electronic smoking device or alternative nicotine product verifies the purchaser is at least ~~eighteen~~twenty-one years of age through a commercially available database that is regularly used by business or governmental entities for the purpose of age and identity verification; and
- b. Uses a method of mailing, shipping, or delivery which requires an individual of legal minimum purchase age to sign for delivery before the electronic smoking device or alternative nicotine product is released to the purchaser.
3. As used in subsection 2, "electronic smoking devices" and "alternative nicotine products" have the same meaning as in section 12.1-31-03.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 109

HOUSE BILL NO. 1393

(Representatives Schneider, Boschee, Buffalo, Hanson, M. Johnson, Kading, Klemin)
(Senator Hogan)

AN ACT to amend and reenact subsection 1 of section 12.1-32-02 of the North Dakota Century Code, relating to sentencing alternatives.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴³ **SECTION 1. AMENDMENT.** Subsection 1 of section 12.1-32-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Every person convicted of an offense who is sentenced by the court must be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense or sentencing is deferred under subsection 4:
 - a. Payment of the reasonable costs of the person's prosecution.
 - b. Probation.
 - c. A term of imprisonment, including intermittent imprisonment:
 - (1) In a state correctional facility in accordance with section 29-27-07, in a regional corrections center, or in a county jail, if convicted of a felony or a class A misdemeanor.
 - (2) In a county jail or in a regional corrections center, if convicted of a class B misdemeanor.
 - (3) In a facility or program deemed appropriate for the treatment of the individual offender, including available community-based or faith-based programs.
 - (4) In the case of persons convicted of an offense who are under eighteen years of age at the time of sentencing, the court is limited to sentencing the minor defendant to a term of imprisonment in the custody of the department of corrections and rehabilitation.
 - d. A fine.
 - e. Restitution for damages resulting from the commission of the offense.
 - f. Restoration of damaged property or other appropriate work detail.
 - g. Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction, or mental disease or defect.

⁴³ Section 12.1-32-02 was also amended by section 1 of Senate Bill No. 2246, chapter 110.

- h. Commitment to a sexual offender treatment program.
- i. Completion of a restorative justice program. For purposes of this section, "restorative justice program" means a system of justice which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large.

Except as provided by section 12.1-32-06.1, sentences imposed under this subsection may not exceed in duration the maximum sentences of imprisonment provided by section 12.1-32-01, section 12.1-32-09, or as provided specifically in a statute defining an offense. This subsection does not permit the unconditional discharge of an offender following conviction. A sentence under subdivision e or f must be imposed in the manner provided in section 12.1-32-08. If the person is sentenced to a term of imprisonment, the court may prohibit the person from contacting the victim during the term of imprisonment. For purposes of this subsection, "victim" means victim as defined in section 12.1-34-01.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 110

SENATE BILL NO. 2246

(Senators Meyer, D. Larsen, Larson)
(Representatives Ista, Roers Jones, Schneider)

AN ACT to amend and reenact subsection 1 of section 12.1-32-02 and sections 19-03.1-23 and 39-08-01.5 of the North Dakota Century Code, relating to drug court and the creation of a veterans treatment docket.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁴ **SECTION 1. AMENDMENT.** Subsection 1 of section 12.1-32-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Every person convicted of an offense who is sentenced by the court must be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense or sentencing is deferred under subsection 4:
 - a. Payment of the reasonable costs of the person's prosecution.
 - b. Probation.
 - c. A term of imprisonment, including intermittent imprisonment:
 - (1) In a state correctional facility in accordance with section 29-27-07, in a regional corrections center, or in a county jail, if convicted of a felony or a class A misdemeanor.
 - (2) In a county jail or in a regional corrections center, if convicted of a class B misdemeanor.
 - (3) In a facility or program deemed appropriate for the treatment of the individual offender, including available community-based or faith-based programs.
 - (4) In the case of persons convicted of an offense who are under eighteen years of age at the time of sentencing, the court is limited to sentencing the minor defendant to a term of imprisonment in the custody of the department of corrections and rehabilitation.
 - d. A fine.
 - e. Restitution for damages resulting from the commission of the offense.
 - f. Restoration of damaged property or other appropriate work detail.

⁴⁴ Section 12.1-32-02 was also amended by section 1 of House Bill No. 1393, chapter 109.

- g. Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction, or mental disease or defect.
- h. Commitment to a sexual offender treatment program.
- i. Drug court program. A drug court is a district court supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and substance use disorder treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug court programs.
- j. Veterans treatment docket. A veterans treatment docket is a district court supervised docket approved by the supreme court which combines judicial supervision with licensed treatment programs to treat substance use disorders, mental health conditions, behavioral health conditions, traumatic brain injuries, military sexual trauma and co-occurring disorders. The supreme court may adopt rules, including rules of procedure, for veterans treatment dockets.

Except as provided by section 12.1-32-06.1, sentences imposed under this subsection may not exceed in duration the maximum sentences of imprisonment provided by section 12.1-32-01, section 12.1-32-09, or as provided specifically in a statute defining an offense. This subsection does not permit the unconditional discharge of an offender following conviction. A sentence under subdivision e or f must be imposed in the manner provided in section 12.1-32-08. If the person is sentenced to a term of imprisonment, the court may prohibit the person from contacting the victim during the term of imprisonment. For purposes of this subsection, "victim" means victim as defined in section 12.1-34-01.

⁴⁵ **SECTION 2. AMENDMENT.** Section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-23. Prohibited acts - Penalties.

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:
 - a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.
 - b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony.
 - c. A substance classified in schedule IV, is guilty of a class C felony.
 - d. A substance classified in schedule V, is guilty of a class A misdemeanor.

⁴⁵ Section 19-03.1-23 was also amended by section 5 of House Bill No. 1213, chapter 172, section 2 of Senate Bill No. 2264, chapter 176, and section 3 of Senate Bill No. 2283, chapter 175.

2. A prior misdemeanor conviction under subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under subsection 1.
3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
 - a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.
 - b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
 - c. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.
4. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.
5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title or a law of another state or the federal government which is equivalent to an offense with respect to the manufacture, delivery, or intent to deliver a controlled substance under this title committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsection 1. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.
6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:
 - a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or
 - b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.A person who violates this subsection is guilty of a class C felony.
7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless

the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.

- b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense under this subsection and a class C felony for a second or subsequent offense under this subsection.
- c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana.
- d. A person who violates this subsection by possessing:
 - (1) Marijuana in an amount of less than one-half ounce [14.175 grams] is guilty of an infraction.
 - (2) At least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.
 - (3) More than 500 grams of marijuana is guilty of a class A misdemeanor.
- e. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.
- f. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.
- g. Probation under this subsection may include placement in another facility, treatment program, ~~or drug court, or veterans treatment docket~~. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.
- h. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.
- i. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.

8. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation.
9. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.
10. Upon successful completion of a drug court program or veterans treatment docket, a person who has been convicted of a felony under this section and sentenced to drug court or veterans treatment docket is deemed to have been convicted of a misdemeanor.
11. If a person convicted of a misdemeanor under this section is sentenced to drug court or veterans treatment docket and successfully completes a drug court program or veterans treatment docket, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.

SECTION 3. AMENDMENT. Section 39-08-01.5 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01.5. Partial suspension of sentence for drug court program or veterans treatment docket completion.

1. Notwithstanding section 39-08-01, all but ten days of the minimum mandatory sentence required for a defendant charged with a third or subsequent violation of section 39-08-01 may be suspended on the condition the defendant successfully completes a drug court program or veterans treatment docket approved by the supreme court.
2. Upon successful completion of a drug court program or veterans treatment docket, a defendant convicted of a felony under section 39-08-01 and sentenced to drug court or veterans treatment docket is deemed to have been convicted of a misdemeanor.
3. If a defendant convicted of a misdemeanor under section 39-08-01 is sentenced to drug court or veterans treatment docket and successfully completes a drug court program or veterans treatment docket, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.
4. ~~For purposes of this section, 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.~~

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 111

SENATE BILL NO. 2204

(Senators J. Roers, Dwyer, Hogue)
(Representatives Klemin, Roers Jones)

AN ACT to amend and reenact subsection 6 of section 12.1-32-07 of the North Dakota Century Code, relating to the authority of district court judges to revoke and modify criminal sentences.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 12.1-32-07 of the North Dakota Century Code is amended and reenacted as follows:

6. The court, upon notice to the probationer and with good cause, may modify or enlarge the conditions of probation at any time ~~prior to~~before the expiration or termination of the period for which the probation remains conditional. If the defendant violates a condition of probation at any time before the expiration or termination of the period, the court may continue the defendant on the existing probation, with or without modifying or enlarging the conditions, or may revoke the probation and impose any other sentence that was available under section 12.1-32-02 or 12.1-32-09 at the time of initial sentencing or deferment. ~~In the case of suspended execution of sentence, the court may revoke the probation and cause the defendant to suffer the penalty of the sentence previously imposed upon the defendant.~~

Approved March 29, 2021

Filed March 30, 2021

DEBTOR AND CREDITOR RELATIONSHIPS

CHAPTER 112

SENATE BILL NO. 2103

(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to create and enact section 13-04.1-09.3 of the North Dakota Century Code, relating to money broker charges; to amend and reenact sections 13-04.1-02.1, 13-05-02.3, and 13-08-12 of the North Dakota Century Code, relating to money broker exemptions, collection agency exemptions, and deferred presentment service transaction procedures; to repeal section 13-04.1-09.2 of the North Dakota Century Code, relating to money broker charges; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 13-04.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

13-04.1-02.1. Entities exempted from licensing requirements.

This chapter does not apply to:

1. Banks;
2. Credit unions;
3. Savings and loan associations;
4. Insurance companies;
5. Individuals licensed under chapter 13-10;
6. State or federal agencies and their employees of state or federal agencies solely pursuant to the individual's official duties as an employee of the state or federal agency;
7. Institutions chartered by the farm credit administration;
8. Trust companies;
9. Any other person or business regulated and licensed to lend money by the state of North Dakota;
10. A real estate broker, broker, or a real estate salesperson as defined in section 43-23-06.1 in the brokering of loans to assist a person in obtaining financing

for real estate sold by the real estate broker, broker, or real estate salesperson; or

11. Any person, retail seller, or manufacturer providing lease financing for its own property or inventory held as a normal course of business, or to leases on any real property;
12. A certified development corporation that qualifies as a nonprofit entity under section 501(c)(3) of the federal Internal Revenue Code [26 U.S.C. 501(c)(3)] in the offers of:
 - a. Loan products primarily limited to the small business administration, United States department of agriculture, or other government loan products; or
 - b. Nongovernmental loan products that are limited to loans to promote community development or home ownership, and these loans are offered with favorable terms including an interest rate at or below the wall street journal prime rate and loan fees of less than a quarter percent of the loan origination balance; or
13. A nonprofit corporation that qualifies as a nonprofit entity under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] which is not primarily in the business of soliciting or brokering loans, if the nonprofit corporation makes five or fewer loans in a given calendar year, makes these loans to promote community development or home ownership, and offers these loans on favorable terms, including an interest rate at or below the wall street journal prime rate and loan fees of less than a quarter percent of the loan origination balance.

SECTION 2. Section 13-04.1-09.3 of the North Dakota Century Code is created and enacted as follows:

13-04.1-09.3. Maximum charges permitted for loans - Installment payments - Permitted charges.

1. Interest charges and other fees must be set at rates, amounts, and terms as agreed to by the parties within the loan contract. However, a licensee may not contract for or receive finance charges pursuant to a loan in excess of an annual rate of thirty-six percent, including all charges and fees necessary for the extension of credit incurred at the time of origination.
2. Additional charges may be assessed for nonpayment or late payment as agreed to by the parties within the loan contract. However, a licensee may not contract for or receive charges in excess of five percent of the payment. For loans originated for fifty thousand dollars or less, these charges may not exceed twenty dollars for each nonpayment or late payment. The charge may be collected at the time of the default or any time after default. However, if the charge is taken out of any payment received after a default occurs and if the deduction results in the default of a subsequent payment, a charge may not be made for the subsequent default. This restriction does not apply to court costs; lawful fees for the filing, recording, or releasing in any public office of any instrument securing a loan; and the identifiable charge or premium for insurance provided for by rule.

3. Additional restrictions for small loans originated for less than two thousand dollars include the following:
 - a. Installment loans must be paid in equal installments as agreed to by the parties within the loan contract. However, the maximum term for installment loans may not exceed thirty-six months, and a balloon payment is prohibited.
 - b. Outstanding balances of existing loans may be refinanced into a new small loan of less than two thousand dollars, but the combination of any refinance fees along with any fees collected as part of the original loans may not exceed one hundred dollars per calendar year.
 - c. Additional charges may be assessed as part of a loan extension or deferment of payment agreed to by the parties within the agreement. However, a licensee may not contract for or receive charges in excess of one hundred dollars for these loan extensions or deferments per calendar year.

SECTION 3. AMENDMENT. Section 13-05-02.3 of the North Dakota Century Code is amended and reenacted as follows:

13-05-02.3. Entities exempt from licensing requirements.

This chapter does not apply to:

1. Attorneys at law who are licensed to practice in the state of North Dakota. This exemption is limited to the actions of the licensed attorney and does not extend to persons either employed by the attorney or acting on behalf of the attorney;
2. Licensed real estate brokers if the engaged activity is regulated as part of that individual's professional license;
3. Banks;
4. Trust companies;
5. Building and loan associations;
6. Credit unions;
7. Agencies of a state or of the federal government and employees of state or federal agencies solely pursuant to the individual's official duties as an employee of the state or federal agency;
8. Abstract companies doing an escrow business;
9. Creditors collecting their own debts;
10. Mortgage servicing company;
11. Individuals or firms who purchase or take accounts receivable for collateral purposes;

12. Individuals employed in the capacity of creditmen upon the staff of an employer not engaged in the business of a collection agency; or
13. A public officer, receiver, or trustee acting under the order of a court.

SECTION 4. AMENDMENT. Section 13-08-12 of the North Dakota Century Code is amended and reenacted as follows:

13-08-12. Fees for service - Deferred presentment service transaction procedures - Penalty.

1. Before disbursing funds under a deferred presentment service transaction, a licensee shall provide to the customer a clear and conspicuous printed notice indicating:
 - a. That a deferred presentment service transaction is not intended to meet long-term financial needs.
 - b. That the customer should use a deferred presentment service transaction only to meet short-term cash needs.
 - c. That the customer will be required to pay additional fees if the deferred presentment service transaction is renewed rather than paid in full when due. If the transaction is renewed, any amount paid in excess of the fee applies to the payoff amount.
 - d. A schedule of fees charged for deferred presentment service.
 - e. Any information required under federal law.
 - f. No property, titles to any property, or mortgages may be received or held directly or indirectly by the licensee as a condition of a deferred presentment service transaction or as a method of collection on a defaulted deferred presentment service transaction without proper civil process.
2. A licensee may charge a fee for the deferred presentment service, not to exceed twenty percent of the amount paid to the customer by the licensee. This fee may not be deemed interest for any purpose of law. No other fee or charge may be charged for the deferred presentment service, except that a fee, not to exceed the cost to the licensee, may be charged for registering a transaction on a database administered or authorized by the commissioner. No property, titles to any property, or mortgages may be received or held directly or indirectly by the licensee as a condition of a deferred presentment service transaction or as a method of collection on a defaulted deferred presentment service transaction without proper civil process.
3. A licensee may not disburse more than five hundred dollars to the customer in a deferred presentment service transaction.
4. A licensee may not engage in a deferred presentment service transaction with a customer who has an aggregate value of all outstanding obligations from any one customer exceeding six hundred dollars which is payable to the same or any other licensee. A licensee may not enter a new deferred presentment service transaction with a customer within three business days of that customer's completion of a previous deferred presentment service transaction.

A licensee may rely on a written or electronic representation of a customer regarding the existence of any outstanding obligations for deferred presentment held by a licensee other than the licensee receiving the representation until the database provided for under this subsection is in operation, and after that time may not rely on a customer's representation but must verify the fact using the database. However, if a licensee has multiple locations, that licensee may not rely on the representation of a customer regarding the existence of any outstanding obligation for deferred presentment held by that licensee, or one of the licensee's multiple locations, unless the licensee and the licensee's multiple locations use a point of sale registry or some other accounting system to attempt to prevent violations of this subsection. The commissioner shall administer or authorize the development of a database in which each transaction must be recorded for the purpose of preventing violations of this section. The commissioner shall adopt rules governing the creation, structure, and use of the database.

5. Before a licensee may negotiate or present a check for payment, the check must be endorsed with the actual name under which the licensee is doing business.
6. Each deferred presentment service transaction, including a renewal, must be documented by a written agreement signed or similarly authenticated by the customer. The original agreement must contain the name of the licensee; the transaction date; the amount of the obligation; a statement of the total amount of fees charged, expressed as a dollar amount and as an annual percentage rate; the name and signature of the individual who signs the agreement on behalf of the licensee; the name and address of the check maker; the transaction number assigned by the database; the date of negotiation of the check; the signature of the check maker; a statement that a licensee may not renew a transaction more than once; a statement that the renewal fee may not exceed twenty percent of the amount being renewed; a statement that the maximum term of the transaction, including the renewal, may not exceed sixty calendar days; a statement that the term of the renewal period may not be less than fifteen calendar days; and a statement containing the right of rescission printed immediately above the signature line of the written agreement in a minimum of ten-point font and providing a space for the check maker to initial that the notice to the right of rescission was received. The original agreement may not include a hold harmless clause; a confession of judgment clause; any assignment of or order for payment of wages or other compensation for services; a provision in which the check maker agrees not to assert any claim or defense arising out of the agreement; a waiver of any provision of this chapter; any representation from the check maker as to the sufficiency of funds regarding any past deferred presentment service transactions; or any statement regarding criminal prosecution with respect to the agreement. A renewal agreement must be contained in a separate section, as part of the original written agreement or in other form as approved by the commissioner. The renewal agreement must restate the original transaction date, the renewal transaction date, the amount of the check paid to the check maker, the fee charged in dollars, and the maturity date. The agreement must authorize the licensee to defer presentment or negotiation of the check, or electronic debit of the customer's account, until a specified date. The maker of a check may redeem the check from the licensee at any time before the negotiation or presentment of the check by making payment to the licensee. A customer agreeing to an electronic deferred presentment service transaction may repay the obligation at any time before the agreed-upon date. A customer

may rescind any transaction by the close of the business day following the day on which the customer receives payment from the licensee at no cost. If a customer agreeing to an electronic deferred presentment service transaction rescinds the transaction, the licensee must facilitate the repayment of the funds through the same electronic means the licensee used to deliver the funds to the customer.

7. If a check or electronic debit is returned to the licensee from a payer financial institution due to insufficient funds, closed account, or a stop payment order, the licensee has the right to all civil remedies available to collect the obligation. The licensee may contract for and collect a returned check or electronic debit charge not to exceed the collection fees and costs authorized in subdivision c of subsection 2 of section 6-08-16. No other fee or charge may be collected as a result of a returned check or electronic debit or as a result of default by the customer in timely payment to the licensee.
8. A customer who has authority to make a check or authorize an electronic debit and enters a deferred presentment service agreement is not subject to a criminal penalty relating to the check, electronic debit, or the deferred presentment service agreement unless the customer's account was closed on the original date of the transaction. At the time of entering a transaction involving a written check, a licensee shall verify that the account on which the check is written is open. A licensee may not pursue or threaten to pursue criminal penalties against a customer for criminal penalties prohibited by this subsection.
9. A licensee may not engage in unfair or deceptive acts, practices, or advertising in the conduct of a deferred presentment service business.
10. The amount paid to the customer by the licensee in a deferred presentment service transaction must be paid in the form of cash, check, or an electronic credit to the customer's account.
11. Each licensee must conspicuously post in the licensee's licensed location a notice of the fees imposed for the deferred presentment service. A licensee that engages in a deferred presentment service transaction via the internet shall require its customers to acknowledge the fees imposed using a click-through or other method that prevents customers from completing the transaction without reviewing the licensee's fees.
12. Except as provided under subsection 13, a licensee may not renew a deferred presentment service transaction more than once. A licensee's renewal fee may not exceed twenty percent of the amount being renewed. The renewal fee must be paid in cash, money order, or cashier's check. The total period of deferral, including the initial deferral and one renewal, may not exceed sixty days. An individual renewal period may not be less than fifteen days. After sixty days the renewed deferred presentment service transaction must be paid off in cash, money order, electronic payment, or cashier's check by the customer or, if a check is used, the check must be deposited by the licensee.
13. A licensee may enter a workout agreement with the borrower if the borrower believes financial hardship prevents the borrower from paying off the deferred presentment service transaction at the end of the original agreement or following any renewal. The workout agreement must outline the repayment

terms in writing and must require weekly, biweekly, or monthly even installments not to exceed twelve months. An additional interest or fee may not be charged as part of this workout, the deferred presentment service provider shall continue to report the transaction as an outstanding deferred presentment service transaction on any database administered by the commissioner, and entering a workout agreement is voluntary on the part of the deferred presentment service provider and the borrower.

14. A licensee may not renew, repay, refinance, or consolidate a deferred presentment service transaction with the proceeds of another deferred presentment service transaction with that licensee by the same maker or customer. It is presumed that a deferred presentment service transaction initiated within three business days before completion of a deferred presentment service transaction is a violation of this subsection.
- 44.15. A licensee may not conduct another business, other than a bona fide pawnbroking business, within the same office, suite, room, or place of business at which the licensee engages in deferred presentment service transactions unless the commissioner provides written authorization after a determination the other business is not contrary to the best interests of consumers.
- 45.16. A licensee shall provide a notice in a prominent place on each deferred presentment service agreement in no less than ten-point type in substantially the following form:
- State law prohibits this business from allowing customers to have outstanding at any one time, deferred presentment service transactions totaling more than six hundred dollars.
- 46.17. A licensee or any agent of a licensee who willfully violates this section is guilty of a class A misdemeanor.

SECTION 5. REPEAL. Section 13-04.1-09.2 of the North Dakota Century Code is repealed.

Approved April 16, 2021

Filed April 16, 2021

DOMESTIC RELATIONS AND PERSONS

CHAPTER 113

HOUSE BILL NO. 1190

(Representatives M. Johnson, Klemin, O'Brien, Schneider)

AN ACT to amend and reenact subsection 1 of section 14-05-24 of the North Dakota Century Code, relating to the valuation date for marital property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 14-05-24 of the North Dakota Century Code is amended and reenacted as follows:

1. When a divorce is granted, the court shall make an equitable distribution of the property and debts of the parties. Except as may be required by federal law for specific property, ~~and subject to the power of the court to determine a date that is just and equitable,~~ the valuation date for marital property and debt is the date mutually agreed upon between the parties. If the parties do not mutually agree upon a valuation date, the valuation date for marital property and debt ~~is the date of service of a summons in an action for divorce or separation or the date on which the parties last separated, whichever occurs first~~sixty days before the initially scheduled trial date. If there is a substantial change in value of an asset or debt between the date of valuation and the date of trial, the court may adjust the valuation of that asset or debt as necessary to effect an equitable distribution and shall make specific findings that another date of valuation is fair and equitable.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 114

HOUSE BILL NO. 1319

(Representatives Klemin, Devlin, Dockter, Lefor)
(Senator Dwyer)

AN ACT to amend and reenact sections 14-07-08 and 14-07-11 of the North Dakota Century Code, relating to spousal debts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-07-08 of the North Dakota Century Code is amended and reenacted as follows:

14-07-08. Separate and mutual rights and liabilities of husband and wife.

The separate and mutual rights and liabilities of a husband and a wife are as follows:

1. Neither the husband nor the wife as such is answerable for the acts of the other.
2. Except for necessary expenses as provided in subsection 3, the earnings of one spouse are not liable for the debts of the other spouse, and the earnings and accumulations of either spouse and of any minor children living with either spouse or in one spouse's custody, while the husband and wife are living separate from each other, are the separate property of each spouse.
3. ~~The~~Except for abandonment as provided in section 14-07-11, the husband and wife are liable jointly and severally for any debts contracted by either, ~~while living together,~~ for necessary household supplies of food, clothing, and fuel, medical care, and for shelter for themselves and family, and for the education of their minor children.
4. The separate property of the husband or wife is not liable for the debts of the other spouse but each is liable for their own debts contracted before or after marriage.

SECTION 2. AMENDMENT. Section 14-07-11 of the North Dakota Century Code is amended and reenacted as follows:

14-07-11. Spouse liable for support - Exception.

An abandoned spouse is not liable for the support of the other spouse unless there is an offer to return on the part of the abandoning spouse or the abandonment is justified by misconduct. ~~Neither party is liable~~A party is not an abandoned spouse if ~~the other party resides elsewhere for the support of the other when living separate by agreement unless the support is stipulated in the agreement~~medical or behavioral health treatment.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 115

SENATE BILL NO. 2132

(Senators Kreun, Poolman, K. Roers, Vedaa)
(Representatives Ista, O'Brien)

AN ACT to amend and reenact section 14-09-09.38 of the North Dakota Century Code, relating to the child support obligation of an incarcerated parent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-09.38 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.38. Child support obligation of incarcerated parents.

1. A monthly support obligation established under any provision of this code and in effect after December 31, 2017, expires by operation of law upon incarceration of the obligor under a sentence of one hundred eighty days or longer, excluding credit for time served before sentencing.
2. Notwithstanding subsection 1, a monthly support obligation may be established for an obligor ~~who is~~ incarcerated under a sentence of one hundred eighty days or longer if the obligation is based on actual income of the obligor and the moving party makes a prima facie showing ~~that~~ the obligor's income exceeds the minimum amount provided in the guidelines established under section 14-09-09.7.
3. As used in this section, "incarceration" means placement of an obligor in a custodial setting in which the obligor is not permitted to earn wages from employment outside the correctional facility, and does not include probation or work release.
4. The expiration of a monthly support obligation under subsection 1 does not affect any past-due support ~~that is~~ owed before the expiration of the obligation.
5. The child support agency shall notify the obligor and obligee of the expiration of a monthly support obligation under this section, including a description of how the obligation can be re-established after the obligor is released from incarceration.
6. If a monthly support obligation has expired under this section and the child support case is still open with the child support agency when the obligor is released from incarceration, the child support agency shall re-establish a monthly support obligation as provided in this chapter without requiring a request or application for services.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 116

HOUSE BILL NO. 1264

(Representatives Hanson, M. Johnson, Klemin, Roers Jones)
(Senators Bakke, Dwyer)

AN ACT to amend and reenact sections 14-09.2-01, 14-09.2-02, 14-09.2-04, and 14-09.2-06 of the North Dakota Century Code, relating to parenting coordinators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09.2-01 of the North Dakota Century Code is amended and reenacted as follows:

14-09.2-01. Parenting coordinator - Definition.

A parenting coordinator is a neutral individual authorized to use any dispute resolution process to resolve ~~parenting time~~ disputes between parties arising under a parenting plan or court order. The purpose of a parenting coordinator is to resolve ~~parenting time~~ disputes by interpreting, clarifying, and addressing circumstances not specifically addressed by an existing court order. A parenting coordinator:

1. May assess for the parties whether there has been a violation of an existing court order and, if so, recommend further court proceedings.
2. May be appointed to resolve a one-time ~~parenting time~~ dispute or to provide ongoing ~~parenting time~~ dispute resolution services. ~~Parenting time dispute also means a visitation dispute under existing orders.~~
3. Shall attempt to resolve a ~~parenting time~~ dispute by facilitating negotiations between the parties to promote settlement and, if it becomes apparent that the dispute cannot be resolved by an agreement of the parties, shall make a decision resolving the dispute.

SECTION 2. AMENDMENT. Section 14-09.2-02 of the North Dakota Century Code is amended and reenacted as follows:

14-09.2-02. Appointment of parenting coordinator.

In any action for divorce, legal separation, paternity, or guardianship in which children are involved, the court, upon its own motion or by motion or agreement of the parties, may appoint a parenting coordinator to assist the parties in resolving ~~issues or disputes related to the parenting time plan or court order~~. A party, at any time before the appointment of a parenting coordinator, may file a written objection to the appointment on the basis of domestic violence having been committed by another party against the objecting party or a child who is a subject of the action. After the objection is filed, a parenting coordinator may not be appointed unless, on the request of a party, a hearing is held and the court finds that a preponderance of the evidence does not support the objection. If a parenting coordinator is appointed, the court shall order appropriate measures be taken to ensure the physical and emotional safety of all parties and children.

SECTION 3. AMENDMENT. Section 14-09.2-04 of the North Dakota Century Code is amended and reenacted as follows:

14-09.2-04. Agreement or decision binding.

Within five days of notice of the appointment, or within five days of notice of a subsequent ~~parenting-time~~ dispute between the same parties, the parenting coordinator shall meet with the parties together or separately and shall make a diligent effort to facilitate an agreement to resolve the dispute. The parenting coordinator may confer with the parties through a telephone conference or other means. A parenting coordinator may make a decision without conferring with a party if the parenting coordinator makes a good-faith effort to confer with the party. If the parties do not reach an agreement, the parenting coordinator shall make a decision resolving the dispute as soon as possible but not later than five days after receiving all of the information necessary to make a decision and after the final meeting or conference with the parties. The parenting coordinator shall put the agreement or decision in writing and provide a copy to the parties. An agreement of the parties or a written decision of the parenting coordinator is binding on the parties until further order of the court.

SECTION 4. AMENDMENT. Section 14-09.2-06 of the North Dakota Century Code is amended and reenacted as follows:

14-09.2-06. Confidentiality.

1. If there is an ongoing dispute between the parties regarding a specific written decision of the parenting coordinator, the written decision must be filed with the court and served upon the parties.
2. Statements made and documents produced as part of the parenting coordinator process, other than the written decision of the parenting coordinator, which are not otherwise discoverable are not subject to discovery or other disclosure and are not admissible into evidence for any purpose at trial or in any other proceeding, including impeachment. Parenting coordinators and lawyers for the parties, to the extent of their participation in the parenting coordinator process, may not be subpoenaed or called as witnesses in court proceedings. Notes, records, and recollections of parenting coordinators are confidential and may not be disclosed unless:
 1. a. The parties and the parenting coordinator agree in writing to the disclosure; or
 2. b. Disclosure is required by law or other applicable professional codes. Notes and records of parenting coordinators may not be disclosed to the court unless after a hearing the court determines that the notes or records should be reviewed in camera. Unless the court determines that the notes and records contain information regarding acts that may be a violation of a state or federal criminal law, the notes and records may not be released.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 117

SENATE BILL NO. 2265

(Senators Davison, Hogan)

AN ACT to create and enact a new section to chapter 14-10 of the North Dakota Century Code, relating to allowing unaccompanied homeless minors to access health care without parental consent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 14-10 of the North Dakota Century Code is created and enacted as follows:

Unaccompanied homeless minor's consent for health care.

1. As used in this section, "unaccompanied homeless minor" means a minor fourteen years of age or older living in one of the situations described in 42 U.S.C. 11434a(2) and who is not in the care and physical custody of a parent or legal guardian.
2. An unaccompanied homeless minor may consent to, contract for, and receive medical, dental, or behavioral health examinations, care, or treatment without permission, authority, or consent of a parent or guardian. Acceptable documentation demonstrating an individual is an unaccompanied homeless minor includes:
 - a. A statement documenting such status, signed by a director or designee of a governmental or nonprofit entity that receives public or private funding to provide services to individuals who are homeless;
 - b. A statement documenting such status, signed by a local educational agency liaison for homeless children and youth designated pursuant to 42 U.S.C. 11432(g)(1)(J)(ii), a local educational agency foster care point of contact designated pursuant to 20 U.S.C. 6312(c)(5)(A), or a school social worker or counselor;
 - c. A statement documenting such status, signed by an attorney representing the individual in any legal matter; or
 - d. A statement documenting such status, signed by the individual and two adults with knowledge of the individual's actual circumstances.
3. This section does not authorize an unaccompanied homeless minor to consent to an abortion or otherwise supersede the requirements of chapter 14-02.1.
4. An unaccompanied homeless minor who is a parent may consent to, contract for, and receive medical, dental, and behavioral health examinations, care, or treatment for the minor's child.

5. A physician or other qualified professional licensed to practice in this state who provides medical, dental, or behavioral health examinations, care, or treatment to an unaccompanied homeless minor under this section may not be held liable in any civil or criminal action for providing such services without having obtained permission from the minor's parent or guardian. This section does not relieve the physician or other qualified professional from liability for negligence in the diagnosis or treatment of an unaccompanied homeless minor.
6. Identification of an individual as an unaccompanied homeless minor automatically does not mean the individual is a neglected child as defined in section 50-25.1-02.
7. This section does not supersede the mandatory reporting requirements of section 50-25.1-03.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 118

SENATE BILL NO. 2340

(Senators Bakke, Hogan, Piepkorn)

AN ACT to amend and reenact subsection 1 of section 14-15-01 of the North Dakota Century Code, relating to termination of parental rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁶ **SECTION 1. AMENDMENT.** Subsection 1 of section 14-15-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Abandon" means:

- a. As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause to:

(1) Communicate through physical contact or oral conversation with the child; or

(2) Provide for the care and support of the child as required by law.

- b. As to a parent of a child in that parent's custody:

(1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;

(2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or

(3) To willfully fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.

Approved April 16, 2021

Filed April 16, 2021

⁴⁶ Section 14-15-01 was also amended by section 48 of House Bill No. 1247, chapter 352.

EDUCATION

CHAPTER 119

HOUSE BILL NO. 1080

(Representative Dockter)

AN ACT to amend and reenact sections 15-05-10 and 47-16-39.1 of the North Dakota Century Code, relating to the obligation to pay oil and gas royalties on leases owned and managed by the board of university and school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁷ **SECTION 1. AMENDMENT.** Section 15-05-10 of the North Dakota Century Code is amended and reenacted as follows:

15-05-10. Royalties from oil leases - Obligation to pay - Rents from other leases - Breach - Rules.

1. Oil leases must be made by the board of university and school lands at such annual minimum payments as are determined by the board, but the royalty ~~shall be~~ may not be less than twelve and one-half percent of the gross output of oil from the lands leased. Oil leases made by the board may authorize a royalty of less than twelve and one-half percent for production from stripper well properties or individual stripper wells and qualifying secondary recovery and qualifying tertiary recovery projects as defined in section 57-51.1-01. Leases for gas, coal, cement materials, sodium sulfate, sand and gravel, road material, building stone, chemical substances, metallic ores, or colloidal or other clays must be made by the board in such annual payments as are determined by the board.
2. The obligation arising under an oil and gas lease to pay oil or gas royalties to the board of university and school lands, to deliver oil or gas to a purchaser to the credit of the board, or to pay the market value thereof is of the essence in the lease contract, and breach of the obligation may constitute grounds for the cancellation of the lease in any case in which it is determined by the court that the equities of the case require cancellation. If the lessee or the lessee's representative or assignee under an oil and gas lease fails to pay oil or gas royalties to the board within the time prescribed by administrative rule and cancellation of the lease is not sought, the lessee or the lessee's representative or assignee thereafter shall pay interest on the unpaid royalties at a rate of three-quarters of one percent per month, not to exceed nine percent per annum. The commissioner may waive all or a portion of the interest under this subsection for good cause.
3. If a lessee or the lessee's representative or assignee fails to respond or refuses to file an amended royalty statement and pay the royalty owed within

⁴⁷ Section 15-05-10 was also amended by section 2 of Senate Bill No. 2065, chapter 277.

ninety days of receiving written notice by mail of an underpayment, as provided by rule 4 of the North Dakota Rules of Civil Procedure, the board may impose a penalty of one-half percent per month, not to exceed six percent per annum. A party is deemed to have failed to respond if the party has not responded within ninety days of receipt of the written notice, or the party in response to the notice affirmatively indicates the intent not to pay the royalty or amounts due. The commissioner may waive all or a portion of the interest under this subsection for good cause.

4. If a lessee or the lessee's representative or assignee disputes a royalty assessment or demand by the board, the lessee or the lessee's representative or assignee may tender full payment of the disputed amount under protest any time after an assessment or demand is made by the board. Upon payment of the disputed amount under protest, all interest and penalties must cease to accrue. If it is determined that the payment of the disputed amount resulted in an overpayment, the party that made the payment is entitled to a refund of the overpayment amount plus interest at the rate established under section 28-20-34.
5. If a lessee or the lessee's representative or assignee fails or refuses to comply with demands by the board to pay royalties, interest, or penalties under this chapter, the board may file an action to cancel the lease, recover unpaid royalties, and recover interest and penalties on the unpaid royalties. Notwithstanding chapter 28-01, an action under this subsection must be commenced within seven years of the date oil or gas was produced under a lease. An action to cancel a lease, recover unpaid royalties, or recover interest or penalties on unpaid royalties may not be filed for production that occurred under a lease before August 1, 2013.
6. The board may adopt rules regarding annual payments and royalties under this section.

SECTION 2. AMENDMENT. Section 47-16-39.1 of the North Dakota Century Code is amended and reenacted as follows:

47-16-39.1. Obligation to pay royalties - Breach.

1. The obligation arising under an oil and gas lease to pay oil or gas royalties to the mineral owner or the mineral owner's assignee, or to deliver oil or gas to a purchaser to the credit of the mineral owner or the mineral owner's assignee, or to pay the market value thereof is of the essence in the lease contract, and breach of the obligation may constitute grounds for the cancellation of the lease in cases ~~wherein~~ which it is determined by the court that the equities of the case require cancellation. If the operator under an oil and gas lease fails to pay oil or gas royalties to the mineral owner or the mineral owner's assignee within one hundred fifty days after oil or gas produced under the lease is marketed and cancellation of the lease is not sought or if the operator fails to pay oil or gas royalties to an unleased mineral interest owner within one hundred fifty days after oil or gas production is marketed from the unleased mineral interest owner's mineral interest, the operator thereafter shall pay interest on the unpaid royalties, without the requirement that the mineral owner or the mineral owner's assignee request the payment of interest, at the rate of eighteen percent per annum until paid, ~~except that the commissioner of university and school lands may negotiate a rate to be no less than the prime rate as established by the Bank of North Dakota plus four percent per annum with a maximum of eighteen percent per annum, for unpaid royalties on~~

~~minerals owned or managed by the board of university and school lands. Provided, that if the aggregate amount is less than fifty dollars, the operator may remit semiannually to a person entitled to royalties the aggregate of six months' monthly royalties where the aggregate amount is less than fifty dollars. The district court for the county in which the oil or gas well is located has jurisdiction over all proceedings any proceeding brought pursuant to under this section. The prevailing party in any proceeding brought pursuant to under this section is entitled to recover any court costs and reasonable attorney's fees. This section does not apply when if mineral owners or their assignees elect to take their proportionate share of production in kind, in the event of a dispute of title existing that would affect distribution of royalty payments, or when if a mineral owner cannot be located after reasonable inquiry by the operator; however, the operator shall make royalty payments to those mineral owners whose title and ownership interest is not in dispute.~~

2. This section does not apply to obligations to pay oil and gas royalties under an oil and gas lease on minerals owned or managed by the board of university and school lands.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 120

HOUSE BILL NO. 1081

(Representative Zubke)

AN ACT to create and enact sections 15-08-28, 15-08-29, 15-08-30, 15-08-31, and 15-08-32 of the North Dakota Century Code, relating to access to and activities on trust lands; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 15-08-28 of the North Dakota Century Code is created and enacted as follows:

15-08-28. Vehicular access.

The use of vehicles on trust lands is prohibited, except:

1. Within thirty-three feet [10.06 meters] of section lines;
2. As allowed by the terms of a lease, permit, or easement issued by the board of university and school lands;
3. When used for travel on a public road easement issued by the board;
4. When used by government personnel in the performance of official duties; or
5. When hunting under a special permit issued by the director of the game and fish department to shoot from a stationary vehicle and with written permission from the lessee and commissioner.

SECTION 2. Section 15-08-29 of the North Dakota Century Code is created and enacted as follows:

15-08-29. Public access.

1. Nonvehicular public access to leased and unleased trust lands is allowed if in the best interests of the trusts, unless:
 - a. Specifically prohibited by the commissioner; or
 - b. A lessee of any lands under the control of the board of university and school lands posts the land with signage issued by the department, which:
 - (1) Requires notification to the lessee before entry by the public; or
 - (2) Closes the trust lands to all public access.
2. A lessee of any lands under the control of the board may not lease, sell, or otherwise be compensated for access to, on, across, or over leased trust lands.

SECTION 3. Section 15-08-30 of the North Dakota Century Code is created and enacted as follows:

15-08-30. Prohibited activities - Penalty.

1. The following activities and items are prohibited on trust lands:
 - a. Target shooting, explosives, and exploding targets;
 - b. Camping, picnicking, or campfires;
 - c. Unattended trail cameras, hunting blinds, tree stands, and screw-in steps unless otherwise authorized by the commissioner of university and school lands;
 - d. Using bait to attract, lure, feed, or habituate wildlife for any purpose. For purposes of this subsection "bait" includes grains, screenings, minerals, salt, fruits, vegetables, hay, or any other natural or manufactured feeds, but not the use of lures, scents, or liquid attractants for hunting;
 - e. Disturbing or removing artifacts or any cultural, historical, archeological, or paleontological resources found on trust lands without written permission from the board of university and school lands;
 - f. Disposing of refuse, including garbage, bottles, cans, trees, branches, or other waste materials;
 - g. Dog training;
 - h. Metal detecting;
 - i. Guiding and outfitting;
 - j. Collecting plant parts for sale or other commercial purposes;
 - k. Trapping, unless authorized in writing by the commissioner;
 - l. Tree cutting and firewood gathering, unless authorized in writing by the commissioner;
 - m. Beehives, unless specifically authorized in a surface land lease; and
 - n. Organized events for which the commissioner has not issued a written agreement or permit in accordance with section 15-08-31.
2. An individual who violates subdivision n of subsection 1 is guilty of a class B misdemeanor.

SECTION 4. Section 15-08-31 of the North Dakota Century Code is created and enacted as follows:

15-08-31. Organized event.

1. Upon written request, the commissioner of university and school lands may allow by written agreement or permit, an organized event involving public access or activity on trust lands if the event:

- a. Is an appropriate use of trust lands;
 - b. Does not damage trust lands;
 - c. Does not have a negative impact on the value or financial return of the trust lands in violation of the board of university and school lands' fiduciary duty to the applicable trusts as determined by the commissioner;
 - d. Protects the state from liability and other claims for damage; and
 - e. Has been approved by the current surface land lessee, if the trust lands are leased.
2. The commissioner may refuse to issue or renew a permit if the permit applicant has repeatedly violated the provisions of this chapter or rules or orders of the commissioner.

SECTION 5. Section 15-08-32 of the North Dakota Century Code is created and enacted as follows:

15-08-32. Penalty.

An individual who violates any provision of this chapter, for which another penalty is not specifically provided for a substantially similar offense, is guilty of a noncriminal offense for which a fee of one hundred dollars must be assessed.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 121

HOUSE BILL NO. 1220

(Representatives Sanford, Hanson, D. Johnson, Martinson, Monson, Stemen)
(Senators Bekkedahl, Krebsbach)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to exemptions from open meetings requirements for the state board of higher education; and to amend and reenact subsection 1 of section 15-10-17 of the North Dakota Century Code, relating to exemptions from open meetings requirements for the state board of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁸ **SECTION 1. AMENDMENT.** Subsection 1 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

1. a. Appoint and remove the president or other faculty head, and the professors, instructors, teachers, officers, and other employees of the several institutions under ~~its~~the board's control, ~~and to fix their~~fix the salaries for those positions within the limits of legislative appropriations ~~therefor~~; and to fix the terms of office and to prescribe the duties thereof, ~~provided that the consideration of the appointment or removal of any such personnel shall be in executive session if the board chooses unless the individual involved requests that the meeting be open to other individuals or to the public~~of the positions.
- b. Appoint and remove the commissioner of higher education, fix the commissioner's salary within the limits of legislative appropriations, and prescribe the commissioner's duties.
- c. Appoint and remove all university system office personnel, fix their salaries within the limits of legislative appropriations, fix their terms of office, and prescribe their duties.
- d. The board may hold an executive session to consider the appointment or removal of the commissioner of higher education, or a president or other faculty head, professor, instructor, teacher, officer, or other employee of an institution under the board's control unless the individual involved requests the meeting be open to other individuals or the public.

SECTION 2. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Quorums of state board of higher education committees.

1. The state board of higher education may create committees comprised of voting members of the board. The scope of authority for a committee created

⁴⁸ Section 15-10-17 was also amended by section 1 of Senate Bill No. 2167, chapter 122, and section 1 of Senate Bill No. 2168, chapter 123.

under this section must be defined in a policy adopted by the board, and the committee's actions may not exceed that scope.

2. If a committee comprised of voting members of the board constitutes a quorum of the board, a properly noticed meeting of the committee does not constitute a meeting of the board. Actions of the committee do not constitute actions of the board.
3. If a committee comprised of voting members of the board constitutes, in whole or in part, a quorum of another committee of the board, a properly noticed meeting of one committee's meeting does not constitute a meeting of the other committee, unless the meeting of the other committee also is properly noticed. Actions taken at the meeting are limited to the scope of authority of the committee for which the meeting was noticed properly.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 122

SENATE BILL NO. 2167

(Senators Oban, Larson)
(Representatives Dockter, Heinert, Klemin, Martinson)

AN ACT to amend and reenact subsection 2 of section 15-10-17 of the North Dakota Century Code, relating to jurisdiction of law enforcement officers employed by Bismarck state college.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁹ **SECTION 1. AMENDMENT.** Subsection 2 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

2. Authorize the employment of law enforcement officers having jurisdiction on property owned or leased by the state board of higher education to enforce laws and regulations at its institutions, or as otherwise provided in this subsection.
 - a. A law enforcement officer employed by North Dakota state university has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of nineteenth avenue north and Dakota drive south to eighth avenue north, eighth avenue north east to tenth street north, tenth street north north to nineteenth avenue north, nineteenth avenue north west to Dakota drive.
 - b. A law enforcement officer employed by the university of North Dakota has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of demers avenue and north fifty-fifth street, north fifty-fifth street north to university avenue, university avenue east to north forty-second street, north forty-second street north to gateway drive, gateway drive east to north columbia road, north columbia road south to tenth avenue north, tenth avenue north east to north twenty-fifth street, north twenty-fifth street south to sixth avenue north, sixth avenue north east to north twentieth street, north twentieth street south to fifth avenue north, fifth avenue north west to north twenty-third street, north twenty-third street south to university avenue, university avenue east to north twenty-first street, north twenty-first street south to dyke avenue, dyke avenue east to north washington street, north washington street south to demers avenue, and demers avenue west to north fifty-fifth street. Jurisdiction under this subdivision includes Grand Forks international airport.
 - c. A law enforcement officer employed by the North Dakota state college of science has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of seventh avenue north and eleventh street north, eleventh

⁴⁹ Section 15-10-17 was also amended by section 1 of House Bill No. 1220, chapter 121, and section 1 of Senate Bill No. 2168, chapter 123.

street north to sixteenth avenue north, sixteenth avenue north west to fourth street north, and fourth street north south to seventh avenue north.

- d. A law enforcement officer employed by Bismarck state college has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the area delineated by the intersections of schaffer street and canary avenue, canary avenue and edwards avenue, edwards avenue and schaffer street, edwards avenue and ward road, ward road and college drive, and college drive and schaffer street.
- e. A law enforcement officer employed by an institution under the control of the state board of higher education who is in "hot pursuit" may continue beyond the jurisdictional boundaries of each institution to make an arrest, in compliance with a warrant or without a warrant under the conditions of section 29-06-15, if obtaining the aid of peace officers having jurisdiction beyond that limit would cause a delay permitting escape. As used in this subdivision, "hot pursuit" means the immediate pursuit of a person who is endeavoring to avoid arrest.
- e-f. The state board of higher education may enter a joint powers agreement with a political subdivision to enable law enforcement from the political subdivision and law enforcement from the institution to provide secondary response to each other outside the jurisdictional boundaries provided in this subsection.
- f-g. Notwithstanding any other provision of law or joint powers agreement, any misdemeanor or felony violation of law occurring in or on property owned or leased by the state board of higher education or within the extraterritorial jurisdiction must be filed in district court unless the primary law enforcement officer involved is not employed by the state board of higher education. An infraction or noncriminal offense occurring in or on property owned or leased by the state board of higher education or within the extraterritorial jurisdiction may be filed in municipal court.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 123

SENATE BILL NO. 2168

(Senators Kreun, Larson, J. Roers)
(Representatives Ista, O'Brien)

AN ACT to amend and reenact subsection 2 of section 15-10-17 of the North Dakota Century Code, relating to jurisdiction and authority of law enforcement officers employed by institutions of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁰ **SECTION 1. AMENDMENT.** Subsection 2 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

2. Authorize the employment of law enforcement officers having jurisdiction on property owned or leased by the state board of higher education to enforce laws and regulations at its institutions, or as otherwise provided in this subsection.
 - a. A law enforcement officer employed by North Dakota state university has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of nineteenth avenue north and Dakota drive south to eighth avenue north, eighth avenue north east to tenth street north, tenth street north north to nineteenth avenue north, nineteenth avenue north west to Dakota drive.
 - b. A law enforcement officer employed by the university of North Dakota has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of demers avenue and north fifty-fifth street, north fifty-fifth street north to university avenue, university avenue east to north forty-second street, north forty-second street north to gateway drive, gateway drive east to north columbia road, north columbia road south to tenth avenue north, tenth avenue north east to north twenty-fifth street, north twenty-fifth street south to sixth avenue north, sixth avenue north east to north twentieth street, north twentieth street south to fifth avenue north, fifth avenue north west to north twenty-third street, north twenty-third street south to university avenue, university avenue east to north twenty-first street, north twenty-first street south to dyke avenue, dyke avenue east to north washington street, north washington street south to demers avenue, and demers avenue west to north fifty-fifth street. Jurisdiction under this subdivision includes Grand Forks international airport.
 - c. A law enforcement officer employed by the North Dakota state college of science has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of seventh avenue north and eleventh street north, eleventh

⁵⁰ Section 15-10-17 was also amended by section 1 of House Bill No. 1220, chapter 121, and section 1 of Senate Bill No. 2167, chapter 122.

street north to sixteenth avenue north, sixteenth avenue north west to fourth street north, and fourth street north south to seventh avenue north.

- d. A law enforcement officer employed by an institution under the control of the state board of higher education who is in "~~hot~~fresh pursuit" may continue beyond the jurisdictional boundaries of each institution to make an arrest, in compliance with a warrant or without a warrant under the conditions of section 29-06-15, if obtaining the aid of peace officers having jurisdiction beyond that limit would cause a delay permitting escape. As used in this subdivision, "~~hot~~fresh pursuit" means the immediate pursuit of a person who is endeavoring to avoid arrest has the same meaning as in section 29-06-07.
- e. The state board of higher education may enter a joint powers agreement with a political subdivision to enable law enforcement from the political subdivision and law enforcement from the institution to provide secondary response to each other outside the jurisdictional boundaries provided in this subsection.
- f. Notwithstanding any other provision of law or joint powers agreement, any misdemeanor or felony violation of law occurring in or on property owned or leased by the state board of higher education or within the extraterritorial jurisdiction must be filed in district court unless the primary law enforcement officer involved is not employed by the state board of higher education. An infraction or noncriminal offense occurring in or on property owned or leased by the state board of higher education or within the extraterritorial jurisdiction may be filed in municipal court.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 124

HOUSE BILL NO. 1125

(Representatives Pyle, Mock, Roers Jones)
(Senators Bekkedahl, Dever)

AN ACT to amend and reenact section 15-10-18.2 of the North Dakota Century Code, relating to definitions used to determine the eligibility of certain dependents of veterans to receive free tuition in institutions of higher education in the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-18.2 of the North Dakota Century Code is amended and reenacted as follows:

15-10-18.2. Definitions.

1. "Dependent" for purposes of section 15-10-18.3 means:

- a. A child, stepchild, spouse, widow, or widower of a resident veteran, as "veteran" is defined in section 37-01-40, who was killed in action or died from wounds or other service-connected causes, has a one hundred percent service-connected disability as determined by the department of veterans' affairs, has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, died from service-connected disabilities, was a prisoner of war, or was declared missing in action;
- b. A child ~~or a~~, stepchild, spouse, widow, or widower of a veteran, as defined in section 37-01-40, who was killed in action or died from wounds or other service-connected causes, has a one hundred percent service-connected disability as determined by the department of veterans' affairs, has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, died from service-connected disabilities, was a prisoner of war, or was declared missing in action, provided the spouse, widow, or widower, or the child's or stepchild's other parent, has been a resident of this state and was a resident of this state at the time of death or determination of total disability of the veteran; or
- c. A child ~~or a~~, stepchild, spouse, widow, or widower of a veteran, as defined in section 37-01-40, who was killed in action or died from wounds or other service-connected causes, has a one hundred percent service-connected disability as determined by the department of veterans' affairs, has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, died from service-connected disabilities, was a prisoner of war, or was declared missing in action, provided the spouse, widow, or widower, or the child's or stepchild's other parent, establishes residency in this state and maintains that residency for a period of five years immediately preceding the spouse's, widow's,

widower's, child's, or stepchild's enrollment at an institution under the control of the state board of higher education.

2. "Resident veteran" means a veteran who:
 - a. Was born in and lived in this state until entrance into the armed forces of the United States;
 - b. Was born in, but was temporarily living outside this state, not having abandoned residence therein prior to entrance into the armed forces of the United States;
 - c. Was born elsewhere but had resided within this state for at least six months prior to entrance into military service and had prior to or during such six-month period:
 - (1) Registered for voting, or voted in this state;
 - (2) Being an unemancipated minor during such period of residence, had lived with a parent or person standing in loco parentis who had acquired a residence as set forth in this section; or
 - (3) If not registered for voting in this state, not registered for voting in another state; or
 - d. Has been a resident of this state for the ~~ten~~five years prior to the request for tuition waiver.
3. "Stepchild's other parent" means the spouse, widow, or widower of a veteran.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 125

HOUSE BILL NO. 1107

(Representatives Pyle, Cory, M. Ruby)
(Senators Bekkedahl, Dwyer)

AN ACT to amend and reenact section 15-10-19.1 of the North Dakota Century Code, relating to the definition of a resident student for tuition purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-19.1 of the North Dakota Century Code is amended and reenacted as follows:

15-10-19.1. Nonresident and resident student for tuition purposes defined.

1. A "nonresident student" for tuition purposes means any student other than a resident student.
2. A "resident student" for tuition purposes means:
 - a. An individual whose guardian, custodial parent, or parents are legal residents of this state and have resided in this state for twelve months, or a dependent child whose custodial parent moved into the state with the intent to establish legal residency for a period of years within the last twelve months immediately prior to the beginning of the academic term;
 - b. An individual of age eighteen or over who is a legal resident of this state and has resided in this state after reaching age eighteen for twelve months immediately prior to the beginning of the academic term;
 - c. An individual who graduated from a North Dakota high school;
 - d.
 - (1) A full-time active duty member of the armed forces;
 - (2) A member of the ~~North Dakota~~ national guard;
 - (3) A member of the armed forces reserve component ~~stationed in this state~~; or
 - (4) A veteran, as defined in section 37-01-40;
 - e. A benefited employee of the North Dakota university system;
 - f. The spouse of:
 - (1) A full-time active duty member of the armed forces;
 - (2) A member of the ~~North Dakota~~ national guard;
 - (3) A member of the armed forces reserve component ~~stationed in this state~~;

- (4) A veteran, as defined in section 37-01-40, ~~provided the~~including a veteran is eligible to transfer entitlement under the Post 9-11 Veterans Educational Assistance Act of 2008 [38 U.S.C. 3301];
 - (5) A benefited employee of the North Dakota university system; or
 - (6) Any other individual who is a resident for tuition purposes;
 - g. A dependent of:
 - (1) A full-time active duty member of the armed forces;
 - (2) A member of the ~~North Dakota~~ national guard;
 - (3) A member of the armed forces reserve component ~~stationed in this state~~;
 - (4) A veteran, as defined in section 37-01-40, ~~provided the~~including a veteran is eligible to transfer entitlement under the Post 9-11 Veterans Educational Assistance Act of 2008 [38 U.S.C. 3301]; or
 - (5) A benefited employee of the North Dakota university system;
 - h. An individual who was a legal resident of this state for at least three consecutive years within six years of the beginning of the academic term;
 - i. A child, spouse, widow, or widower of a veteran as defined in section 37-01-40 who was killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected causes, died from service-connected disabilities, was a prisoner of war, or was declared missing in action; or
 - j. A covered individual as defined by section 702 of Public Law No. 113-146 [128 Stat. 1797; 38 U.S.C. 3679].
3. A temporary absence from the state for vacation or other special or temporary purposes may not be considered an abandonment of residency in this state, provided a residence is maintained in this state during the temporary absence. However, a student who leaves the state and resides in another state for a period of months is not considered a resident of this state during those months if the student does not maintain a place of residence in this state during the student's absence.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 126

SENATE BILL NO. 2272

(Senators Schaible, Wanzek)
(Representatives Dockter, Headland, Nathe)

AN ACT to create and enact section 15-10-38.3 of the North Dakota Century Code, relating to administrative fees retained by the state board of higher education; to amend and reenact sections 15-10-38.1 and 15-10-38.2 of the North Dakota Century Code, relating to the skilled workforce student loan repayment program and skilled workforce scholarship program; to amend and reenact section 15-10-38.3 of the North Dakota Century Code, relating to scholarship and loan forgiveness administrative costs; to repeal sections 15-10-38.1 and 15-10-38.2 of the North Dakota Century Code, relating to the skilled workforce student loan repayment program and the skilled workforce scholarship program; to provide a continuing appropriation; to provide for a transfer; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵¹ **SECTION 1. AMENDMENT.** Section 15-10-38.1 of the North Dakota Century Code is amended and reenacted as follows:

15-10-38.1. Skilled workforce student loan repayment program - Skilled workforce student loan repayment program fund - Continuing appropriation - Report.

1. There is created in the state treasury the skilled workforce student loan repayment program fund. The fund consists of moneys transferred into the fund by the legislative assembly, matching funds received, and loan repayments. Moneys in the fund are appropriated to the state board of higher education on a continuing basis for the purpose of distributing student loan repayment grants directly to the Bank of North Dakota or other participating lender to repay outstanding student loan principal balances for eligible applicants.
2. The state board of higher education shall adopt policies and procedures to develop, implement, promote, and administer a skilled workforce student loan repayment program in cooperation with the Bank of North Dakota and the North Dakota workforce development council with the intent of attracting and retaining individuals for professional or technical skills in high demand in this state.
3. The North Dakota workforce development council in cooperation with job service North Dakota shall use available labor market information to determine annually the eligible high-demand professional and technical skills and emerging occupations in this state.

⁵¹ Section 15-10-38.1 was repealed by section 5 of Senate Bill No. 2272, chapter 126.

4. ~~The state board of higher education and the North Dakota workforce development council shall compile a list of qualifying educational programs annually. Qualifying educational programs must pertain to the professional and technical skills and emerging occupations in high demand in this state, as determined under subsection 3. Qualifying educational programs may include degree or certificate programs.~~
5. Graduates of ~~qualifying educational~~ degree or certificate programs from institutions or entities in ~~this~~ any state may apply for the skilled workforce student loan repayment program. To be eligible to receive student loan repayment grants under the program, the applicant:
 - a. Must have successfully completed ~~a qualifying~~ an educational program from an eligible institution of higher education;
 - b. Must have a student loan with the Bank of North Dakota or other participating lender;
 - c. Following completion of ~~a qualifying~~ an educational program, must reside and work in this state in an eligible high-demand or emerging occupation; and
 - d. Must have met and shall continue to meet any requirements established ~~by rule~~ in applicable state board of higher education procedures.
- ~~6-5.~~ The state board of higher education shall adopt ~~rules~~ procedures to ensure compliance with residency and occupation requirements after completion of the ~~qualifying~~ educational program.
- ~~7-6.~~ The state board of higher education shall distribute student loan repayment grants from the skilled workforce student loan repayment program fund directly to the Bank of North Dakota or other participating lender to repay outstanding student loan principal balances for eligible applicants. The maximum annual student loan repayment grant amount for which an applicant may qualify is five thousand six hundred sixty-seven dollars, or one-third of the applicant's outstanding student loan principal balance upon initial application for the program, whichever is less. The maximum total student loan repayment grant amount for which any applicant may qualify is seventeen thousand dollars.
- ~~8-7.~~ If an individual is receiving loan forgiveness under any other ~~provision~~ state program, the individual may not receive a student loan repayment grant under this section during the same application year. An individual who received a skilled workforce scholarship under section 15-10-38.2 is not eligible for loan forgiveness under this section.
8. An individual may receive a combined total of no more than seventeen thousand dollars under this section and the skilled workforce scholarship program under section 15-10-38.2.
9. The skilled workforce student loan repayment program must be a joint public and private effort. The state board of higher education shall provide one dollar of funding for each one dollar of funding raised from the private sector. Any matching funds received must be deposited in the skilled workforce student loan repayment program fund.

10. The state board of higher education shall provide a biennial program report to the legislative management by September first of each even-numbered year. The report must include information regarding:
 - a. The eligible high-demand professional and technical skills and emerging occupations;
 - b. ~~The qualifying educational programs;~~
 - e. The number of applicants, eligible applicants, and applicants receiving awards;
 - d-c. The amount of private funding raised; and
 - e-d. The average and total amounts awarded under the program.

⁵² **SECTION 2. AMENDMENT.** Section 15-10-38.2 of the North Dakota Century Code is amended and reenacted as follows:

15-10-38.2. Skilled workforce scholarship program - Skilled workforce scholarship fund - Continuing appropriation - Report.

1. There is created in the state treasury the skilled workforce scholarship fund. The fund consists of moneys transferred into the fund by the legislative assembly, matching funds received, and scholarship repayments. Moneys in the fund are appropriated to the state board of higher education on a continuing basis for the purpose of providing grants to institutions of higher education related to skilled workforce scholarships. Institutions of higher education include institutions under the control of the state board of higher education, North Dakota nonpublic accredited institutions of higher education, and tribally controlled community colleges, state-approved educator training programs, and North Dakota institutions approved to operate by the North Dakota board of career and technical education.
2. The state board of higher education shall adopt policies and procedures to develop, implement, promote, and administer a skilled workforce scholarship program in cooperation with the Bank of North Dakota and the North Dakota workforce development council with the intent of attracting and retaining individuals for professional or technical skills in high demand in this state.
3. The North Dakota workforce development council in cooperation with job service North Dakota shall use available labor market information to determine annually the eligible high-demand professional and technical skills and emerging occupations in this state.
4. The state board of higher education and the workforce development council shall compile a list of qualifying educational programs annually. Qualifying~~A qualifying educational program must be able to program is a program resulting in attainment of an associate's degree or lower credential upon successful completion or a program that may be completed within four semesters or six quarters and must. A qualifying educational program also must~~ pertain to the professional and technical skills and emerging occupations

⁵² Section 15-10-38.2 was repealed by section 5 of Senate Bill No. 2272, chapter 126.

in high demand in this state, as determined under subsection 3. Qualifying educational programs may include degree or certificate programs.

5. Individuals enrolled in a qualifying educational program in this state may apply for a scholarship under this section. Scholarships are limited to the amount charged each quarter, semester, or term by the educational institution for the tuition, fees, books, and supplies required for the qualifying educational program. The scholarships are intended to supplement any other scholarship or financial aid grant received by a student to assist the student with the costs of the qualifying educational program. An individual may not receive ~~more than a combined total exceeding~~ seventeen thousand dollars ~~in total under this section and the skilled workforce loan repayment program under section 15-10-38.1.~~
6. To be eligible for a scholarship ~~and payment~~ under this section, a student must be enrolled full time in an eligible program and ~~maintain~~have at least a 2.5 cumulative grade point average, based on a 4.0 grading system, or maintain academic progress in the program according to program requirements. A student may not receive scholarships under this section for more than the equivalent of four semesters of full-time enrollment or six quarters of full-time enrollment.
7. Upon completion of a qualifying educational program, a student who received a scholarship under this section must reside and work in this state in an eligible high-demand or emerging occupation for a minimum of three years.
8. An individual shall repay the scholarship pursuant to the terms in the individual's scholarship award agreement if the individual fails to maintain ~~either a 2.5 cumulative grade point average or academic progress according to program requirements~~ while enrolled, ~~discontinues attendance with~~draws voluntarily or involuntarily before the completion of ~~any semester or quarter~~the program for which a scholarship has been received, or fails to reside and work in this state in an eligible high-demand or emerging occupation for at least three years following degree or certificate completion.
9. The state board of higher education, in conjunction with the Bank of North Dakota, may allow an individual who received payment under this section to delay or cancel repayment under this section due to financial difficulty, military service, death, or total disability.
10. Each quarter, semester, or term, the state board of higher education shall distribute grants to institutions of higher education to provide the amounts necessary for the scholarships awarded to the students enrolled in each institution.
- ~~40-11.~~ The skilled workforce scholarship program must be a joint public and private effort. The state board of higher education may distribute grants only to the extent that the private sector has provided one dollar of matching funds for each dollar of funding provided by the state. Any matching funds received must be deposited in the skilled workforce scholarship fund.
- ~~44-12.~~ The state board of higher education shall provide a biennial program report to the legislative management by September first of each even-numbered year. The report must include information regarding:

- a. The eligible high-demand professional and technical skills and emerging occupations;
- b. The qualifying educational programs;
- c. The number of applicants, eligible applicants, and applicants receiving awards;
- d. The amount of private funding raised; and
- e. The average and total amounts awarded under the program.

⁵³ **SECTION 3.** Section 15-10-38.3 of the North Dakota Century Code is created and enacted as follows:

15-10-38.3. Scholarship and loan forgiveness administrative costs - Continuing appropriation.

The state board of higher education shall retain up to one and one-half percent of any funds appropriated to the board under subsection 1 of section 15-10-38.1 and subsection 1 of section 15-10-38.2. The retained funds must be used for promotion and administration of the programs under those sections.

⁵⁴ **SECTION 4. AMENDMENT.** Section 15-10-38.3 of the North Dakota Century Code is amended and reenacted as follows:

15-10-38.3. Scholarship and loan forgiveness administrative costs - Continuing appropriation.

The state board of higher education shall retain up to one-half of one percent of any funds appropriated to the board under subsection 1 of section 15-10-38.1 and subsection 1 of section 15-10-38.2. The retained funds must be used for ~~promotion~~ and administration of the programs under those sections.

⁵⁵ **SECTION 5. REPEAL.** Sections 15-10-38.1 and 15-10-38.2 of the North Dakota Century Code are repealed.

SECTION 6. TRANSFER - BANK OF NORTH DAKOTA - SKILLED WORKFORCE STUDENT LOAN REPAYMENT PROGRAM FUND. The Bank of North Dakota shall transfer the sum of \$2,250,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the skilled workforce student loan repayment fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 7. TRANSFER - BANK OF NORTH DAKOTA - SKILLED WORKFORCE SCHOLARSHIP FUND. The Bank of North Dakota shall transfer the sum of \$2,250,000, or so much of the sum as may be necessary, from the Bank's

⁵³ Section 15-10-38.3 was amended by section 4 of Senate Bill No. 2272, chapter 126.

⁵⁴ Section 15-10-38.3 was created by section 3 of Senate Bill No. 2272, chapter 126.

⁵⁵ Section 15-10-38.1 was amended by section 1 of Senate Bill No. 2272, chapter 126; section 15-10-38.2 was amended by section 2 of Senate Bill No. 2272, chapter 126.

current earnings and undivided profits to the skilled workforce scholarship fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 8. EFFECTIVE DATE. Sections 1, 2, 3, 6, and 7 of this Act become effective on July 1, 2021.

SECTION 9. EFFECTIVE DATE. Section 5 of this Act becomes effective on July 1, 2023.

SECTION 10. EFFECTIVE DATE. Section 4 of this Act becomes effective on August 1, 2023.

SECTION 11. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 27, 2021

Filed April 28, 2021

CHAPTER 127

HOUSE BILL NO. 1375

(Representatives Pyle, Howe, Mitskog, O'Brien, Roers Jones, Schreiber-Beck, Stemen)

(Senators Bekkedahl, Davison, Luick, Weber)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to a tuition scholarship program for students taking dual-credit courses while in high school; to provide a statement of legislative intent; to provide for a legislative management study; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Dual-credit courses - Tuition scholarship program - Administered by the board.

1. The state board of higher education shall administer a dual-credit tuition scholarship program to offer a tuition scholarship to students. The board shall adopt procedures to administer the program.
2. An eligible student may apply to the board to receive a scholarship toward the cost of tuition and fees at the in-state public, private, or tribal institution of higher education at which the student is enrolled. To be eligible to receive a scholarship, an individual must:
 - a. Be enrolled and have completed at least one semester, quarter, or term at a public, private, or tribal institution of higher education in the state;
 - b. Have:
 - (1) Graduated from a high school in the state;
 - (2) Graduated from a high school in a bordering state under chapter 15.1-29;
 - (3) Graduated from a nonpublic high school in a bordering state while residing with a custodial parent in this state; or
 - (4) Completed a program of home education under chapter 15.1-23; and
 - c. Have completed at least one dual-credit course provided by an institution under the control of the state board of higher education while enrolled in high school or a program of home education in the state.
3. The state board of higher education shall provide an eligible student with a tuition scholarship equal to fifty percent of the cost of the dual-credit courses provided by an institution under the control of the state board of higher

education, and completed by the student while in high school or a program of home education, in an amount up to seven hundred fifty dollars. A scholarship received by a student during any semester, quarter, or term of enrollment under this section may not exceed the cost of tuition and fees for the semester, quarter, or term. A student is not eligible to receive more than seven hundred fifty dollars under this section.

SECTION 2. APPROPRIATION - BANK OF NORTH DAKOTA PROFITS. There is appropriated out of any moneys from the Bank of North Dakota's current earnings and undivided profits, not otherwise appropriated, the sum of \$1,500,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of providing tuition scholarships to eligible students participating in the program under this Act, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. LEGISLATIVE INTENT - DUAL-CREDIT TUITION SCHOLARSHIP PROGRAM. It is the intent of the sixty-seventh legislative assembly that if there are any dollars in the skilled workforce scholarship fund and the skilled workforce student loan repayment fund which have not been committed as of December 31, 2022, the state board of higher education may award up to fifty percent of the uncommitted balance for dual-credit tuition scholarships under section 1 of this Act.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - SCHOLARSHIP PROGRAMS. During the 2021-22 interim, the legislative management shall consider studying all scholarship programs in the state. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 22, 2021

Filed April 23, 2021

CHAPTER 128

SENATE BILL NO. 2140

(Senators Erbele, Heckaman, Lemm)
(Representatives Fisher, D. Johnson, Schreiber-Beck)

AN ACT to create and enact section 15-10-43.2 of the North Dakota Century Code, relating to professional student exchange program repayment; to repeal section 15-10-43.1 of the North Dakota Century Code, relating to professional student exchange program repayment; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 15-10-43.2 of the North Dakota Century Code is created and enacted as follows:

Professional student exchange programs - Repayment waiver.

The state board of higher education shall waive repayment requirements for individuals participating in a professional student exchange program in veterinary medicine, dentistry, or optometry who entered an agreement with the state board of higher education pursuant to repealed section 15-10-43.1 during the biennium beginning July 1, 2019, and ending June 30, 2021.

SECTION 2. REPEAL. Section 15-10-43.1 of the North Dakota Century Code is repealed.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - PROFESSIONAL STUDENT EXCHANGE PROGRAM. During the 2021-22 interim, the legislative management shall consider studying the professional student exchange program. The study must include:

1. The number of program participants enrolled in each discipline;
2. The tuition support provided for students enrolled in each discipline;
3. The rate at which students participating in the program return to the state;
4. The procedures necessary to implement a payback provision and their associated costs;
5. An appropriate grace period to allow program participants to return to the state; and
6. The educational disciplines to which the payback provision should be applied.

The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 129

HOUSE BILL NO. 1346

(Representative Kempenich)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to working papers of higher education internal auditors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Internal auditors' working papers.

For purposes of this section, "higher education internal auditor" means an internal auditor of the North Dakota university system and the institutions under the control of the state board of higher education. Working papers of a higher education internal auditor are not public records and are exempt from section 44-04-18. Working papers include records kept by a higher education internal auditor of the procedures applied, the tests performed, the information obtained, draft audit reports, and the pertinent conclusions reached in the audit engagement. At the discretion of a higher education internal auditor, working papers of a higher education internal auditor may be made available for inspection. A draft audit report released to the governing body or management of the audited entity is confidential until the final audit report is issued or work ceases on the audit. The issued audit report is public information. The working papers of an issued audit report are public except for any information designated as confidential or exempt from disclosure by state or federal law. At the discretion of a higher education internal auditor, all or a portion of the working papers of the higher education internal auditor of an issued audit report may be declared confidential. The declaration of confidentiality must state the reason for the confidentiality and the date, as reasonably may be determined at the time, when the working papers will be made public.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 130

SENATE BILL NO. 2030

(Legislative Management)
(Higher Education Committee)

AN ACT to provide an appropriation to the state board of higher education for the higher education challenge matching grant program; to create and enact paragraph 3 of subdivision b of subsection 1 of section 15-10-48 and paragraph 3 of subdivision b of subsection 1 of section 15-10-49 of the North Dakota Century Code, relating to institution eligibility for a matching grant for the advancement of academics; to amend and reenact subdivision c of subsection 1 of section 15-10-48 and section 15-18.2-05 of the North Dakota Century Code, relating to matching grants for the advancement of academics and state aid for institutions of higher education; to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code, relating to the eligibility of the university of North Dakota school of medicine and health sciences to receive a matching grant for the advancement of academics; and to provide a penalty.

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 \$11,150,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of awarding matching grants for student scholarships and the advancement of academics at institutions of higher education, for the biennium beginning July 1, 2021, and ending June 30, 2023. The funding provided in this section is considered a one-time funding item.

⁵⁶ **SECTION 2.** Paragraph 3 of subdivision b of subsection 1 of section 15-10-48 of the North Dakota Century Code is created and enacted as follows:

(3) The institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs, or promotes the performance of, an abortion unless the abortion is necessary to prevent the death of the woman, and not participating in or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization, that between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education.

⁵⁶ Section 15-10-48 was also amended by section 10 of Senate Bill No. 2003, chapter 31, section 17 of Senate Bill No. 2003, chapter 31, section 3 of Senate Bill No. 2030, chapter 130, and section 6 of Senate Bill No. 2030, chapter 130.

⁵⁷ **SECTION 3. AMENDMENT.** Subdivision c of subsection 1 of section 15-10-48 of the North Dakota Century Code is amended and reenacted as follows:

- c. The board may award up to one million seven hundred thousand dollars in matching grants to each institution to the university of North Dakota and North Dakota state university; and up to one million five hundred thousand dollars in matching grants for projects at the university of North Dakota school of medicine and health sciences.

SECTION 4. Paragraph 3 of subdivision b of subsection 1 of section 15-10-49 of the North Dakota Century Code is created and enacted as follows:

- (3) The institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs, or promotes the performance of, an abortion unless the abortion is necessary to prevent the death of the woman, and not participating in or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization, that between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education.

***SECTION 5. AMENDMENT.** Section 15-18.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-05. Base funding - Determination of state aid - Penalty.

1. Except as provided under ~~subsections~~subsections 2 and 3, in order to determine the state aid payment to which each institution under its control is entitled, the state board of higher education shall multiply the product determined under section 15-18.2-04 by a base amount of:
 - a. \$60.87 in the case of North Dakota state university and the university of North Dakota;
 - b. \$90.98 in the case of Dickinson state university, Mayville state university, Minot state university, and Valley City state university; and
 - c. \$97.06 in the case of Bismarck state college, Dakota college at Bottineau, Lake Region state college, North Dakota state college of science, and Williston state college.
2. An institution is entitled to an amount equal to seventy-five percent of the product determined under subsection 1 for credits completed by students receiving a tuition waiver pursuant to section 54-12-35.

⁵⁷ Section 15-10-48 was also amended by section 10 of Senate Bill No. 2003, chapter 31, section 17 of Senate Bill No. 2003, chapter 31, section 2 of Senate Bill No. 2030, chapter 130, and section 6 of Senate Bill No. 2030, chapter 130.

3. An institution must certify to the state board of higher education that the institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs or promotes the performance of an abortion unless the abortion is necessary to prevent the death of the woman, and not participating in or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization which, between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. If an institution violates this subsection, the state board of higher education shall reduce the product determined in subsection 1 for that institution by two million eight hundred thousand dollars. This subsection does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education.
4. Any individual who signs a contract in violation of subsection 3 is guilty of a class B misdemeanor. The state's attorney shall prosecute an offense under this subsection.

⁵⁸ **SECTION 6. REPEAL.** Subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code is repealed.

Approved May 7, 2021

Filed May 10, 2021

⁵⁸ Section 15-10-48 was also amended by section 10 of Senate Bill No. 2003, chapter 31, section 17 of Senate Bill No. 2003, chapter 31, section 2 of Senate Bill No. 2030, chapter 130, and section 6 of Senate Bill No. 2030, chapter 130.

* Section 5 of Senate Bill No. 2030 was vetoed, see chapter 507.

CHAPTER 131

HOUSE BILL NO. 1503

(Representatives K. Koppelman, Becker, M. Johnson, Satrom)
(Senators Dever, Dwyer, Holmberg)
(Approved by the Delayed Bills Committee)

AN ACT to amend and reenact section 15-10.4-02 of the North Dakota Century Code, relating to free speech policies of institutions under the control of the state board of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10.4-02 of the North Dakota Century Code is amended and reenacted as follows:

15-10.4-02. Adoption of campus free speech policy.

~~By August 27, 2019, the~~

The state board of higher education and each institution shall adopt a policy that:

1. Protects students' rights to free speech, assembly, and expression;
2. Permits institutions to establish and enforce reasonable and constitutional time, place, and manner restrictions on free speech, assembly, and expression;
3. ~~Permits students, faculty, or student organizations to invite guest speakers or groups to present regardless of the viewpoint or content of the anticipated speech of the guest speaker or group; and~~
4. ~~Protects the academic freedom and free speech rights of faculty while adhering to guidelines established by the American association of university professors.~~

~~Upon adoption of the policies under this section, the state board of higher education shall provide a copy of the policies to the legislative management by guaranteeing, at a minimum, no faculty member will face adverse employment action for classroom speech, unless the speech is not reasonably germane to the subject matter of the class as broadly construed and comprises a substantial portion of classroom instruction;~~

4. Prohibits student-on-student discriminatory harassment consistent with the following requirements:
 - a. An institution may not enforce the student-on-student discriminatory harassment policy by disciplining or otherwise imposing any sanction on a student for a violation of the policy stemming from expression unless:
 - (1) The speech or expression is unwelcome, targets the victim on a basis protected under federal, state, or local law, and is so severe,

pervasive, and objectively offensive that a student effectively is denied equal access to educational opportunities or benefits provided by the institution; or

- (2) The speech or expression explicitly or implicitly conditions a student's participation in an education program or activity or bases an educational decision on the student's submission to unwelcome sexual advances or requests for sexual favors;
- b. An institution may sanction or discipline student-on-student speech or expression that does not meet the definition of student-on-student harassment only when the speech or expression is not protected under the First Amendment to the United States Constitution or section 4 of article I of the Constitution of North Dakota; and
- c. An institution may respond to student-on-student speech that is not discriminatory harassment by taking nonpunitive actions designed to promote a welcoming, inclusive environment; and
5. Complies with the following principles of free speech:

 - a. An institution shall maintain the generally accessible, open, outdoor areas of the institution's campus as traditional public forums for free speech by students, faculty, and invited guests, subject to reasonable time, place, and manner restrictions on free speech, assembly, and expression which are applicable to the publicly accessible outdoor areas of campus, do not violate the First Amendment to the United States Constitution or section 4 of article I of the Constitution of North Dakota, and are clear, published, reasonable, content-neutral, viewpoint-neutral, and narrowly tailored to satisfy a significant institutional interest, and leave open alternative channels for the communication of information or a message;
 - b. An institution may not restrict students' free speech to particular areas of campus, sometimes known as "free speech zones";
 - c. An institution may not deny student activity fee funding to a student organization based on the viewpoints the student organization advocates;
 - d. An institution may not establish permitting requirements prohibiting spontaneous outdoor assemblies or outdoor distribution of literature, except an institution may maintain a policy granting an individual or organization the right to reserve the exclusive use of certain outdoor spaces, and may prohibit spontaneous assemblies or distribution of literature inside reserved outdoor spaces;
 - e. An institution may not charge students or student organizations security fees based on the content of the student's or student organization's speech, the content of the speech of guest speakers invited by students, or the anticipated reaction or opposition of listeners to the speech. Any security fees charged to a student or student organization may not exceed the actual costs incurred by the institution, and the institution shall refund any overpayment. Institutions shall set forth empirical and objective criteria for calculating security fees and shall make the criteria available to the public;

- f. An institution shall allow students, student organizations, and faculty to invite guest speakers to campus to engage in free speech regardless of the views of the guest speakers or viewpoint or content of the anticipated speech;
- g. An institution may not retract or compel a student, student organization, or faculty member to retract a guest speaker's invitation to speak at the institution based on the guest speaker's viewpoints or the content of the anticipated speech; and
- h. An institution may not discriminate against a student organization with respect to a benefit available to any other student organization based on a requirement of the organization that leaders or voting members of the organization:
 - (1) Adhere to the organization's viewpoints or sincerely held beliefs; or
 - (2) Be committed to furthering the organization's beliefs or religious missions.

Approved April 16, 2021

Filed April 19, 2021

CHAPTER 132

SENATE BILL NO. 2032

(Legislative Management)
(Higher Education Committee)

AN ACT to amend and reenact section 15-18.2-05 of the North Dakota Century Code, relating to the base funding rate of the higher education funding formula.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁹ **SECTION 1. AMENDMENT.** Section 15-18.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-05. Base funding - Determination of state aid.

1. Except as provided under ~~subsection 2~~subsections 2 through 4, in order to determine the state aid payment to which each institution under its control is entitled, the state board of higher education shall multiply the product determined under section 15-18.2-04 by a base amount of:
 - a. \$60.87 in the case of North Dakota state university and the university of North Dakota;
 - b. \$90.98 in the case of Dickinson state university, Mayville state university, Minot state university, and Valley City state university; and
 - c. \$97.06 in the case of Bismarck state college, Dakota college at Bottineau, Lake Region state college, North Dakota state college of science, and Williston state college.
2. An institution is entitled to an amount equal to seventy-five percent of the product determined under subsection 1 for credits completed by students receiving a tuition waiver pursuant to section 54-12-35.
3. For institutions under subdivision b of subsection 1, the state board of higher education shall multiply the product determined under section 15-18.2-04 for credits completed in instructional programs under subdivision k of subsection 1 of section 15-18.2-02 by the base amount under subdivision c of subsection 1.
4. For institutions under subdivision c of subsection 1, the state board of higher education shall multiply the product determined under section 15-18.2-04 for upper division credits completed in instructional programs under subdivisions a through j of subsection 1 of section 15-18.2-02 by the base amount under subdivision b of subsection 1.

Approved April 12, 2021

⁵⁹ Section 15-18.2-05 was also amended by section 13 of Senate Bill No. 2003, chapter 31.

Filed April 13, 2021

CHAPTER 133

HOUSE BILL NO. 1174

(Representatives Kempenich, Kreidt)
(Senator Klein)

AN ACT to amend and reenact subsection 4 of section 15-39.1-10 of the North Dakota Century Code, relating to teachers' fund for retirement eligibility benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 15-39.1-10 of the North Dakota Century Code is amended and reenacted as follows:

4. ~~Retirement benefits must begin~~For a member who attains age seventy and one-half before January 1, 2020, the member's required beginning date is no later than April first of the calendar year following the year the member attains age seventy and one-half or April first of the calendar year following the year the member terminates covered employment, whichever is later. For a member who attains age seventy and one-half after December 31, 2019, the member's required beginning date is no later than April first of the calendar year following the year the member attains age seventy-two or April first of the calendar year following the year the member terminates covered employment, whichever is later. Payments must be made over a period of time which does not exceed the life expectancy of the member or the joint life expectancy of the member and the beneficiary. Payment of minimum distributions must be made in accordance with section 401(a)(9) of the Internal Revenue Code, as amended, and the regulations issued under that section, as applicable to governmental plans.

Approved March 15, 2021

Filed March 15, 2021

CHAPTER 134

SENATE BILL NO. 2033

(Legislative Management)
(Higher Education Committee)

AN ACT to create and enact a new chapter to title 15 of the North Dakota Century Code, relating to the university system capital building fund; to provide for a transfer; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶⁰ **SECTION 1.** A new chapter to title 15 of the North Dakota Century Code is created and enacted as follows:

University system capital building fund - Creation - Continuing appropriation.

There is created in the state treasury the university system capital building fund. The university system capital building fund consists of moneys transferred to the fund and any interest and earnings of the fund. The state board of higher education may provide for the fund to be invested under the supervision of the state investment board. Moneys in the fund are appropriated to the state board of higher education on a continuing basis for allocations to the institutions under the control of the state board of higher education for capital projects as directed by the legislative assembly and in accordance with this chapter. Any interest or earnings of the fund must be allocated to the capital building fund pool within the university system capital building fund.

Capital building funds - Uses - Reports.

Subject to tier II and tier III capital building fund matching requirements under this chapter, each institution may use its allocation of funds from the university system capital building fund for projects specifically authorized by the legislative assembly to use university system capital building fund moneys. In addition, after an institution has matched and committed seventy-five percent of the funding appropriated for the institution's tier I extraordinary repairs and subject to state board of higher education approval and matching requirements under this chapter, each institution may use its allocation of funds from the university system capital building fund for extraordinary repairs and deferred maintenance projects that do not increase the overall square footage of a building. The state board of higher education shall report biennially to the legislative management and to the appropriations committees of the legislative assembly on the use of funding in the university system capital building fund, the source of matching funds, and each institution's five-year plan for capital construction spending.

⁶⁰ Section 15-54.1-01 was also created by section 14 of Senate Bill No. 2003, chapter 31; section 15-54.1-02 was also created by section 14 of Senate Bill No. 2003, chapter 31; section 15-54.1-03 was also created by section 14 of Senate Bill No. 2003, chapter 31; section 15-54.1-04 was also created by section 14 of Senate Bill No. 2003, chapter 31; section 15-54.1-05 was also created by section 14 of Senate Bill No. 2003, chapter 31.

Tier II capital building funds - Matching requirements.

The state board of higher education may allocate tier II capital building fund moneys to an institution for a project only after the institution provides one dollar of matching funds from operations or other sources for each one dollar from the university system capital building fund for the project. An institution may not use tier I extraordinary repairs funding, tier III capital building fund moneys, or state funding appropriated for a specific capital project as matching funds under this section.

Tier III capital building funds - Matching requirements.

The state board of higher education may allocate tier III capital building fund moneys to an institution only after the institution provides two dollars of matching funds from operations or other sources for each one dollar from the university system capital building fund for the project. An institution may not use tier I extraordinary repairs funding, tier II capital building fund moneys, or state funding appropriated for a specific capital project as matching funds under this section.

Capital building fund pool.

If the state board of higher education has not allocated capital building fund moneys to an institution by January first of the third biennium after the funding was appropriated or transferred to the fund, the board shall reallocate the funds to a pool within the university system capital building fund. Any institution under the control of the state board of higher education that has fully matched and committed its university system capital building fund allocation may apply for and be allocated funding from the capital building fund pool, subject to state board of higher education approval and tier III capital building fund matching requirements under this chapter.

SECTION 2. UNSPENT FUNDS - TRANSFER - BANK OF NORTH DAKOTA PROFITS - GENERAL FUND - UNIVERSITY SYSTEM CAPITAL BUILDING FUND.

Any amounts from the \$17,000,000 from the current earnings and accumulated profits of the Bank of North Dakota for the tier II and tier III capital building fund program and any amounts from the \$2,000,000 from the general fund for the tier III capital building fund program appropriated in section 1 of chapter 3 of the 2019 Session Laws which are not matched and committed for a project by June 30, 2021, must be transferred to the university system capital building fund at the end of the biennium beginning July 1, 2019, and ending June 30, 2021.

SECTION 3. CAPITAL BUILDING FUNDS - USES. The institutions listed may use funding from the respective institution's university system capital building fund allocation for the following projects authorized by the sixty-sixth legislative assembly:

North Dakota state university - Dunbar Hall	\$51,200,000
North Dakota state university - Agriculture products development center	60,000,000
University of North Dakota - Gamble Hall	<u>70,000,000</u>
Total	\$181,200,000

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

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 135

SENATE BILL NO. 2317

(Senator Bell)
(Representative Porter)

AN ACT to create and enact chapter 15-72 of the North Dakota Century Code, relating to the establishment of a coal mine reclamation trust utilizing private assets; to provide a continuing appropriation; and to provide for a transfer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 15-72 of the North Dakota Century Code is created and enacted as follows:

15-72-01. Trust establishment.

The coal mine reclamation trust is established to reclaim coal mines at the direction of the public service commission by utilizing private assets pledged as collateral which may be used to fulfill the performance bond obligations under section 38-14.1-16 and North Dakota Administrative Code chapter 69-05.2-12. The coal mine reclamation trust may be used to fulfill the requirement of a qualified third party and the requirements of a collateral bond.

15-72-02. Powers and duties of the board - Transfer.

The board of university and school lands shall set up a coal mine reclamation trust. The coal mine reclamation trust may receive and accept assets as directed by the public service commission which are held in the public service commission's custody under North Dakota Administrative Code section 69-05.2-12-04 as collateral in a security agreement with any person as defined in section 38-14.1-02. The commissioner of university and school lands shall consult with the public service commission in carrying out the powers and duties of administering the coal mine reclamation trust. Any expenses incurred by the board of university and school lands or the public service commission under this section must be reimbursed by the permit applicant or qualified third party.

15-72-03. Assets and custody.

1. Any person proposing to pledge assets to the public service commission's custody under North Dakota Administrative Code chapter 69-05.2-12 shall certify to the public service commission:
 - a. The trust will have first priority security interest in the pledged assets in accordance with North Dakota Administrative Code chapter 69-05.2-12.
 - b. The person has authority to place the assets in custody under all applicable federal and state law.
 - c. All other requirements of North Dakota Administrative Code chapter 69-05.2-12 have been satisfied.

2. Real property posted as a collateral bond by the person must:

- a. Grant the regulatory authority a first mortgage, first deed of trust, or perfected first-lien security interest in the real property with a right to sell or dispose of the real property in the event of forfeiture; and
- b. Include a schedule, submitted by the applicant, of the real property mortgaged or pledged to secure the obligations under the indemnity agreement. The schedule of the real property must allow the regulatory authority to evaluate the adequacy of the real property offered to satisfy collateral requirements. The schedule must include:

(1) A description of the property;

(2) The fair market value of the property, as determined by an independent appraisal conducted by a certified appraiser; and

(3) Proof of possession and title to the real property.

15-72-04. Trust management.

The board of university and school lands must be reimbursed from trust proceeds for all reasonable costs and expenses incurred in the management of trust assets and the investment of trust proceeds. Reimbursements to the board must be deposited in the trust fund account from which the expenses were incurred. The net income derived from the assets held in trust must be used for trust purposes. Any assets placed in the trust may be sold, leased, invested, managed, or otherwise disposed of by the board to fulfill the reclamation activities and obligations related to the performance bond. If any of the trust assets include real property, net income from the trust assets must be used in part to pay to the county where the real property is located the same amount that would have been assessed against the real property for real property taxes if the real property was privately owned. The board may maintain separate accounts in the trust if necessary. The board shall manage all assets in the trust in the same manner that the board manages the board's other trust assets or as otherwise may be required to satisfy the purposes of this chapter.

15-72-05. Continuing appropriation for trust management.

There is appropriated annually the amounts necessary to pay expenses for assets held in trust under this chapter and managed by the board of university and school lands, including expenses for survey costs, surface lease refunds, weed and insect control, cleanup costs, capital improvement rent credits, in lieu of tax payments, or other expenses necessary to manage, preserve, and enhance the value of trust assets, as determined by the board. Payments under this section must be made from the trust fund account for which the asset is held. Upon completion of all reclamation activities and obligations, all remaining assets held by the coal mine reclamation trust must be transferred to the common schools trust fund.

Approved April 12, 2021

Filed April 13, 2021

ELEMENTARY AND SECONDARY EDUCATION

CHAPTER 136

SENATE BILL NO. 2196

(Senators Schaible, Davison, Oban)
(Representatives Heinert, Schreiber-Beck, Zubke)

AN ACT to create and enact a new subdivision to subsection 7 of section 15.1-01-04 of the North Dakota Century Code, relating to the duties of the kindergarten through grade twelve education coordination council; and to amend and reenact subsection 1 of section 15.1-01-03, section 15.1-02-04, subsection 3 of section 15.1-21-02, and section 15.1-21-03 of the North Dakota Century Code, relating to the establishment of a North Dakota learning continuum and to instructional time and unit requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The state board of public school education shall:
 - a. Assist county committees in carrying out their duties.
 - b. Provide county committees with clerical assistance, plans of procedure, standards, data, maps, forms, and other materials, information, and services.
 - c. Appoint members to the county committee, if the county superintendent does not fulfill this duty, as provided for in section 15.1-10-01.
 - d. Provide oversight for regional education associations as required by chapter 15.1-09.1.
 - e. Establish and certify a North Dakota learning continuum to allow a district-approved, mastery framework policy to award units required under sections 15.1-21-01 and 15.1-21-02 and to waive unit instructional time requirements under section 15.1-21-03, upon the recommendation of the kindergarten through grade twelve education coordination council.

SECTION 2. A new subdivision to subsection 7 of section 15.1-01-04 of the North Dakota Century Code is created and enacted as follows:

Review the North Dakota learning continuum and provide recommendations to the state board of public school education.

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

15.1-02-04. Superintendent of public instruction - Duties. (Effective through June 30, 2023)

The superintendent of public instruction:

1. Shall supervise the provision of elementary and secondary education to the students of this state.
2. Shall supervise the establishment and maintenance of schools and provide advice and counsel regarding the welfare of the schools.
3. Shall supervise the development of course content standards.
4. Shall supervise the assessment of students.
5. Shall serve as an ex officio member of the board of university and school lands.
6. Shall keep a complete record of all official acts and appeals.
7. As appropriate, shall determine the outcome of appeals regarding education matters.
8. Shall direct school district annexation, reorganization, and dissolution and employ and compensate personnel necessary to enable the state board of public school education to carry out its powers and duties regarding school district annexation, reorganization, and dissolution.
9. Shall facilitate a process to review and update annually the statewide prekindergarten through grade twelve education strategic vision. The process must include input and participation from a steering committee that includes representatives of all state-level entities receiving state education funding and education stakeholder groups. Each steering committee member entity receiving state education funds shall provide components of the entity's strategic plan which are aligned to the statewide strategic vision. The steering committee shall prepare a collaborative report of the strategic plans of each committee member entity receiving state education funds. The superintendent shall provide the collaborative report and any updates to the strategic vision to the legislative management during each interim and to a joint meeting of the education standing committees during each regular legislative session.
10. Shall administer a student loan forgiveness program for individuals teaching at grade levels, in content areas, and in geographical locations identified as having a teacher shortage or critical need.
11. Shall facilitate the development and implementation of a North Dakota learning continuum in collaboration with the department of career and technical education, upon the recommendation of the kindergarten through grade twelve education coordination council.

Superintendent of public instruction - Duties. (Effective after June 30, 2023)

The superintendent of public instruction:

1. Shall supervise the provision of elementary and secondary education to the students of this state.
2. Shall supervise the establishment and maintenance of schools and provide advice and counsel regarding the welfare of the schools.
3. Shall supervise the development of course content standards.
4. Shall supervise the assessment of students.
5. Shall serve as an ex officio member of the board of university and school lands.
6. Shall keep a complete record of all official acts and appeals.
7. As appropriate, shall determine the outcome of appeals regarding education matters.
8. Shall direct school district annexation, reorganization, and dissolution and employ and compensate personnel necessary to enable the state board of public school education to carry out its powers and duties regarding school district annexation, reorganization, and dissolution.
9. Shall facilitate a process to review and update annually the statewide prekindergarten through grade twelve education strategic vision. The process must include input and participation from a steering committee that includes representatives of all state-level entities receiving state education funding and education stakeholder groups. Each steering committee member entity receiving state education funds shall provide components of the entity's strategic plan which are aligned to the statewide strategic vision. The steering committee shall prepare a collaborative report of the strategic plans of each committee member entity receiving state education funds. The superintendent shall provide the collaborative report and any updates to the strategic vision to the legislative management during each interim and to a joint meeting of the education standing committees during each regular legislative session.
10. Shall facilitate the development and implementation of a North Dakota learning continuum in collaboration with the department of career and technical education, upon the recommendation of the kindergarten through grade twelve education coordination council.

⁶¹ **SECTION 4. AMENDMENT.** Subsection 3 of section 15.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

3. Each unit which must be made available under this section must meet or exceed the state content standards, unless a school district or governing board of a nonpublic high school has adopted a mastery framework policy and awards units based on the successful completion of the relevant portions of the North Dakota learning continuum. A mastery framework policy adopted by a school district or governing board of a nonpublic high school must identify the portions of the North Dakota learning continuum which must be mastered for a student to attain units necessary for high school graduation under section 15.1-21-02.2.

⁶¹ Section 15.1-21-02 was also amended by section 2 of Senate Bill No. 2304, chapter 153.

SECTION 5. AMENDMENT. Section 15.1-21-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-03. High school unit - Instructional time.

1. Except as provided in subsection 2, each unit must consist of at least one hundred twenty hours of student engagement per school calendar.
2. The following units must consist of at least one hundred fifty hours of student engagement per school calendar: natural sciences, agriculture, business and office technology, marketing, diversified occupations, trade and industrial education, technology education, and health careers.
3. The hour requirements of this section are subject to reductions resulting from the holidays and nonstudent contact days provided for in section 15.1-06-04.
4. This section does not apply to schools or school districts having block schedules approved by the superintendent of public instruction.
5. This section does not apply to units attained from a district-approved mastery framework under section 15.1-21-03.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 137

HOUSE BILL NO. 1131

(Representatives Strinden, P. Anderson, Mock, Pyle, Satrom, Schatz)
(Senators Davison, Hogan, Kreun, Myrdal, Poolman)

AN ACT to amend and reenact section 15.1-02-16 of the North Dakota Century Code, relating to credentials for specialists trained in dyslexia.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶² **SECTION 1. AMENDMENT.** Section 15.1-02-16 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-16. Superintendent of public instruction - Issuance of credentials to teachers and administrators.

The superintendent of public instruction may adopt rules governing the issuance of:

1. Credentials for teachers of driver's education;
2. Credentials for teachers of early childhood special education;
3. Credentials for elementary school principals;
4. Credentials for teachers of students who are emotionally disturbed;
5. Credentials for teachers of students who are gifted and talented;
6. Credentials for secondary school principals;
7. Credentials for library media;
8. Credentials for teachers of title I;
9. Credentials for teachers of students who have intellectual disabilities;
10. Credentials for teachers of students who are physically disabled;
11. Credentials for coordinators of programs for students with limited English proficiency;
12. Credentials for school counselors;
13. Credentials for special education directors;
14. Credentials for special education strategists;

⁶² Section 15.1-02-16 was also amended by section 20 of House Bill No. 1013, chapter 13, and section 1 of House Bill No. 1188, chapter 138.

15. Credentials for teachers of students who have specific learning disabilities;
16. Credentials for superintendents;
17. Credentials for teachers of students who have vision impairments;
18. Credentials for teachers of students who are deaf or hard of hearing;
19. Credentials for specialists trained in dyslexia;
20. Credentials for teachers of computer and cyber science; and
- ~~20-21.~~ Certificate of completion for paraprofessionals.

Approved April 1, 2021

Filed April 1, 2021

CHAPTER 138

HOUSE BILL NO. 1188

(Representatives Schreiber-Beck, D. Johnson)
(Senator Oban)

AN ACT to amend and reenact section 15.1-02-16 of the North Dakota Century Code, relating to a certificate of completion for special education technicians; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶³ **SECTION 1. AMENDMENT.** Section 15.1-02-16 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-16. Superintendent of public instruction - Issuance of credentials to teachers and administrators.

The superintendent of public instruction may adopt rules governing the issuance of:

1. Credentials for teachers of driver's education;
2. Credentials for teachers of early childhood special education;
3. Credentials for elementary school principals;
4. Credentials for teachers of students who are emotionally disturbed;
5. Credentials for teachers of students who are gifted and talented;
6. Credentials for secondary school principals;
7. Credentials for library media;
8. Credentials for teachers of title I;
9. Credentials for teachers of students who have intellectual disabilities;
10. Credentials for teachers of students who are physically disabled;
11. Credentials for coordinators of programs for students with limited English proficiency;
12. Credentials for school counselors;
13. Credentials for special education directors;
14. Credentials for special education strategists;

⁶³ Section 15.1-02-16 was also amended by section 20 of House Bill No. 1013, chapter 13, and section 1 of House Bill No. 1131, chapter 137.

15. Credentials for teachers of students who have specific learning disabilities;
16. Credentials for superintendents;
17. Credentials for teachers of students who have vision impairments;
18. Credentials for teachers of students who are deaf or hard of hearing;
19. Credentials for teachers of computer and cyber science; and
20. ~~Certificate~~Certificates of completion for special education technicians; and
21. Certificates of completion for paraprofessionals.

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

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 139

SENATE BILL NO. 2028

(Legislative Management)
(Education Policy Committee)

AN ACT to repeal sections 15.1-02-20, 15.1-03-03, 15.1-06-18, 15.1-21-02.7, 15.1-21-06, and 15.1-21-12 of the North Dakota Century Code, relating to education stabilization fund usage, the revolving printing fund, school reports, scholarships for 2009-10 high school graduates, district participation in the Goals 2000 Educate America Act, and a report on the use of state funds for professional development.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶⁴ **SECTION 1. REPEAL.** Sections 15.1-02-20, 15.1-03-03, 15.1-06-18, 15.1-21-02.7, 15.1-21-06, and 15.1-21-12 of the North Dakota Century Code are repealed.

Approved March 22, 2021

Filed March 23, 2021

⁶⁴ Section 15.1-21-02.7 was amended by section 5 of Senate Bill No. 2141, chapter 158, and was also repealed by section 5 of Senate Bill No. 2136, chapter 157.

CHAPTER 140

HOUSE BILL NO. 1232

(Representatives Satrom, Jones, Ostlie, Paulson, Schauer, Strinden)

AN ACT to create and enact a new section to chapter 15.1-07 of the North Dakota Century Code, relating to school district virtual learning policies; and to amend and reenact sections 15.1-06-04 and 15.1-27-23 of the North Dakota Century Code, relating to the satisfaction of school calendar hours through virtual instruction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶⁵ **SECTION 1. AMENDMENT.** Section 15.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-04. School calendar - Length.

1. A school district shall provide for a school calendar that includes:
 - a. At least nine hundred sixty-two and one-half hours of instruction for elementary school students and one thousand fifty hours of instruction for middle and high school students;
 - b. Three holidays, as selected by the board in consultation with district teachers from the list provided for in subdivisions b through j of subsection 1 of section 15.1-06-02;
 - c. No more than two days for:
 - (1) Parent-teacher conferences; or
 - (2) Compensatory time for parent-teacher conferences held outside of regular school hours; and
 - d. At least three days of professional development not including meals or breaks.
2. For the first three days of professional development required under subdivision d of subsection 1, a day of professional development must consist of:
 - a. Six hours of professional development, exclusive of meals and other breaks, conducted within a single day;
 - b. Six hours of cumulative professional development conducted under the auspices of a professional learning community; or

⁶⁵ Section 15.1-06-04 was also amended by section 1 of House Bill No. 1388, chapter 141, and section 2 of House Bill No. 1388, chapter 141.

- c. Two four-hour periods of professional development, exclusive of meals and other breaks, conducted over two days.
3. If because of weather or other conditions a school must cancel hours of instruction or dismiss before completing a full dayall hours of instruction for the day, the school is responsible for making up only those hours and portions of an hour between the time of cancellation or early dismissal and the conclusion of a full dayall hours of classroom instruction for the day if the dismissal will result in the school failing to meet the requirements of subdivision a of subsection 1. A school district may satisfy the requirements of this section by providing virtual instruction pursuant to section 2 of this Act.
4. For purposes of this section, a full day of instruction consists of:
 - a. At least five and one-half hours for kindergarten and elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
 - b. At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.
5. If a school district intends to operate under a school calendar that consists of four days of instruction per week, the school district shall apply and be approved for a waiver by the superintendent of public instruction.

⁶⁶ **SECTION 2.** A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

School districts - Policy - Virtual learning.

The board of a school district or governing board of a nonpublic school that operates a physical school plant may adopt a policy to allow students to engage in virtual instruction and a school district may qualify for average daily membership in the district if the district is providing virtual instruction in satisfaction of the requirements of subsection 3 of section 15.1-06-04. The superintendent of public instruction shall adopt rules governing policies under this section. A policy adopted by a school district under this section must comply with the rules adopted by the superintendent of public instruction.

SECTION 3. AMENDMENT. Section 15.1-27-23 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-23. Weather or other emergency conditions - Closure of schools - State aid payments to school districts.

1. The board of each school district shall establish the length of a period, day, and week in accordance with the requirements of section 15.1-06-04. If a public school or school district is closed or provides less than a full day of instruction, the public school or school district shall reschedule those hours to ensure students receive at least the minimum number of instructional hours required by subdivision a of subsection 1 of section 15.1-06-04. A school or

⁶⁶ Section 15.1-07-25.4 was also created by section 5 of House Bill No. 1388, chapter 141.

school district may satisfy the requirements of this section by providing virtual instruction under section 15.1-06-04.

2. Any public school or school district for which the rescheduling of classes would create undue hardship may request that, for purposes of calculating state aid payments to the school district, the governor waive the rescheduling in whole or in part.

Approved April 22, 2021

Filed April 23, 2021

CHAPTER 141

HOUSE BILL NO. 1388

(Representative Owens)
(Senator Schaible)

AN ACT to create and enact a new subsection to section 15.1-06-04, a new section to chapter 15.1-07, a new section to chapter 15.1-13, and a new section to chapter 15.1-21 of the North Dakota Century Code, relating to virtual learning, school calendar length, reading competency requirements, and teacher professional development and licensure; to amend and reenact subsection 4 of section 15.1-06-04, subdivision e of subsection 1 of section 15.1-06-06, section 15.1-06-13, subsection 2 of section 15.1-09.1-02.1, and sections 15.1-20-01, 15.1-27-03.2, 15.1-27-04.1, 15.1-27-35, and 15.1-31-07 of the North Dakota Century Code, relating to membership of the kindergarten through grade twelve education coordination council, adjustments to school district size weighting factors, the education foundation aid funding formula transition maximum and payment rates, student attendance and enrollment, school approval, school compliance, regional education association services, average daily membership, and school calendars; to provide for a legislative management study; to provide for a kindergarten through grade twelve education coordination council study; to provide for a legislative management report; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶⁷ **SECTION 1. AMENDMENT.** Subsection 4 of section 15.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

4. For purposes of this section, a full day of instruction at a physical school plant consists of:
 - a. At least five and one-half hours for kindergarten and elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
 - b. At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.

⁶⁸ **SECTION 2.** A new subsection to section 15.1-06-04 of the North Dakota Century Code is created and enacted as follows:

If a school district intends to provide virtual instruction, the instruction must comply with the requirements under subsection 4. The attendance of students participating in virtual instruction must be verified by monitoring the student's

⁶⁷ Section 15.1-06-04 was also amended by section 1 of House Bill No. 1232, chapter 140, and section 2 of House Bill No. 1388, chapter 141.

⁶⁸ Section 15.1-06-04 was also amended by section 1 of House Bill No. 1232, chapter 140, and section 1 of House Bill No. 1388, chapter 141.

progress on academic pacing guides developed by the school district to ensure students are in attendance and receiving sufficient curricular instruction, as defined in rules adopted by the superintendent of public instruction.

SECTION 3. AMENDMENT. Subdivision e of subsection 1 of section 15.1-06-06 of the North Dakota Century Code is amended and reenacted as follows:

- e. The physical school plant has been inspected by the state fire marshal or the state fire marshal's designee in accordance with section 15.1-06-09 and:

- (1) Has no unremedied deficiency; or
- (2) Has deficiencies that have been addressed in a plan of correction which was submitted to and approved by the state fire marshal or the state fire marshal's designee;

SECTION 4. AMENDMENT. Section 15.1-06-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-13. Schools - Compliance with health, safety, and sanitation requirements.

The superintendent of each school district shall ensure that the schools physical school plants in the district comply with all health, safety, and sanitation requirements.

⁶⁹ **SECTION 5.** A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

School districts - Policy - Virtual learning - Report to legislative management.

The board of a school district or governing board of a nonpublic school that operates a physical school plant may adopt a policy to allow students to engage in virtual instruction and in the case of a school district, qualify for average daily membership in the district. The superintendent of public instruction shall adopt rules governing policies under this section. A policy adopted by a school district under this section must comply with the rules adopted by the superintendent of public instruction. The superintendent of public instruction shall provide biennial reports to the legislative management regarding the academic performance metrics of students participating in virtual instruction under this section.

SECTION 6. AMENDMENT. Subsection 2 of section 15.1-09.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

2. Subsection 1 does not preclude a regional education association from offering additional services ~~to its member districts.~~

SECTION 7. A new section to chapter 15.1-13 of the North Dakota Century Code is created and enacted as follows:

Teaching license - Reading instruction competency.

⁶⁹ Section 15.1-07-25.4 was also created by section 2 of House Bill No. 1232, chapter 140.

1. The board shall ensure a candidate for teacher licensure demonstrates competencies in beginning reading instruction based on scientifically and research-based best practices. Competencies must include the acquisition of knowledge of the essential components of beginning reading instruction, including:
 - a. Phonemic awareness;
 - b. Phonics;
 - c. Fluency;
 - d. Vocabulary;
 - e. Comprehension;
 - f. How to assess student reading ability; and
 - g. How to identify and correct reading difficulties.
2. A prekindergarten, kindergarten, elementary, and special education initial teacher licensure candidate must provide evidence that the candidate meets the competency standards of the components under subsection 1.
3. A prekindergarten through grade twelve and a secondary education initial teacher licensure candidate must provide evidence that the candidate meets the competency standards of the components under subsection 1.
4. A teacher licensure candidate satisfies the requirements of this section if the candidate demonstrates the candidate has received training in competencies related to reading instruction from an accredited or approved program, or demonstrates mastery of the topics provided under subsection 1. The board may issue a provisional license for up to two years to a teacher licensure candidate who does not meet the requirements of this section.

SECTION 8. AMENDMENT. Section 15.1-20-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-20-01. Compulsory attendance.

1. Any person having responsibility for a child between the ages of seven and sixteen years shall ensure that the child ~~is in attendance~~ attends a public school for the duration of each school year.
2. If a person enrolls a child of age six in a public school, the person shall ensure that the child ~~is in attendance~~ attends the public school for the duration of each school year. The person may withdraw a child of age six from the public school. However, once the child is withdrawn, the person may not re-enroll the child until the following school year. This subsection does not apply if the reason for the withdrawal is the child's relocation to another school district.
3. This section does not apply if a child is exempted under the provisions of section 15.1-20-02.
4. The attendance of students participating in virtual instruction must be verified by monitoring the student's progress on academic pacing guides developed

by the school district to ensure students are in attendance and receiving sufficient curricular instruction, as defined in rules adopted by the superintendent of public instruction.

SECTION 9. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

Reading curriculum - Content - Professional development - Reports to legislative management.

1. Beginning July 1, 2022, each school district and nonpublic school shall ensure the portion of its curriculum which is related to reading:
 - a. Is scientifically based, evidence based, and research based;
 - b. Focuses on:
 - (1) Phonemic awareness;
 - (2) Phonics;
 - (3) Fluency;
 - (4) Vocabulary; and
 - (5) Comprehension; and
 - c. Uses systematic direct instruction for students in kindergarten through grade three to ensure all students obtain necessary early reading skills.
2. Before the 2022-23 school year, each teacher who teaches kindergarten through grade three at a school district or nonpublic school, and each principal of a public or nonpublic school with kindergarten through grade three, shall attend teacher-approved, professional development training that includes training in the topics provided under subsection 1.
3. Each teacher or principal hired by a school district or nonpublic school that provides instruction in kindergarten through grade three shall complete the training under subsection 2, or demonstrate mastery of the topics provided under subsection 1, within one year of the teacher's or principal's first year of placement in the grade level or at the school.
4. To be approved by the superintendent of public instruction, each public and nonpublic school shall certify to the superintendent of public instruction that the district or school:
 - a. Ensures the placement of highly effective teachers in kindergarten through grade three;
 - b. Has integrated reading instruments used to diagnose reading development and comprehension; and
 - c. Has integrated evidence-based resources to support reading development and comprehension.

5. The superintendent of public instruction shall provide ongoing assistance to school districts and nonpublic schools to be in and maintain compliance with this section.
6. The superintendent of public instruction, in collaboration with the kindergarten through grade twelve education coordination council, shall adopt rules to implement this section, including rules to monitor implementation and compliance with this section.
7. The superintendent of public instruction shall provide periodic reports to the legislative management on the implementation and effectiveness of this section in improving educational outcomes and reading competency of students.

SECTION 10. AMENDMENT. Section 15.1-27-03.2 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-03.2. School district size weighting factor - Weighted student units.

1. For each high school district in the state, the superintendent of public instruction shall assign a baseline school district size weighting factor of:
 - a. 1.36 if the students in average daily membership number fewer than 110;
 - b. 1.35 if the students in average daily membership number at least 110 but fewer than 125;
 - c. 1.34 if the students in average daily membership number at least 125 but fewer than 130;
 - d. 1.33 if the students in average daily membership number at least 130 but fewer than 135;
 - e. 1.32 if the students in average daily membership number at least 135 but fewer than 140;
 - f. 1.31 if the students in average daily membership number at least 140 but fewer than 145;
 - g. 1.30 if the students in average daily membership number at least 145 but fewer than 150;
 - h. 1.29 if the students in average daily membership number at least 150 but fewer than 155;
 - i. 1.28 if the students in average daily membership number at least 155 but fewer than 160;
 - j. 1.27 if the students in average daily membership number at least 160 but fewer than 165;
 - k. 1.26 if the students in average daily membership number at least 165 but fewer than 175;
 - l. 1.25 if the students in average daily membership number at least 175 but fewer than 185;

- m. 1.24 if the students in average daily membership number at least 185 but fewer than 200;
- n. 1.23 if the students in average daily membership number at least 200 but fewer than 215;
- o. 1.22 if the students in average daily membership number at least 215 but fewer than 230;
- p. 1.21 if the students in average daily membership number at least 230 but fewer than 245;
- q. 1.20 if the students in average daily membership number at least 245 but fewer than 260;
- r. 1.19 if the students in average daily membership number at least 260 but fewer than 270;
- s. 1.18 if the students in average daily membership number at least 270 but fewer than 275;
- t. 1.17 if the students in average daily membership number at least 275 but fewer than 280;
- u. 1.16 if the students in average daily membership number at least 280 but fewer than 285;
- v. 1.15 if the students in average daily membership number at least 285 but fewer than 290;
- w. 1.14 if the students in average daily membership number at least 290 but fewer than 295;
- x. 1.13 if the students in average daily membership number at least 295 but fewer than 300;
- y. 1.12 if the students in average daily membership number at least 300 but fewer than 305;
- z. 1.11 if the students in average daily membership number at least 305 but fewer than 310;
- aa. 1.10 if the students in average daily membership number at least 310 but fewer than 320;
- bb. 1.09 if the students in average daily membership number at least 320 but fewer than 335;
- cc. 1.08 if the students in average daily membership number at least 335 but fewer than 350;
- dd. 1.07 if the students in average daily membership number at least 350 but fewer than 360;
- ee. 1.06 if the students in average daily membership number at least 360 but fewer than 370;

- ff. 1.05 if the students in average daily membership number at least 370 but fewer than 380;
 - gg. 1.04 if the students in average daily membership number at least 380 but fewer than 390;
 - hh. 1.03 if the students in average daily membership number at least 390 but fewer than 400;
 - ii. 1.02 if the students in average daily membership number at least 400 but fewer than 600;
 - jj. 1.01 if the students in average daily membership number at least 600 but fewer than 900; and
 - kk. 1.00 if the students in average daily membership number at least 900.
2. ~~For each elementary district in the state~~Beginning with the 2021-22 school year and each school year thereafter until the 2027-28 school year, the superintendent of public instruction shall assign a school district size weighting factor determined by increasing the baseline weighting factor under subsection 1 each year by fourteen and twenty-nine hundredths percent of the difference between the weighting factor under this subsection and the baseline weighting factor under subsection 1 for the same school district size. ~~For the 2027-28 school year and each school year thereafter, the superintendent of public instruction shall assign a school district size weighting factor of:~~
- a. ~~4.251.72~~ if the students in average daily membership number fewer than ~~425110~~;
 - b. ~~4.471.68~~ if the students in average daily membership number at least ~~425110~~ but fewer than ~~200125~~; and
 - c. ~~4.001.64~~ if the students in average daily membership number at least ~~200125~~ but fewer than ~~130~~;
 - d. 1.60 if the students in average daily membership number at least 130 but fewer than 135;
 - e. 1.56 if the students in average daily membership number at least 135 but fewer than 140;
 - f. 1.52 if the students in average daily membership number at least 140 but fewer than 145;
 - g. 1.49 if the students in average daily membership number at least 145 but fewer than 150;
 - h. 1.45 if the students in average daily membership number at least 150 but fewer than 155;
 - i. 1.42 if the students in average daily membership number at least 155 but fewer than 160;

- j. 1.39 if the students in average daily membership number at least 160 but fewer than 165;
- k. 1.36 if the students in average daily membership number at least 165 but fewer than 175;
- l. 1.33 if the students in average daily membership number at least 175 but fewer than 185;
- m. 1.30 if the students in average daily membership number at least 185 but fewer than 200;
- n. 1.27 if the students in average daily membership number at least 200 but fewer than 215;
- o. 1.25 if the students in average daily membership number at least 215 but fewer than 230;
- p. 1.22 if the students in average daily membership number at least 230 but fewer than 245;
- q. 1.20 if the students in average daily membership number at least 245 but fewer than 260;
- r. 1.19 if the students in average daily membership number at least 260 but fewer than 270;
- s. 1.18 if the students in average daily membership number at least 270 but fewer than 275;
- t. 1.17 if the students in average daily membership number at least 275 but fewer than 280;
- u. 1.16 if the students in average daily membership number at least 280 but fewer than 285;
- v. 1.15 if the students in average daily membership number at least 285 but fewer than 290;
- w. 1.14 if the students in average daily membership number at least 290 but fewer than 295;
- x. 1.13 if the students in average daily membership number at least 295 but fewer than 300;
- y. 1.12 if the students in average daily membership number at least 300 but fewer than 305;
- z. 1.11 if the students in average daily membership number at least 305 but fewer than 310;
- aa. 1.10 if the students in average daily membership number at least 310 but fewer than 320;
- bb. 1.09 if the students in average daily membership number at least 320 but fewer than 335;

- cc. 1.08 if the students in average daily membership number at least 335 but fewer than 350;
 - dd. 1.07 if the students in average daily membership number at least 350 but fewer than 360;
 - ee. 1.06 if the students in average daily membership number at least 360 but fewer than 370;
 - ff. 1.05 if the students in average daily membership number at least 370 but fewer than 380;
 - gg. 1.04 if the students in average daily membership number at least 380 but fewer than 390;
 - hh. 1.03 if the students in average daily membership number at least 390 but fewer than 400;
 - ii. 1.02 if the students in average daily membership number at least 400 but fewer than 600;
 - jj. 1.01 if the students in average daily membership number at least 600 but fewer than 900; and
 - kk. 1.00 if the students in average daily membership number at least 900.
3. The superintendent of public instruction shall impute an average daily membership for each school district that does not include a high school and use the imputed average daily membership to determine the school district size weighting factor under this section. To determine the imputed average daily membership, the superintendent of public instruction shall divide the school district's average daily membership by 0.60.
4. The school district size weighting factor determined under this section and multiplied by a school district's weighted average daily membership equals the district's weighted student units. For the 2022-23 school year, for school districts that operate multiple kindergarten through grade twelve buildings at least nineteen miles [30.58 kilometers] apart, or multiple buildings at least nineteen miles [30.58 kilometers] apart with no replicated grades, the superintendent of public instruction shall determine the school size weighting factor for each building separately. The superintendent of public instruction shall multiply the school size weighting factor for each building by the school district's weighted average daily membership to determine each building's weighted student units. The superintendent of public instruction shall combine the weighted student units of all buildings in the school district to determine the school district's weighted student units.
- 4-5. Notwithstanding the provisions of this section, the school district size weighting factor assigned to a district may not be less than the factor arrived at when the highest number of students possible in average daily membership is multiplied by the school district size weighting factor for the subdivision immediately preceding the district's actual subdivision and then divided by the district's average daily membership.

⁷⁰ **SECTION 11. AMENDMENT.** Section 15.1-27-04.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-04.1. Baseline funding - Establishment - Determination of state aid. (Effective through June 30, 2025)

1. To determine the amount of state aid payable to each district, the superintendent of public instruction shall establish each district's baseline funding. A district's baseline funding consists of:
 - a. All state aid received by the district in accordance with chapter 15.1-27 during the 2018-19 school year;
 - b. An amount equal to the property tax deducted by the superintendent of public instruction to determine the 2018-19 state aid payment;
 - c. An amount equal to seventy-five percent of the revenue received by the school district during the 2017-18 school year for the following revenue types:
 - (1) Revenue reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
 - (2) Mineral revenue received by the school district through direct allocation from the state treasurer and not reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
 - (3) Tuition reported under code 1300 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08, with the exception of revenue received specifically for the operation of an educational program provided at a residential treatment facility and tuition received for the provision of an adult farm management program;
 - (4) Revenue from payments in lieu of taxes on the distribution and transmission of electric power;
 - (5) Revenue from payments in lieu of taxes on electricity generated from sources other than coal;
 - (6) Revenue from the leasing of land acquired by the United States for which compensation is allocated to the state under 33 U.S.C. 701(c)(3); and
 - d. An amount equal to the total revenue received by the school district during the 2017-18 school year for the following revenue types:
 - (1) Mobile home tax revenue;

⁷⁰ Section 15.1-27-04.1 was also amended by section 1 of House Bill No. 1246, chapter 161.

- (2) Telecommunications tax revenue; and
 - (3) Revenue from payments in lieu of taxes and state reimbursement of the homestead credit and disabled veterans credit; and
- e. Beginning with the 2020-21 school year, the superintendent shall reduce the baseline funding for any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2012-13 school year. The reduction must be proportional to the number of weighted student units in the grades that are offered through another school district relative to the total number of weighted student units the school district offered in the year before the school district became an elementary district. The reduced baseline funding applies to the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter. For districts that become an elementary district prior to the 2020-21 school year, the superintendent shall use the reduced baseline funding to calculate state aid for the 2020-21 school year and for each year thereafter.
2. a. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's 2017-18 weighted student units to determine the district's baseline funding per weighted student unit.
- b. For any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2017-18 school year, the superintendent shall adjust the district's baseline funding per weighted student unit used to calculate state aid. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's weighted student units after the school district becomes an elementary district to determine the district's adjusted baseline funding per weighted student unit. The superintendent shall use the district's adjusted baseline funding per weighted student unit in the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter.
- c. Beginning with the 2021-22 school year and for each school year thereafter, the superintendent shall reduce the district's baseline funding per weighted student unit. Each year the superintendent shall calculate the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit provided in subsection 3. The superintendent shall reduce the district's baseline funding per weighted student unit by fifteen percent of the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit for the 2021-22 school year. For each year thereafter, the reduction percentage is increased by an additional fifteen percent. However, the district's baseline funding per weighted student unit, after the reduction, may not be less than the payment per weighted student unit provided in subsection 3.
3. a. For the ~~2019-20~~2021-22 school year, the superintendent shall calculate state aid as the greater of:
- (1) The district's weighted student units multiplied by ~~nine thousand eight hundred thirty-nine~~ nine thousand one hundred thirty-six dollars;

determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.

- (4) For the 2024-25 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus forty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
- (5) For the 2025-26 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus sixty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
- (6) For the 2026-27 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus eighty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
4. After determining the product in accordance with subsection 3, the superintendent of public instruction shall:
- Subtract an amount equal to sixty mills multiplied by the taxable valuation of the school district, except the amount in dollars subtracted for purposes of this subdivision may not exceed the previous year's amount in dollars subtracted for purposes of this subdivision by more than twelve percent, adjusted pursuant to section 15.1-27-04.3; and
 - Subtract an amount equal to seventy-five percent of all revenue types listed in subdivisions c and d of subsection 1. Before determining the deduction for seventy-five percent of all revenue types, the superintendent of public instruction shall adjust revenues as follows:
 - Tuition revenue shall be adjusted as follows:
 - In addition to deducting tuition revenue received specifically for the operation of an educational program provided at a residential treatment facility and tuition revenue received for the provision of an adult farm management program as directed in paragraph 3 of subdivision c of subsection 1, the superintendent of public

instruction also shall reduce the total tuition reported by the school district by the amount of tuition revenue received for the education of students not residing in the state and for which the state has not entered a cross-border education contract; and

- (b) The superintendent of public instruction also shall reduce the total tuition reported by admitting school districts meeting the requirements of subdivision e of subsection 2 of section 15.1-29-12 by the amount of tuition revenue received for the education of students residing in an adjacent school district.
- (2) After adjusting tuition revenue as provided in paragraph 1, the superintendent shall reduce all remaining revenues from all revenue types by the percentage of mills levied in ~~2018~~2020 by the school district for sinking and interest relative to the total mills levied in ~~2018~~2020 by the school district for all purposes.
- 5. The amount remaining after the computation required under subsection 4 is the amount of state aid to which a school district is entitled, subject to any other statutory requirements or limitations.
- 6. On or before June thirtieth of each year, the school board shall certify to the superintendent of public instruction the final average daily membership for the current school year.
- 7. For purposes of the calculation in subsection 4, each county auditor, in collaboration with the school districts, shall report the following to the superintendent of public instruction on an annual basis:
 - a. The amount of revenue received by each school district in the county during the previous school year for each type of revenue identified in subdivisions c and d of subsection 1;
 - b. The total number of mills levied in the previous calendar year by each school district for all purposes; and
 - c. The number of mills levied in the previous calendar year by each school district for sinking and interest fund purposes.

Baseline funding - Establishment - Determination of state aid. (Effective after June 30, 2025)

- 1. To determine the amount of state aid payable to each district, the superintendent of public instruction shall establish each district's baseline funding. A district's baseline funding consists of:
 - a. All state aid received by the district in accordance with chapter 15.1-27 during the 2018-19 school year;
 - b. An amount equal to the property tax deducted by the superintendent of public instruction to determine the 2018-19 state aid payment;
 - c. An amount equal to seventy-five percent of the revenue received by the school district during the 2017-18 school year for the following revenue types:

- (1) Revenue reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
 - (2) Mineral revenue received by the school district through direct allocation from the state treasurer and not reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
 - (3) Tuition reported under code 1300 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08, with the exception of revenue received specifically for the operation of an educational program provided at a residential treatment facility and tuition received for the provision of an adult farm management program;
 - (4) Revenue from payments in lieu of taxes on the distribution and transmission of electric power;
 - (5) Revenue from payments in lieu of taxes on electricity generated from sources other than coal;
 - (6) Revenue from the leasing of land acquired by the United States for which compensation is allocated to the state under 33 U.S.C. 701(c) (3); and
- d. An amount equal to the total revenue received by the school district during the 2017-18 school year for the following revenue types:
- (1) Mobile home tax revenue;
 - (2) Telecommunications tax revenue; and
 - (3) Revenue from payments in lieu of taxes and state reimbursement of the homestead credit and disabled veterans credit.
- e. Beginning with the 2020-21 school year, the superintendent shall reduce the baseline funding for any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2012-13 school year. The reduction must be proportional to the number of weighted student units in the grades that are offered through another school district relative to the total number of weighted student units the school district offered in the year before the school district became an elementary district. The reduced baseline funding applies to the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter. For districts that become an elementary district prior to the 2020-21 school year, the superintendent shall use the reduced baseline funding to calculate state aid for the 2020-21 school year and for each year thereafter.

2. a. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's 2017-18 weighted student units to determine the district's baseline funding per weighted student unit.
 - b. For any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2017-18 school year, the superintendent shall adjust the district's baseline funding per weighted student unit used to calculate state aid. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's weighted student units after the school district becomes an elementary district to determine the district's adjusted baseline funding per weighted student unit. The superintendent shall use the district's adjusted baseline funding per weighted student unit in the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter.
 - c. Beginning with the 2021-22 school year and for each school year thereafter, the superintendent shall reduce the district's baseline funding per weighted student unit. Each year the superintendent shall calculate the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit provided in subsection 3. The superintendent shall reduce the district's baseline funding per weighted student unit by fifteen percent of the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit for the 2021-22 school year. For each year thereafter, the reduction percentage is increased by an additional fifteen percent. However, the district's baseline funding per weighted student unit, after the reduction, may not be less than the payment per weighted student unit provided in subsection 3.
3. a. For the ~~2019-20~~2021-22 school year, the superintendent shall calculate state aid as the greater of:
 - (1) ~~The district's weighted student units multiplied by nine thousand eight hundred thirty-nine~~ ten thousand one hundred thirty-six dollars;
 - (2) One hundred ~~one~~two percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by ~~nine thousand eight hundred thirty-nine~~ ten thousand one hundred thirty-six dollars; or
 - (3) The district's baseline funding as established in subsection 1 less the amount in paragraph 1, with the difference reduced by fifteen percent and then the difference added to the amount determined in paragraph 1.
 - b. For the ~~2020-21~~2022-23 school year and each school year thereafter, the superintendent shall calculate state aid as the greater of:
 - (1) ~~The district's weighted student units multiplied by ten thousand thirty-six~~ two hundred thirty-seven dollars;

- (2) One hundred two percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by ten thousand ~~thirty-six~~two hundred thirty-seven dollars; or
 - (3) The district's baseline funding as established in subsection 1 less the amount in paragraph 1, with the difference reduced by ~~fifteen~~thirty percent for the ~~2021-22~~2022-23 school year and the reduction percentage increasing by fifteen percent each school year thereafter until the difference is reduced to zero, and then the difference added to the amount determined in paragraph 1.
- c. The superintendent also shall adjust state aid determined in this subsection to ensure the amount does not exceed the transition maximum as follows:
- (1) For the ~~2019-20~~2021-22 school year, ~~to ensure the amount does not exceed the transition maximum~~ rate is one hundred ~~five~~ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units from the previous school year.
 - (2) For the ~~2020-24~~2022-23 school year ~~and each school year thereafter, to ensure the amount does not exceed the transition maximum~~ rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units from the previous school year.
 - (3) For the 2023-24 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus twenty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
 - (4) For the 2024-25 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus forty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
 - (5) For the 2025-26 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus sixty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline

funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.

- (6) For the 2026-27 school year, the transition maximum rate is one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, plus eighty percent of the difference between the rate under paragraph 1 of subdivision b of this subsection and one hundred ten percent of the district's baseline funding per weighted student unit. The transition maximum is determined by multiplying the transition maximum rate, which may not exceed the rate under paragraph 1 of subdivision b of this subsection, by the district's weighted student units from the previous school year.
4. After determining the product in accordance with subsection 3, the superintendent of public instruction shall:
- Subtract an amount equal to sixty mills multiplied by the taxable valuation of the school district; and
 - Subtract an amount equal to seventy-five percent of all revenue types listed in subdivisions c and d of subsection 1. Before determining the deduction for seventy-five percent of all revenue types, the superintendent of public instruction shall adjust revenues as follows:
 - Tuition revenue shall be adjusted as follows:
 - In addition to deducting tuition revenue received specifically for the operation of an educational program provided at a residential treatment facility and tuition revenue received for the provision of an adult farm management program as directed in paragraph 3 of subdivision c of subsection 1, the superintendent of public instruction also shall reduce the total tuition reported by the school district by the amount of tuition revenue received for the education of students not residing in the state and for which the state has not entered a cross-border education contract; and
 - The superintendent of public instruction also shall reduce the total tuition reported by admitting school districts meeting the requirements of subdivision e of subsection 2 of section 15.1-29-12 by the amount of tuition revenue received for the education of students residing in an adjacent school district.
 - After adjusting tuition revenue as provided in paragraph 1, the superintendent shall reduce all remaining revenues from all revenue types by the percentage of mills levied in ~~2018~~2020 by the school district for sinking and interest relative to the total mills levied in ~~2018~~2020 by the school district for all purposes.
5. The amount remaining after the computation required under subsection 4 is the amount of state aid to which a school district is entitled, subject to any other statutory requirements or limitations.

6. On or before June thirtieth of each year, the school board shall certify to the superintendent of public instruction the final average daily membership for the current school year.
7. For purposes of the calculation in subsection 4, each county auditor, in collaboration with the school districts, shall report the following to the superintendent of public instruction on an annual basis:
 - a. The amount of revenue received by each school district in the county during the previous school year for each type of revenue identified in subdivisions c and d of subsection 1;
 - b. The total number of mills levied in the previous calendar year by each school district for all purposes; and
 - c. The number of mills levied in the previous calendar year by each school district for sinking and interest fund purposes.

SECTION 12. AMENDMENT. Section 15.1-27-35 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Average daily membership is calculated at the conclusion of the school year by adding the total number of hours that each student in a given grade, school, or school district is in attendance at the school's physical plant during a school calendar and the total number of hours that each student in a given grade, school, or school district is absent during a school calendar, and then dividing the sum by:
 - a. Nine hundred sixty-two and one-half hours for elementary school students; or
 - b. One thousand fifty hours for middle and high school students.
2. For purposes of calculating average daily membership:
 - a. A student enrolled full time in any grade from one through twelve may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
 - b. A student enrolled full time in an approved regular education kindergarten program may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
 - c. A student enrolled full time, as defined by the superintendent of public instruction, in an approved early childhood special education program may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
 - d. A student enrolled full time in virtual instruction is calculated at an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.

SECTION 13. AMENDMENT. Section 15.1-31-07 of the North Dakota Century Code is amended and reenacted as follows:

15.1-31-07. Students not subject to this chapter.

1. If a student, as a result of a school district dissolution or reorganization, resides in a district other than the one the student chooses to attend at the time of the dissolution or reorganization, the student is not subject to this chapter and may attend school in the chosen school district.
2. If a student resides in a district other than the one the student is enrolled in for purposes of receiving virtual instruction, the student is not subject to this chapter unless a cost-sharing agreement is established between the school district of residence and the receiving district.

SECTION 14. LEGISLATIVE MANAGEMENT STUDY - TRANSITION MINIMUM REDUCTION.

1. During the 2021-22 interim, the legislative management shall consider studying kindergarten through grade twelve school funding, including transition minimum reduction impacts to reorganized and consolidated school districts. The study must include:
 - a. A review of school districts that have multiple buildings in the district and districts that have built a new building without using traditional bonding methods as a result of a multidistrict reorganization;
 - b. An analysis of high-cost students, including students who are high cost due to special education needs, medical reasons, agency placements, or any other reasons that increase the cost to educate the students beyond the state threshold;
 - c. An ongoing review of the impacts of school districts that are off of the funding formula as they transition onto the formula;
 - d. An analysis of human resource allocation and the duties and needs in elementary and secondary school buildings with a targeted focus on student academic health, behavioral health, and social and emotional health; and
 - e. A review of student performance data relevant to students participating in virtual learning.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.

SECTION 15. KINDERGARTEN THROUGH GRADE TWELVE EDUCATION COORDINATION COUNCIL STUDY - COMPOSITION - DUTIES - TERM LIMITS - REPORT TO LEGISLATIVE MANAGEMENT. During the 2021-22 interim, the kindergarten through grade twelve education coordination council shall study the membership, duties, and term limits of the council. Before June 1, 2022, the kindergarten through grade twelve education coordination council shall report the findings and recommendations of the study, including any proposed legislation necessary to implement the recommendations, to the legislative management.

SECTION 16. EFFECTIVE DATE. Section 7 of this Act becomes effective on July 1, 2022.

SECTION 17. EMERGENCY. Section 12 of this Act is declared to be an emergency measure.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 142

HOUSE BILL NO. 1075

(Representative Dockter)

AN ACT to repeal section 15.1-06-04.1 of the North Dakota Century Code, relating to school district calendar limitations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 15.1-06-04.1 of the North Dakota Century Code is repealed.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 143

HOUSE BILL NO. 1356

(Representatives Meier, Heinert, D. Johnson, K. Koppelman, D. Ruby, Steiner)
(Senators Bekkedahl, Dever, Krebsbach, Wardner)

AN ACT to create and enact a new section to chapter 15.1-06 of the North Dakota Century Code, relating to a youth patriotic society's access to students during school hours.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-06 of the North Dakota Century Code is created and enacted as follows:

Patriotic society - Permission to speak to students at public schools.

1. For purposes of this section, "youth patriotic society" means a youth group that promotes patriotism, civic education, and civic involvement, listed under title 36, United States Code, subtitle II, part b, as of January 1, 2021.
2. Representatives of a youth patriotic society must be allowed to speak to students during regular school hours at each public school in the state during the first quarter of each academic school year to inform the students about the society and to explain how students may participate in or join the society. The youth patriotic society shall provide the school principal with notice of the society's intent to speak to the students. A school principal may designate the time, place, and manner in which representatives of a youth patriotic society are allowed to speak to students.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 144

SENATE BILL NO. 2165

(Senators Schaible, Rust)
(Representatives D. Johnson, Owens)

AN ACT to amend and reenact sections 15.1-07-29 and 15.1-27-35.3, subsection 6 of section 15.1-36-06, and subdivision a of subsection 5 of section 15.1-36-08 of the North Dakota Century Code, relating to the elimination of school district ending fund balance carried forward limitations, deductions from state aid formula payments, and school construction loan amounts; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-07-29 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-29. Ending fund balance --Amount.

1. The board of a school district may carry over moneys to the ensuing fiscal year to meet the cash requirements of all funds or purposes to which the credit of the school district may be legally extended.
2. ~~For taxable years beginning after December 31, 2003, and ending on December 31, 2007, the amount carried over by a school district may not exceed fifty percent of the current annual budget for all purposes other than debt retirement and amounts financed from bond sources plus twenty thousand dollars.~~
3. ~~For taxable years beginning after December 31, 2007, the amount carried over by a school district may not exceed forty-five percent of the current annual budget for all purposes other than debt retirement and amounts financed from bond sources plus twenty thousand dollars.~~

SECTION 2. AMENDMENT. Section 15.1-27-35.3 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-35.3. Payments to school districts - Unobligated general fund balance.

1. a. ~~The superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of forty percent of its actual expenditures, plus twenty thousand dollars.~~
- b. Except as provided in subdivision ~~eb~~, beginning July 1, ~~2017~~2023, the superintendent of public instruction shall determine the amount of payments due to a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of thirty-five percent of its actual expenditures, plus fifty thousand dollars.

e. Beginning July 1, 2017, the

b. The superintendent of public instruction shall determine the amount of payments due to a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of thirty-five percent of its actual expenditures, plus one hundred thousand dollars if the school district is in a cooperative agreement with another school district to share academic resources, and the school districts are considering reorganization under chapter 15.1-12. An eligible school district may receive payments under this provision for a maximum of two years.

2. For purposes of this section, a district's unobligated general fund balance includes all moneys in the district's miscellaneous fund, as established under section 57-15-14.2, but does not include federal impact aid funding.

SECTION 3. AMENDMENT. Subsection 6 of section 15.1-36-06 of the North Dakota Century Code is amended and reenacted as follows:

6. If a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation amount set forth under section 15.1-27-35.3, the loan amount to which that district is entitled under this section may not exceed eighty percent of the project's cost.

SECTION 4. AMENDMENT. Subdivision a of subsection 5 of section 15.1-36-08 of the North Dakota Century Code is amended and reenacted as follows:

- a. The maximum loan amount for which a school district may qualify is ten million dollars. However, if a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation amount under section 15.1-27-35.3, the loan amount under this section may not exceed eighty percent of the project's cost up to a maximum loan amount of eight million dollars;

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 145

HOUSE BILL NO. 1478

(Representatives Schreiber-Beck, Heinert, D. Johnson, M. Johnson, Longmuir, Zubke)

AN ACT to create and enact a new section to chapter 15.1-07 of the North Dakota Century Code, relating to alternative education opportunities outside the classroom for course credit; and to provide for a legislative management report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

School districts - Policy - Alternative curriculum outside the classroom - Participation - Report to legislative management.

1. For purposes of this section:
 - a. "Educational opportunity" means instruction outside the classroom which meets course content standards, as determined by the superintendent of public instruction. The term includes work-based learning, pre-apprenticeships, apprenticeships, internships, industry certifications, and community programs.
 - b. "Sponsoring entity" means a business, for-profit organization, nonprofit organization, trade association, parent of a student, teacher, or administrator that partners with a school district or governing board of a nonpublic school to provide educational opportunities for students.
2. The superintendent of public instruction shall adopt rules to administer this section.
3. The board of a school district or governing board of a nonpublic school may adopt a policy to allow students enrolled in grades six through twelve to earn course credit through educational opportunities with a sponsoring entity.
4. A policy adopted under this section must provide criteria for:
 - a. The submission, approval, and evaluation of proposals for educational opportunities by sponsoring entities for which a student may earn course credit;
 - b. Sponsoring entity eligibility; and
 - c. Educational opportunity accountability.
5. The board of a school district or governing board of a nonpublic school may accept a proposal from any eligible sponsoring entity. To be approved, a proposal must:

- a. Provide increased educational opportunities for students;
 - b. Improve the academic success of students; and
 - c. Identify a teacher of record who is employed by the school district or nonpublic school, is licensed under chapter 15.1-18, and has approved the proposal.
6. Upon approval by the board of a school district or governing board of a nonpublic school, the proposal must be submitted to the kindergarten through grade twelve education coordination council for review and to the superintendent of public instruction for approval before implementation. The superintendent of public instruction shall approve or deny a proposal under this section within ninety days of submission.
 7. If a proposal is denied under subsection 6, the superintendent shall provide the board of a school district or governing board of a nonpublic school with a written explanation, including the reasons for denial.
 8. If a proposal is approved by the superintendent of public instruction, the board of a school district or governing board of a nonpublic school shall implement the proposal and allow students to participate in the educational opportunity for course credit.
 9. Any school district or nonpublic school participating in the program shall provide evaluation data to the superintendent of public instruction at the time and in the manner requested by the superintendent of public instruction.
 10. The superintendent of public instruction may revoke proposal approval if the superintendent of public instruction determines the school district, nonpublic school, or sponsoring entity failed to comply with the agreed upon terms of the educational opportunity proposal or the school district policy, or failed to meet the requirements of this section.
 11. If approval of a proposal is revoked under subsection 10, the superintendent of public instruction shall provide a report to the legislative management regarding the revocation.
 12. The superintendent of public instruction shall provide information on the superintendent of public instruction's website and in biennial reports to the legislative management regarding proposals under this section.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 146

HOUSE BILL NO. 1370

(Representatives Heinert, Pyle, Richter, Strinden)
(Senators Davison, Kreun, K. Roers)

AN ACT to amend and reenact subsection 7 of section 15.1-09-33 of the North Dakota Century Code, relating to school board powers and the leasing of real property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷¹ **SECTION 1. AMENDMENT.** Subsection 7 of section 15.1-09-33 of the North Dakota Century Code is amended and reenacted as follows:

7. Lease real property for a maximum of one year except in the case of a:
 - a. A career and technical education facility constructed in whole or in part with financing acquired under chapter 40-57, which may be leased for up to twenty years; or
 - b. A lease for the installation of a wireless telecommunications facility, which may be leased for up to twenty years.

Approved April 8, 2021

Filed April 9, 2021

⁷¹ Section 15.1-09-33 was also amended by section 1 of Senate Bill No. 2308, chapter 147.

CHAPTER 147

SENATE BILL NO. 2308

(Senators Myrdal, Kannianen, Larson)
(Representatives D. Ruby, Strinden)

AN ACT to create and enact two new subsections to section 15.1-09-33 and a new section to chapter 15.1-09 of the North Dakota Century Code, relating to school board authority regarding the displaying of the ten commandments and the recitation of the pledge of allegiance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷² **SECTION 1.** Two new subsections to section 15.1-09-33 of the North Dakota Century Code are created and enacted as follows:

Authorize schools within the district to display the ten commandments with a display of other historical documents in the school and in a classroom.

Authorize schools within the district to permit students to recite the pledge of allegiance.

SECTION 2. A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

School board - Immunity from liability.

The superintendent of public instruction, school districts, schools, school boards and individual school board members, governing boards and individual governing board members, administrators, principals, teachers, and any other school district employed personnel are immune from any liability for damages resulting from a school's decision to display the ten commandments or permit students to recite the pledge of allegiance under section 1 of this Act.

Approved April 16, 2021

Filed April 16, 2021

⁷² Section 15.1-09-33 was also amended by section 1 of House Bill No. 1370, chapter 146.

CHAPTER 148

SENATE BILL NO. 2240

(Senators J. Roers, Davison)
(Representatives M. Johnson, Schreiber-Beck)

AN ACT to create and enact a new subdivision to subsection 1 of section 15.1-09-34 of the North Dakota Century Code, relating to an exception to notice and bidding requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 1 of section 15.1-09-34 of the North Dakota Century Code is created and enacted as follows:

Building materials required for district students enrolled in a course to create home construction projects sold on the open market, the revenue of which is used to cover the cost of the building materials for use in the course.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 149

HOUSE BILL NO. 1337

(Representatives D. Johnson, Monson, Richter)
(Senators Myrdal, Rust, Schaible)

AN ACT to amend and reenact sections 15.1-12-07, 15.1-12-26, and 15.1-12-27 of the North Dakota Century Code, relating to the transfer of property of dissolved school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-12-07 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-07. Transfer of real property upon annexation, reorganization, or dissolution.

The legal title to all real property owned by a school district and annexed to another school district, included in a reorganized district, or subjected to dissolution, vests in the board of the reorganized school district or of the district to which the property is annexed or attached on the effective date of the reorganization, annexation, or dissolution. If the reorganized district or district to which the property is annexed or attached includes less than the whole of the former district, legal title to the real property of the former district vests in the board of the school district in which the property is situated on the effective date of the reorganization, annexation, or dissolution. If the real property of a dissolved district is sold, exchanged, or donated to another political subdivision pursuant to section 15.1-12-27, legal title to the real property vests in the political subdivision to which the real property was sold, exchanged, or donated on the effective date of the dissolution. A certificate prepared by a licensed attorney, citing the legal description of the property and stating that the property has become annexed, attached, or reorganized with another school district, or sold, exchanged, or donated to another political subdivision, must be recorded in the office of the recorder of the county in which the property is located.

SECTION 2. AMENDMENT. Section 15.1-12-26 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-26. Dissolution of school district - Grounds.

1. A county committee shall initiate proceedings to dissolve a school district and attach the property to other operating high school districts in the same county, or to a non-high school district in the same county if there are no high school districts in the same county adjacent to the district being dissolved, when it is notified in writing by the county superintendent of schools whose jurisdiction includes the administrative headquarters of the district that:
 - a. The district is financially unable to effectively and efficiently educate its students;
 - b. The district has not operated a school as required by section 15.1-12-24;
or

- c. A school board has determined that dissolution is in the best interest of its students.
2. Except as provided in subsection 3, a county committee shall initiate proceedings under section 15.1-12-27 to attach real property to an operating high school district in the same county, or to a non-high school district in the same county if there is no high school district in the same county adjacent to the district being dissolved, when it is notified in writing by the county superintendent that:
 - a. Real property has been severed from its school district by the expansion of a city and the severed portion is not contiguous with its district; or
 - b. There exists real property that does not belong to a school district.
3. If a school district reorganization plan which does not include all real property in a district is approved by the electors, the county committee shall, within forty-five days after the election, hold a hearing under section 15.1-12-27 to attach the remaining property to one or more operating high school districts in the same county, or to non-high school districts in the same county if there are no high school districts in the same county adjacent to the district being dissolved.
4. Subject to state board approval under section 15.1-12-27, a county committee that has initiated proceedings to dissolve a school district under this section may sell, exchange, or donate property or assets of the dissolving district to another political subdivision for less than fair market value provided the dissolving district has sufficient property and assets remaining to satisfy the requirements of sections 15.1-12-28 and 15.1-12-28.1.
5. Receipt of notice by a county committee under this section:
 - a. Renders an annexation petition involving any real property in the district void, unless the annexation has already been approved by the state board; and
 - b. Prohibits the acceptance of a new annexation petition involving any real property in the district until all dissolution proceedings have been completed.
- 5-6. One or more annexation petitions may not be used to annex all of the real property in a school district to surrounding school districts.

SECTION 3. AMENDMENT. Section 15.1-12-27 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-27. Dissolution of school district - Notice - Hearing - Order of attachment.

1. The county superintendent shall schedule and give notice of a public hearing regarding the dissolution of the district and the subsequent attachment of the property to other high school districts in the same county, or to non-high school districts in the same county if there are no high school districts in the same county adjacent to the district being dissolved. The county superintendent shall publish the notice in the official newspaper of each county that encompasses property in the dissolving district and in the official

newspaper of each county that encompasses property in a high school district adjacent to the dissolving district, or to non-high school districts in the same county if there are no high school districts in the same county adjacent to the district being dissolved, at least fourteen days before the date of the hearing. The county superintendent shall provide notice of the public hearing to the business manager of each high school district adjacent to the dissolving district, or to non-high school districts in the same county if there are no high school districts in the same county adjacent to the district being dissolved.

2. At the hearing, the board of the dissolving district may propose a particular manner of dissolution, including the sale, exchange, or donation of property and assets of the dissolving district to another political subdivision for less than fair market value.
3. The county committee shall consider testimony and documentary evidence regarding:
 - a. The value and amount of property held by the dissolving school district;
 - b. The amount of all outstanding bonded and other indebtedness;
 - c. The distribution of property and assets among the school districts to which the dissolved district is attached, or to another political subdivision as proposed by the dissolving district;
 - d. The taxable valuation of the dissolving district and adjacent school districts and the taxable valuation of adjacent school districts under the proposed manner of dissolution;
 - e. The size, geographical features, and boundaries of the dissolving district and of adjacent school districts;
 - f. The number of students enrolled in the dissolving district and in adjacent school districts;
 - g. Each school in the dissolving district and in adjacent school districts, including its name, location, condition, accessibility, and the grade levels it offers;
 - h. The location and condition of roads, highways, and natural barriers in the dissolving district and in adjacent school districts;
 - i. Conditions affecting the welfare of students in the dissolving district and in adjacent school districts;
 - j. The boundaries of other governmental entities;
 - k. The educational needs of communities in the dissolving district and in adjacent school districts;
 - l. Potential savings in school district transportation and administrative services;
 - m. The anticipated future use of the dissolving districts' buildings, sites, and playfields;

- n. The potential for a reduction in per student valuation disparities between the school districts to which the dissolved district is attached;
 - o. The potential to equalize or increase the educational opportunities for students from the dissolving district and for students in adjacent school districts; and
 - p. All other relevant factors.
4. After the hearing, the county committee shall make findings of fact. Subject to final approval by the state board, the county committee may order the district dissolved and its real property ~~attached~~ or assets:
- a. Attached to one or more contiguous, operating high school districts in the same county; ~~or~~;
 - b. Attached to non-high school districts in the same county if there are no high school districts in the same county adjacent to the district being dissolved; or
 - c. Sold, exchanged, or donated to another political subdivision for less than fair market value provided the dissolving district has sufficient property and assets remaining to satisfy the requirements of sections 15.1-12-28 and 15.1-12-28.1.
5. Any property ordered attached to other school districts under this section must have at least one minor residing within its boundaries.
6. The county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the dissolution proceeding together with a copy of the county committee's order to the state board for final approval of the dissolution. The state board shall publish notice of its meeting at which it will consider the dissolution, in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the meeting.
7. The order of dissolution becomes effective July first following approval by the state board, unless the county committee provides for a different effective date.
8. If the boundaries of the dissolving school district cross county lines, the proceeding to dissolve the district must be conducted jointly by the county committees representing counties containing twenty-five percent or more of the dissolving district's taxable valuation. If, after the hearing, a majority of the county committees are unable to agree upon an order of dissolution and attachment, the county superintendent of the county in which the administrative headquarters of the dissolving school district is located shall notify the state board. The state board shall conduct a public hearing, as required in this section, and order the dissolution of the district and the attachment of its real property to adjacent school districts in the manner it deems appropriate. The state board shall publish notice of the public hearing in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the date of the hearing.

9. If any portion of the order providing for the attachment of real property is suspended or voided, the order of dissolution is likewise suspended or voided.
10. The state board shall provide a copy of its final findings of fact, conclusions of law, and order regarding the dissolution to job service North Dakota. If not otherwise included in the findings of fact, the state board shall also provide job service North Dakota with information on the distribution and valuation of property from the dissolving district to the receiving districts.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 150

SENATE BILL NO. 2332

(Senator Schaible)
(Representatives Satrom, Schreiber-Beck)

AN ACT to amend and reenact section 15.1-13-10 of the North Dakota Century Code, relating to the criteria for teacher licensure; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-13-10 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-10. Criteria for teacher licensure. (~~Effective through July 31, 2023~~)

1. The board shall establish by rule the criteria for teacher licensure and the process for issuing teaching licenses. The criteria must include considerations of character, adequate educational preparation, and general fitness to teach.
2. The board may not require a teacher who graduated from an accredited teacher education program on or before September 1, 1980, to earn any college credits in native American or other multicultural courses as a condition of licensure or license renewal.
3. This section does not affect the validity of teaching certificates in effect on July 31, 2001.
4. This section does not affect the qualifications for career and technical education certificates, as otherwise established by law.
5. The board shall grant an initial license to an individual who:
 - a. Possesses a bachelor's degree from an accredited institution;
 - b. Passes a criminal history record check required by section 15.1-13-14; and
 - c. Successfully completes an alternative teacher certification program.
6. An in-state alternative teacher certification program must operate in accordance with the procedures and program approval standards and requirements set by the board for teacher education programs for the licensure of educators.
7. An out-of-state alternative teacher certification program must:
 - a. Operate in at least five states;
 - b. Have operated an alternative teacher certification program for at least ten years;

- c. Require applicants to pass a subject area and pedagogy examination, known as the professional teaching knowledge examination, to receive certification; and
 - d. Allow an individual who obtains an initial or renewal license to teach in the subject areas of:
 - (1) Elementary education;
 - (2) Elementary education with a reading endorsement;
 - (3) English language arts;
 - (4) United States and world history;
 - (5) Mathematics;
 - (6) General science;
 - (7) Biology;
 - (8) Chemistry; and
 - (9) Physics; and
 - (10) Special education;
 - e. Operate in accordance with the procedures and program approval standards and requirements set by the board for teacher education programs for the licensure of educators; and
 - f. Meet the procedures and program approval standards and requirements under subdivision e by July 1, 2023.
- 8. An individual who obtains an initial license under subsection 5 is authorized to teach the subject and educational levels for which the individual has successfully completed the program described under subsection 5.
 - 9. Upon completing two years of teaching under an initial license issued under subsection 5, the licensee is eligible to apply for a five-year renewal license if the individual:
 - a. Completes the program's clinical experience program and the North Dakota teacher support system approved mentor program;
 - b. Meets the requirements of section 15.1-13-35 within two years of initial licensure; and
 - c. Meets the requirements of human resources and cultural directives required coursework within two years of initial licensure which includes Native American studies, cultural diversity, strategies for creating learning environments that contribute to positive human relationships, and strategies for teaching and assessing diverse learners.

Criteria for teacher licensure. (Effective after July 31, 2023)

- ~~1. The board shall establish by rule the criteria for teacher licensure and the process for issuing teaching licenses. The criteria must include considerations of character, adequate educational preparation, and general fitness to teach.~~
- ~~2. The board may not require a teacher who graduated from an accredited teacher education program on or before September 1, 1980, to earn any college credits in native American or other multicultural courses as a condition of licensure or license renewal.~~
- ~~3. This section does not affect the validity of teaching certificates in effect on July 31, 2001.~~
- ~~4. This section does not affect the qualifications for career and technical education certificates, as otherwise established by law.~~

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - CRITERIA FOR ALTERNATIVE TEACHER LICENSURE. During the 2021-22 interim, the legislative management shall consider studying criteria for alternative teacher licensure. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 151

SENATE BILL NO. 2215

(Senators Schaible, Davison)
(Representatives Heinert, Schreiber-Beck, Zubke)

AN ACT to amend and reenact sections 15.1-16-06 and 15.1-16-10, subsection 1 of section 15.1-16-11, section 15.1-16-13, subsection 1 of section 15.1-16-14, and sections 15.1-16-15 and 15.1-16-18 of the North Dakota Century Code, relating to deadlines for teacher negotiations between school districts and representative organizations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-16-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-16-06. Factfinding - Sharing of cost.

If an impasse ~~is deemed to exist~~exists under section 15.1-16-14, the contending parties shall share the cost of factfinding equally.

SECTION 2. AMENDMENT. Section 15.1-16-10 of the North Dakota Century Code is amended and reenacted as follows:

15.1-16-10. Negotiating unit - Formation.

A group of teachers or a group of administrators employed by the board of a public school district may form a negotiating unit by filing with the board no later than February first of the current school year a petition providing a description of the job groupings or positions that constitute the negotiating unit. ~~Upon~~Within thirty days after the date of receipt of the description petition, the board shall accept or reject the proposed negotiating unit described in the petition. ~~If the board accepts the negotiating unit, the teachers or the administrators within the unit may designate or select a representative organization as provided for in section 15.1-16-11.~~

SECTION 3. AMENDMENT. Subsection 1 of section 15.1-16-11 of the North Dakota Century Code is amended and reenacted as follows:

1. a. If an organization is interested in representing a group of teachers or a group of administrators, the organization may file with the board of a school district a petition asserting that the organization represents a majority of the teachers or the administrators included within a negotiating unit.
- b. The petition must be accompanied by evidence substantiating the assertion contained in it.
- c. The petition must be filed with the board of a school district no later than March first of the current school year.

- d. Within ten days after receiving the petition, the board of the school district shall post notice of its intent to consider the petition in each school wherein the members of the negotiating unit are employed.
- d-e. No sooner than ten nor later than twenty days after posting the notice of intent to consider the petition, the board shall investigate the petition, determine the question of representation, and post notice of its determination in each school wherein the members of the negotiating unit are employed.
- e-f. If the petition is not contested, the board shall recognize the petitioner as the representative organization of the negotiating unit, unless if the board rejects the petition for recognition of the negotiating unit under section 15.1-16-10 or the board finds in good faith that there is a reasonable doubt the representation exists.

SECTION 4. AMENDMENT. Section 15.1-16-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-16-13. Good-faith negotiations.

1. The board of a school district or its representatives and the representative organization or its representatives shall, if requested by either entity, meet at reasonable times and negotiate in good faith regarding:
 - a. The terms and conditions of employment.
 - b. Employer-employee relations.
 - c. Formation of a contract, which may contain a provision for binding arbitration.
 - d. The interpretation of an existing contract.
2. The board of a school district and the representative organization, at the request of either party, shall execute a written contract incorporating any agreement reached.
3. Either the board of a school district or the representative organization may modify or terminate the contract on its annual anniversary date by giving notice of its desire to modify or terminate the contract to the other party not less than one hundred sixty days before the annual anniversary date.
4. Nothing in this section compels either the board of a school district or a representative organization to agree to a proposal or to make a concession.
5. Good-faith negotiations must begin no later than the thirtieth day after the representative organization is recognized by the board of the school district, in accordance with section 15.1-16-11, unless otherwise agreed to by the board of the school district and the representative organization.
6. Unless otherwise agreed to by the board of the school district and the representative organization, good-faith negotiations must be completed no later than July first following the recognition of the representative organization under section 15.1-16-11.

SECTION 5. AMENDMENT. Subsection 1 of section 15.1-16-14 of the North Dakota Century Code is amended and reenacted as follows:

1. An impasse exists if:
 - a. After a reasonable period of negotiation, an agreement has not been formulated and a dispute exists-;
 - b. No later than July first following the recognition of the representative organization under section 15.1-16-11:
 - (1) An agreement has not been reached between the board of a school district and the representative organization; and
 - (2) The board of the school district and the representative organization have not agreed to extend the negotiation period; or
 - c. The board of a school district and the representative organization both agree that an impasse exists.

SECTION 6. AMENDMENT. Section 15.1-16-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-16-15. Impasse - Resolution.

1. If an impasse exists under section 15.1-16-14, the board of a school district and the representative organization may agree to seek mediation. The board and the representative organization shall jointly select a mediator and agree to a distribution of the mediation cost. If mediation fails or if mediation is not attempted, the board or representative organization may request that the education factfinding commission provide assistance.
2. If the education factfinding commission is asked to provide assistance under subsection 1 ~~and if the commission determines that an impasse exists~~, the commission shall act as a factfinding commission or appoint a factfinder from a list of qualified individuals maintained by the commission. A factfinder appointed under this section has the powers designated by the commission. Upon completion of all duties, the factfinder shall make a recommendation to the commission.
3. The education factfinding commission shall:
 - a. Consider the facts, make its findings, and issue a recommendation; or
 - b. Consider the report and recommendation of its factfinder and, after any further investigation the commission elects to perform, make its findings and issue a recommendation.
4. Within forty days from the date the commission is asked to provide assistance, the commission shall deliver its findings and recommendations to the board of the school district and to the representative organization. No sooner than ten nor later than twenty days after its findings and recommendations are delivered to the board and the representative organization, the commission shall make its findings and recommendation public if the impasse is not resolved.

5. If facts are established or a recommendation made in accordance with factfinding procedures agreed to by the board of the school district and the representative organization and the impasse continues, the education factfinding commission may consider the findings and recommendations without instituting its own factfinding procedure and the commission may issue its own findings and recommendations based on the information available. No sooner than ten nor later than twenty days after these findings and recommendations are delivered to the board and the representative organization, the commission shall make its findings and recommendations public if the impasse is not resolved.

SECTION 7. AMENDMENT. Section 15.1-16-18 of the North Dakota Century Code is amended and reenacted as follows:

15.1-16-18. Representative organization - Recognition — Withdrawal of recognitionAuthority.

A representative organization that enters a contract betweenwith the board of a school district and a representative organization barsretains the authority to represent the negotiating unit for the duration of the contract or until another representative group from petitioning for recognition and bars the withdrawal of recognition from the representative organization for the duration of the contract or three years, whichever is lessis recognized by the board of the school district as the representative organization of the negotiating unit under section 15.1-16-11.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 152

SENATE BILL NO. 2278

(Senators Rust, Hogue, Lemm, Schaible)
(Representatives Longmuir, Monson)

AN ACT to create and enact a new section to chapter 15.1-19 of the North Dakota Century Code, relating to school district and employee immunity regarding COVID-19; to provide for application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Immunity from COVID-19-related liability - Exceptions.

1. As used in this section, "COVID-19" means:
 - a. Severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2; and
 - b. Any disease caused by severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2.
2. Subject to subsection 3, the superintendent of public instruction, school districts, schools, school boards and individual school board members, governing boards and individual governing board members, administrators, principals, teachers, and any other school district employed personnel are immune from any civil liability for damage, loss, or injury that results from a student or any other individual contracting, being exposed to, or potentially being exposed to COVID-19 while in a public school, on the premises of a school district, in a school district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event.
3. Immunity under subsection 2 does not apply to damage, loss, or injury caused by an individual's gross negligence or willful misconduct.

SECTION 2. APPLICATION. This Act applies to claims by students, parents of students, or any other individual who knew or reasonably should have known about the contraction, exposure, or potential exposure to COVID-19 before the effective date of this Act.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 1, 2021

Filed April 1, 2021

CHAPTER 153

SENATE BILL NO. 2304

(Senators Heckaman, Marcellais)

AN ACT to amend and reenact subsection 3 of section 15.1-21-01, subsection 1 of section 15.1-21-02, and subsection 4 of section 15.1-21-02.2 of the North Dakota Century Code, relating to requiring all elementary and secondary public and nonpublic schools in the state to include curriculum on Native American history; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 15.1-21-01 of the North Dakota Century Code is amended and reenacted as follows:

3. Social studies, including:
 - a. The United States Constitution;
 - b. United States history;
 - c. Geography;
 - d. Government; and
 - e. North Dakota studies, with an emphasis on the geography, history, the federally recognized Indian tribes in the state, and agriculture of this state, in the fourth and eighth grades.

⁷³ **SECTION 2. AMENDMENT.** Subsection 1 of section 15.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

1. In order to be approved by the superintendent of public instruction, each public and nonpublic high school shall provide instruction in or make available to each student:
 - a. Four units of English language arts from a sequence that includes literature, composition, and speech;
 - b. Four units of mathematics, including:
 - (1) One unit of algebra II; and
 - (2) One unit for which algebra II is a prerequisite;
 - c. Four units of science, including:
 - (1) One unit of physical science; and

⁷³ Section 15.1-21-02 was also amended by section 4 of Senate Bill No. 2196, chapter 136.

- (2) One unit of biology;
- d. Four units of social studies, including:
 - (1) One unit of world history;
 - (2) One unit of United States history, including Native American tribal history; and
 - (3) (a) One unit of problems of democracy; or
 - (b) One-half unit of United States government and one-half unit of economics;
- e. One-half unit of health;
- f. One-half unit of physical education during each school year, provided that once every four years the unit must be a concept-based fitness class that includes instruction in the assessment, improvement, and maintenance of personal fitness;
- g. Two units of fine arts, at least one of which must be music;
- h. Two units of the same foreign or native American language;
- i. One unit of an advanced placement course or one unit of a dual-credit course; and
- j. Two units of 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.

⁷⁴ **SECTION 3. AMENDMENT.** Subsection 4 of section 15.1-21-02.2 of the North Dakota Century Code is amended and reenacted as follows:

- 4. Three units of social studies, including:
 - a. One unit of United States history, including Native American tribal 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;

SECTION 4. EFFECTIVE DATE. Section 3 of this Act becomes effective on August 1, 2025.

Approved April 23, 2021

⁷⁴ Section 15.1-21-02.2 was also amended by section 1 of Senate Bill No. 2147, chapter 154.

Filed April 23, 2021

CHAPTER 154

SENATE BILL NO. 2147

(Senators Oban, Holmberg, Schaible)
(Representatives Guggisberg, Monson, Pyle)

AN ACT to amend and reenact sections 15.1-21-02.2 and 15.1-21-02.3 of the North Dakota Century Code, relating to high school graduation and curriculum requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷⁵ **SECTION 1. AMENDMENT.** Section 15.1-21-02.2 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.2. High school graduation - Minimum requirements.

1. Except as provided in section 15.1-21-02.3 and subsection 2, the following twenty-two units of high school coursework constitute the minimum requirement for high school graduation:
 1. a. Four units of English language arts from a sequence that includes literature, composition, and speech;
 2. b. Three units of mathematics, which may include one unit of computer science approved by the superintendent of public instruction;
 3. c. Three units of science, consisting of:
 - a- (1) (a) One unit of biology;
 - (2) (b) One unit of chemistry; and
 - (3) (c) One unit of physics; or
 - b- (1)(2) (a) One unit of biology;
 - (2) (b) One unit of physical science; and
 - (3) (c) One unit or two one-half units of any other science;
4. d. Three units of social studies, including:
 - a- (1) One unit of United States history;
 - b- (1)(2) (a) One-half unit of United States government and one-half unit of economics; or
 - (2) (b) One unit of problems of democracy; and

⁷⁵ Section 15.1-21-02.2 was also amended by section 3 of Senate Bill No. 2304, chapter 153.

- e- (3) 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.e. (1) One unit of physical education; or
- b- (2) One-half unit of physical education and one-half unit of health;
- 6- f. Three units of:
 - a- (1) Foreign languages;
 - b- (2) Native American languages;
 - e- (3) Fine arts; or
 - d- (4) Career and technical education courses; and
- 7- g. Any five additional units.
- 2. If approved by the board of a school district or nonpublic school, a school district or nonpublic school may develop eligibility criteria or programmatic requirements to allow a passing score on the relevant portions of the GED assessment to receive credit for the corresponding requirements of subdivisions a through d of subsection 1.

SECTION 2. AMENDMENT. Section 15.1-21-02.3 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.3. Optional high school curriculum - Requirements.

- 1. If after completing at least two years of high school a student has failed to pass at least one-half unit from three ~~subsections~~subdivisions in subsection 1 of section 15.1-21-02.115.1-21-02.2 or has a grade point average at or below the twenty-fifth percentile of other students in the district who are enrolled in the same grade, the student may request that the student's career advisor, guidance counselor, or principal meet with the student and the student's parent to determine ifwhether the student should be permitted to pursue an optional high school curriculum, in place of the requirements set forth in section 15.1-21-02.115.1-21-02.2. If a student's parent consents in writing to the student pursuing the optional high school curriculum, the student is eligible to receive a high school diploma upon completing the following requirements:
 - 1- a. Four units of English language arts from a sequence that includes literature, composition, and speech;
 - 2- b. Two units of mathematics;
 - 3- c. Two units of science;
 - 4- d. Three units of social studies, which may include up to one-half unit of North Dakota studies and one-half unit of multicultural studies;
- 5.a.e. (1) One unit of physical education; or
- b- (2) One-half unit of physical education and one-half unit of health;

- 6- f. Two units of:
- a- (1) Foreign languages;
 - b- (2) Native American languages;
 - e- (3) Fine arts; or
 - d- (4) Career and technical education courses; and
- 7- g. Any seven additional units.
2. If approved by the board of a school district or nonpublic school, a school district or nonpublic school may develop eligibility criteria or programmatic requirements to allow a passing score on the relevant portions of the GED assessment to receive credit for the corresponding requirements of subdivisions a through d of subsection 1.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 155

HOUSE BILL NO. 1083

(Representatives Zubke, Longmuir)

AN ACT to amend and reenact sections 15.1-21-02.4 and 15.1-21-02.5 of the North Dakota Century Code, relating to scholarship eligibility requirements; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷⁶ **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. (Effective through July 31, 2021)

1. 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:
 - 4- a. Completed four units of English language arts from a sequence that includes literature, composition, and speech;
 - 2- b. Completed three units of mathematics, including:
 - a- (1) One unit of algebra II, as defined by the superintendent of public instruction; and
 - b- (2) Two units of any other mathematics, which may include one unit of computer science;
 - 3- c. Completed three units of science, consisting of:
 - a- (1) (a) One unit of biology;
 - (2) (b) One unit of chemistry; and
 - (3) (c) One unit of physics; or
 - b- (4)(2) (a) One unit of biology;
 - (2) (b) One unit of physical science; and
 - (3) (c) One unit or two one-half units of any other science;

⁷⁶ Section 15.1-21-02.4 was also amended by section 1 of House Bill No. 1135, chapter 156, section 1 of Senate Bill No. 2136, chapter 157, and section 3 of Senate Bill No. 2141, chapter 158, and was repealed by section 10 of Senate Bill No. 2289, chapter 159.

4. d. Completed three units of social studies, including:
- a. (1) One unit of United States history;
- b. (1)(2) (a) One-half unit of United States government and one-half unit of economics; or
- (2) (b) One unit of problems of democracy; and
- e. (3) 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.e. (1) Completed one unit of physical education; or
- b. (2) One-half unit of physical education and one-half unit of health;
6. f. Completed:
- a. (1) One unit selected from:
 - (1) (a) Foreign languages;
 - (2) (b) Native American languages;
 - (3) (c) American sign language;
 - (4) (d) Fine arts; or
 - (5) (e) Career and technical education courses; and
 - b. (2) 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 or an education pathway approved by the superintendent of public instruction. The education pathway must consist of two units in teaching profession and educational methodology and at least one additional unit in advanced placement or dual-credit psychology, child development, peer-to-peer leadership, or child-related careers;
7. g. Completed any five additional units, two of which must be in the area of career and technical education;
- 8.a.h.(1) (a) 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) (b) Obtained a grade of at least "C" in each unit or one-half unit, except as provided under subsection 2; or
- b. (1)(2) (a) 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) (b) Obtained a grade of at least "C" in each unit or one-half unit, except as provided under subsection 2; and
- 9- i. Received:
- a- (1) A composite score of at least twenty-four on an ACT; or
- b- (2) 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.
2. A resident high school student is exempt from the requirements in subparagraph b of paragraph 1 of subdivision h of subsection 1 and subparagraph b of paragraph 2 of subdivision h of subsection 1 for units earned during a semester, quarter, or term that includes March, April, or May of 2020.

North Dakota career and technical education scholarship. (Effective after July 31, 2021)

1. 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- a. Completed four units of English language arts from a sequence that includes literature, composition, and speech;
- 2- b. Completed three units of mathematics, including:
- a- (1) One unit of algebra II, as defined by the superintendent of public instruction; and
- b- (2) Two units of any other mathematics, which may include one unit of computer science;
- 3- c. Completed three units of science, consisting of:
- a- (1) (a) One unit of biology;
- (2) (b) One unit of chemistry; and
- (3) (c) One unit of physics; or
- b- (1)(2) (a) One unit of biology;
- (2) (b) One unit of physical science; and
- (3) (c) One unit or two one-half units of any other science;
- 4- d. Completed three units of social studies, including:
- a- (1) One unit of United States history;

- b- (1)(2) (a) One-half unit of United States government and one-half unit of economics; or
- (2) (b) One unit of problems of democracy; and
- e- (3) 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-e. (1) Completed one unit of physical education; or
- b- (2) One-half unit of physical education and one-half unit of health;
- 6- f. Completed:
- a- (1) One unit selected from:
- (1) (a) Foreign languages;
- (2) (b) Native American languages;
- (3) (c) American sign language;
- (4) (d) Fine arts; or
- (5) (e) Career and technical education courses; and
- b- (2) 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 or an education pathway approved by the superintendent of public instruction which may be governed by rules adopted by the superintendent of public instruction;
- 7- g. Completed any five additional units, two of which must be in the area of career and technical education;
- 8-a-h. (1)(a) 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) (b) Obtained a grade of at least "C" in each unit or one-half unit, except as provided under subsection 2; or
- b- (1)(2) (a) 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) (b) Obtained a grade of at least "C" in each unit or one-half unit, except as provided under subsection 2; and
- 9- i. Received:
- a- (1) A composite score of at least twenty-four on an ACT; or

- b. ~~(2)~~ 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.

2. A resident high school student is exempt from the requirements in subparagraph b of paragraph 1 of subdivision h of subsection 1 and subparagraph b of paragraph 2 of subdivision h of subsection 1 for units earned during a semester, quarter, or term that includes March, April, or May of 2020.

⁷⁷ **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.

- 1. 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- a. Completed four units of English language arts from a sequence that includes literature, composition, and speech;
 - 2- b. Completed three units of mathematics, including:
 - a- ~~(1)~~ One unit of algebra II, as defined by the superintendent of public instruction;
 - b- ~~(2)~~ One unit of mathematics for which algebra II, as defined by the superintendent of public instruction, is a prerequisite; and
 - c- ~~(3)~~ One unit of any other mathematics, which may include computer science;
 - 3- c. Completed three units of science, consisting of:
 - a- ~~(1)~~ (a) One unit of biology;
 - ~~(2)~~ (b) One unit of chemistry; and
 - ~~(3)~~ (c) One unit of physics; or
 - b- ~~(1)(2)~~ (a) One unit of biology;
 - ~~(2)~~ (b) One unit of physical science; and
 - ~~(3)~~ (c) One unit or two one-half units of any other science;
- 4- d. Completed three units of social studies, including:

⁷⁷ Section 15.1-21-02.5 was also amended by section 2 of House Bill No. 1135, chapter 156, section 2 of Senate Bill No. 2136, chapter 157, and section 4 of Senate Bill No. 2141, chapter 158, and was repealed by section 10 of Senate Bill No. 2289, chapter 159.

- a. (1) One unit of United States history;
 - b. (1)(2) (a) One-half unit of United States government and one-half unit of economics; or
 - (2) (b) One unit of problems of democracy; and
 - e. (3) 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.e. (1) Completed one unit of physical education; or
- b. (2) One-half unit of physical education and one-half unit of health;
6. a.f. (1) Completed two units of:
- (1) (a) The same foreign language;
 - (2) (b) The same native American language;
 - (3) (c) American sign language; or
 - (4) (d) 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 or an education pathway, approved by the superintendent of public instruction. The education pathway must consist of two units in teaching profession and educational methodology and at least one additional unit in advanced placement or dual-credit psychology, child development, peer-to-peer leadership, or child-related careers; and
- b. (2) One unit selected from:
- (1) (a) Foreign languages;
 - (2) (b) Native American languages;
 - (3) (c) American sign language;
 - (4) (d) Fine arts; or
 - (5) (e) Career and technical education;
7. g. Completed any five additional units;
- 8.a.h.(1) (a) 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) (b) Obtained a grade of at least "C" in each unit or one-half unit, except as provided under subsection 2; or

- b. ~~(1)~~(2) (a) 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) (b) Obtained a grade of at least "C" in each unit or one-half unit, except as provided under subsection 2;
9. i. Received a composite score of at least twenty-four on an ACT; and
- ~~10. a.~~j. (1) Fulfilled any one unit requirement set forth in subsections 1 through 7 by means of an advanced placement course and examination;
- b. (2) Fulfilled any one unit requirement set forth in subsections 1 through 4 or 6 by completion, through an early entrance program, of a nonremedial postsecondary course offered for credit at an accredited institution of higher education which has a physical presence in this state; or
- e. (3) Fulfilled any one-half unit requirement set forth in subsections 1 through 7 by means of a dual-credit course.
2. A resident high school student is exempt from the requirements in subparagraph b of paragraph 1 of subdivision h of subsection 1 and subparagraph b of paragraph 2 of subdivision h of subsection 1 for units earned during a semester, quarter, or term that includes March, April, or May of 2020.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 156

HOUSE BILL NO. 1135

(Representatives Pyle, Cory, Heinert, D. Johnson, Sanford)
(Senators Oban, Schaible, Weber)

AN ACT to amend and reenact sections 15.1-21-02.4 and 15.1-21-02.5 of the North Dakota Century Code, relating to eligibility for the North Dakota career and technical education scholarship and the North Dakota academic scholarship for high school students enrolled in school districts using course proficiency-based grading systems.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷⁸ **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. (Effective through July 31, 2021)

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, which may include one unit of computer science;
3. Completed three units of science, consisting of:
 - a. (1) One unit of biology;
 - (2) One unit of chemistry; and
 - (3) One unit of physics; or
 - b. (1) One unit of biology;

⁷⁸ Section 15.1-21-02.4 was also amended by section 1 of House Bill No. 1083, chapter 155, section 1 of Senate Bill No. 2136, chapter 157, and section 3 of Senate Bill No. 2141, chapter 158, and was repealed by section 10 of Senate Bill No. 2289, chapter 159.

- (2) One unit of physical science; and
- (3) One unit or 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 or an education pathway approved by the superintendent of public instruction. The education pathway must consist of two units in teaching profession and educational methodology and at least one additional unit in advanced placement or dual-credit psychology, child development, peer-to-peer leadership, or child-related careers;
- 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.

North Dakota career and technical education scholarship. (Effective after July 31, 2021)

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, integrated mathematics II, or integrated mathematics III, as defined by the superintendent of public instruction; and
 - b. Two units of any other mathematics, which may include one unit of computer science;
3. Completed three units of science, consisting of:
 - a. (1) One unit of biology;
 - (2) One unit of chemistry; and
 - (3) One unit of physics; or
 - b. (1) One unit of biology;
 - (2) One unit of physical science; and
 - (3) One unit or 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 or an education pathway approved by the superintendent of public instruction ~~which may be governed by rules adopted by the superintendent of public instruction.~~ The education pathway must consist of one unit in teaching profession and educational methodology and at least one additional unit in advanced placement or dual-credit psychology, child development, peer-to-peer leadership, or child-related careers;
- 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, ~~or an equivalent course proficiency score if the student was enrolled in a school district participating in an approved innovative education program under section 15.1-06-08.2 and the school district obtained a waiver under section 15.1-06-08.1,~~ 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", ~~or an equivalent course proficiency score,~~ 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, ~~or an equivalent course proficiency score if the student was enrolled in a school district participating in an approved innovative education program under section 15.1-06-08.2 and the school district obtained a waiver under section 15.1-06-08.1,~~ 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", ~~or an equivalent course proficiency score,~~ 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.

⁷⁹ **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;
 - b. One unit of mathematics for which algebra II, as defined by the superintendent of public instruction, is a prerequisite; and
 - c. One unit of any other mathematics, which may include computer science;
3. Completed three units of science, consisting of:
 - a. (1) One unit of biology;
(2) One unit of chemistry; and
(3) One unit of physics; or
 - b. (1) One unit of biology;
(2) One unit of physical science; and
(3) One unit or two one-half units of any other science;
4. Completed three units of social studies, including:
 - a. One unit of United States history;

⁷⁹ Section 15.1-21-02.5 was also amended by section 2 of House Bill No. 1083, chapter 155, section 2 of Senate Bill No. 2136, chapter 157, and section 4 of Senate Bill No. 2141, chapter 158, and was repealed by section 10 of Senate Bill No. 2289, chapter 159.

- 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 two units of:
- (1) The same foreign 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 or an education pathway, approved by the superintendent of public instruction. The education pathway must consist of two units in teaching profession and educational methodology and at least one additional unit in advanced placement or dual-credit psychology, child development, peer-to-peer leadership, or child-related careers; 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;
8. a. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading scale, or an equivalent course proficiency score if the student was enrolled in a school district participating in an approved innovative education program under section 15.1-06-08.2 and the school district obtained a waiver under section 15.1-06-08.1, 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", or an equivalent course proficiency score, 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, or an equivalent course proficiency score if the student was enrolled in a school district participating in an approved innovative education program under section 15.1-06-08.2 and the school district obtained a waiver under section 15.1-06-08.1, 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", or an equivalent course proficiency score, 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;
 - b. Fulfilled any one unit requirement set forth in subsections 1 through 4 or 6 by completion, through an early entrance program, of a nonremedial postsecondary course offered for credit at an accredited institution of higher education which has a physical presence in this state; or
 - c. Fulfilled any one-half unit requirement set forth in subsections 1 through 7 by means of a dual-credit course.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 157

SENATE BILL NO. 2136

(Senators Poolman, Davison, Oban)
(Representatives Sanford, Strinden)

AN ACT to amend and reenact section 15.1-21-02.4, subdivision a of subsection 6 of section 15.1-21-02.5, and sections 15.1-21-02.6 and 15.1-21-02.8 of the North Dakota Century Code, relating to scholarship eligibility requirements and amounts for students; to repeal section 15.1-21-02.7 of the North Dakota Century Code, relating to scholarships for 2009-10 high school graduates; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁸⁰ **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.
(Effective through July 31, 2021)**

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, integrated math II, or integrated math III, as defined by the superintendent of public instruction; and
 - b. Two units of any other mathematics, which may include one unit of computer science;
3. Completed three units of science, consisting of:
 - a. (1) One unit of biology;
(2) One unit of chemistry; and
(3) One unit of physics; or
 - b. (1) One unit of biology;

⁸⁰ Section 15.1-21-02.4 was also amended by section 1 of House Bill No. 1083, chapter 155, section 1 of House Bill No. 1135, chapter 156, and section 3 of Senate Bill No. 2141, chapter 158, and was repealed by section 10 of Senate Bill No. 2289, chapter 159.

- (2) One unit of physical science; and
- (3) One unit or 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 or an education pathway approved by the superintendent of public instruction. The education pathway must consist of two units one unit in teaching profession and educational methodology and at least one additional unit in advanced placement or dual-credit psychology, child development, peer-to-peer leadership, or child-related careers;
- 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.

~~North Dakota career and technical education scholarship. (Effective after July 31, 2021)~~

~~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, which may include one unit of computer science;~~
- ~~3. Completed three units of science, consisting of:~~
 - ~~a. (1) One unit of biology;~~
~~(2) One unit of chemistry; and~~
~~(3) One unit of physics; or~~
 - ~~b. (1) One unit of biology;~~
~~(2) One unit of physical science; and~~
~~(3) One unit or 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 or an education pathway approved by the superintendent of public instruction which may be governed by rules adopted 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.

⁸¹ **SECTION 2. AMENDMENT.** Subdivision a of subsection 6 of section 15.1-21-02.5 of the North Dakota Century Code is amended and reenacted as follows:

a. Completed two units of:

- (1) The same foreign 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 or an education pathway, approved by the superintendent of public instruction. The education pathway must consist of ~~two units~~ one unit in teaching profession and educational methodology and at least one additional unit in advanced placement or dual-credit psychology, child development, peer-to-peer leadership, or child-related careers; and

⁸² **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 with a physical presence in this state, maintains a cumulative grade point average of 2.75, and maintains progress toward degree program completion.
- 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 or clock-hour term during which the student is enrolled full time at an accredited institution of higher education with a physical presence in this state or an accredited private career school with a physical presence in this state, maintains a cumulative grade point average of 2.75, and maintains progress toward degree program completion.
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

⁸¹ Section 15.1-21-02.5 was also amended by section 2 of House Bill No. 1083, chapter 155, section 2 of House Bill No. 1135, chapter 156, and section 4 of Senate Bill No. 2141, chapter 158, and was repealed by section 10 of Senate Bill No. 2289, chapter 159.

⁸² Section 15.1-21-02.6 was also amended by section 4 of Senate Bill No. 2289, chapter 159, and section 5 of Senate Bill No. 2289, chapter 159.

section, the board shall provide notification to the student within ten business 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, or clock-hour terms.~~
 - b. A scholarship under this section is valid only for six academic years after the student's graduation from high school and may be applied to a graduate or professional program.
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:
 - a. Graduates from a high school in this state;
 - b. Graduates from a high school in a bordering state under chapter 15.1-29;
 - c. 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. a. For purposes of North Dakota scholarship eligibility under this section, "full-time" has the same meaning as the term is defined by the institution the student is attending.
 - b. A student who is enrolled less than full-time may retain scholarship eligibility if the student is in the final semester ~~or, quarter, or clock-hour term~~ before graduation program completion. The waiver of the full-time enrollment status requirement for scholarship eligibility may not apply to a student more than once.
 - c. For the purpose of North Dakota scholarship eligibility under this section, "progress toward ~~degree program~~ completion" means earning the following minimum number of credits after each semester ~~or, quarter, or clock-hour~~ term disbursement to qualify for the subsequent disbursement:
 - (1) Twenty-four credits after disbursement two;
 - (2) Thirty-nine credits after disbursement three;
 - (3) Fifty-four credits after disbursement four;
 - (4) Sixty-nine credits after disbursement five;
 - (5) Eighty-four credits after disbursement six; and

(6) Ninety-nine credits after disbursement seven.

8. For purposes of scholarship eligibility under this section, "clock-hour term" has the same meaning as the term is defined by the state board of higher education. The state board of higher education shall determine the conversion of:

- a. Clock hours to credit hours; and
- b. Percentage-based grading to grade point average.

⁸³ **SECTION 4. AMENDMENT.** Section 15.1-21-02.8 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.8. North Dakota scholarship - Eligibility - One-time exception.

1. a. Notwithstanding section 15.1-21-02.6, if a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a semester, quarter, or clock-hour term is below 2.75, the board shall grant an exception and provide the North Dakota scholarship to which the student would otherwise be entitled for the next semester, quarter, or clock-hour term in which the student is enrolled full time. The exception provided by this section is applicable to a student only one time.
- b. If a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a semester, quarter, or clock-hour term is below 2.75 for a second time, the student is no longer eligible to receive any additional North Dakota academic or career and technical education scholarships.
2. a. ~~Notwithstanding section 15.1-21-02.6, if a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a quarter is below 2.75, the board shall grant an exception and provide the North Dakota scholarship to which the student would otherwise be entitled for the next quarter in which the student is enrolled full time. The exception provided by this section is applicable to a student only one time.~~

b. ~~If a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a quarter is below 2.75 for a second time, the student is no longer eligible to receive any additional North Dakota academic or career and technical education scholarships~~For purposes of scholarship eligibility under this section, "clock-hour term" has the same meaning as the term is defined by the state board of higher education. The state board of higher education shall determine the conversion of:
 - a. Clock hours to credit hours; and
 - b. Percentage-based grading to grade point average.

⁸³ Section 15.1-21-02.8 was also amended by section 6 of Senate Bill No. 2289, chapter 159, and section 7 of Senate Bill No. 2289, chapter 159.

⁸⁴ **SECTION 5. REPEAL.** Section 15.1-21-02.7 of the North Dakota Century Code is repealed.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 22, 2021

Filed March 23, 2021

⁸⁴ Section 15.1-21-02.7 was amended by section 5 of Senate Bill No. 2141, chapter 158, and was also repealed by section 1 of Senate Bill No. 2028, chapter 139.

CHAPTER 158

SENATE BILL NO. 2141

(Senators Schaible, Davison)
(Representatives Heinert, Pyle)

AN ACT to amend and reenact sections 15-62.5-01, 15-62.5-03, 15.1-21-02.4, 15.1-21-02.5, 15.1-21-02.7, 15.1-21-08.1, 15.1-21-19, and 15.1-21-20 of the North Dakota Century Code, relating to student assessment scores and vendor references; to repeal section 15.1-21-17 of the North Dakota Century Code, relating to interim assessments; to provide for a superintendent of public instruction study; and to provide for a legislative management report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-62.5-01 of the North Dakota Century Code is amended and reenacted as follows:

15-62.5-01. Scholars program.

The state board of higher education shall administer the scholars program for the purpose of providing a merit-based scholarship to an individual who:

1. a. Graduated from a high school in this state;
- b. Graduated from a high school in a bordering state, pursuant to chapter 15.1-29;
- c. Graduated from a nonpublic high school in a bordering state while residing with a custodial parent in this state; or
- d. Completed a program of home education supervised in accordance with chapter 15.1-23;
2. On the ACT or an equivalent nationally recognized standardized test approved by the state board of higher education, achieved composite scores that ranked the individual at or above the ninety-fifth percentile among those who took the ACT or an equivalent nationally recognized standardized test approved by the state board of higher education, prior to July first in the calendar year preceding the individual's enrollment;
3. a. Is enrolled at an accredited institution of higher education in this state that offers a program of instruction equal to at least two academic years;
- b. Because of a medically certifiable disability is enrolled at an accredited institution of higher education outside of this state that offers the individual special services or facilities not available in this state, provided the institution offers a program of instruction equal to at least two academic years; and
4. Is pursuing a course of study determined by the board to be full-time.

SECTION 2. AMENDMENT. Section 15-62.5-03 of the North Dakota Century Code is amended and reenacted as follows:

15-62.5-03. Scholars program - Ranking and selection of recipients.

1. The state board of higher education shall rank scholars program applicants by their ACT composite scores or equivalent scores on a nationally recognized standardized test approved by the state board of higher education.
2. If two or more applicants have the same composite scores, they must be ranked by the numeric sum of their four scale scores on the ACT or equivalent scores on a nationally recognized standardized test approved by the state board of higher education.
3. If two or more applicants have the same composite scores and the same numeric sum of the four scale scores, they must be ranked by the numeric sum of their English and mathematics scores.
4. The state board of higher education may establish additional criteria to rank applicants who have the same numeric sum of their English and mathematics scores.
5. Scholarships must be offered to applicants in descending order according to this ranking until available funds have been expended or until the pool of applicants has been exhausted.

⁸⁵ **SECTION 3. 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. (Effective through July 31, 2021)

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, which may include one unit of computer science;
3. Completed three units of science, consisting of:

⁸⁵ Section 15.1-21-02.4 was also amended by section 1 of House Bill No. 1083, chapter 155, section 1 of House Bill No. 1135, chapter 156, and section 1 of Senate Bill No. 2136, chapter 157, and was repealed by section 10 of Senate Bill No. 2289, chapter 159.

- a. (1) One unit of biology;
(2) One unit of chemistry; and
(3) One unit of physics; or
- b. (1) One unit of biology;
(2) One unit of physical science; and
(3) One unit or 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 or an education pathway approved by the superintendent of public instruction. The education pathway must consist of two units in teaching profession and educational methodology and at least one additional unit in advanced placement or dual-credit psychology, child development, peer-to-peer leadership, or child-related careers;
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 an equivalent score on a nationally recognized standardized test approved by the state board of higher education; or
 - b. A score of at least five on each of three WorkKeys assessments or an equivalent score on a nationally recognized standardized test, recommended by the department of career and technical education and approved by the superintendent of public instruction.

North Dakota career and technical education scholarship. (Effective after July 31, 2021)

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, which may include one unit of computer science;
- 3. Completed three units of science, consisting of:
 - a. (1) One unit of biology;
 - (2) One unit of chemistry; and
 - (3) One unit of physics; or
 - b. (1) One unit of biology;
 - (2) One unit of physical science; and
 - (3) One unit or 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 or an education pathway approved by the superintendent of public instruction which may be governed by rules adopted 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 an equivalent score on a nationally recognized standardized test approved by the state board of higher education; or
- b. A score of at least five on each of three WorkKeys assessments or an equivalent score on a nationally recognized standardized test, recommended by the department of career and technical education and approved by the superintendent of public instruction.

⁸⁶ **SECTION 4. 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;
 - b. One unit of mathematics for which algebra II, as defined by the superintendent of public instruction, is a prerequisite; and
 - c. One unit of any other mathematics, which may include computer science;
3. Completed three units of science, consisting of:
 - a. (1) One unit of biology;
 - (2) One unit of chemistry; and
 - (3) One unit of physics; or
 - b. (1) One unit of biology;
 - (2) One unit of physical science; and
 - (3) One unit or two one-half units of any other science;
4. Completed three units of social studies, including:
 - a. One unit of United States history;

⁸⁶ Section 15.1-21-02.5 was also amended by section 2 of House Bill No. 1083, chapter 155, section 2 of House Bill No. 1135, chapter 156, and section 2 of Senate Bill No. 2136, chapter 157, and was repealed by section 10 of Senate Bill No. 2289, chapter 159.

- 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 two units of:
 - (1) The same foreign 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 or an education pathway, approved by the superintendent of public instruction. The education pathway must consist of two units in teaching profession and educational methodology and at least one additional unit in advanced placement or dual-credit psychology, child development, peer-to-peer leadership, or child-related careers; 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;
- 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 or an equivalent score on a nationally recognized standardized test approved by the state board of higher education; and
10. a. Fulfilled any one unit requirement set forth in subsections 1 through 7 by means of an advanced placement course and examination;
- b. Fulfilled any one unit requirement set forth in subsections 1 through 4 or 6 by completion, through an early entrance program, of a nonremedial postsecondary course offered for credit at an accredited institution of higher education which has a physical presence in this state; or
- c. Fulfilled any one-half unit requirement set forth in subsections 1 through 7 by means of a dual-credit course.

⁸⁷ **SECTION 5. AMENDMENT.** Section 15.1-21-02.7 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.7. North Dakota scholarship opportunities - 2009-10 high school graduates.

1. Except as provided in subsection 3, any resident student who graduates from a high school during the 2009-10 school year is eligible to receive a North Dakota academic scholarship, provided the student is certified by the superintendent of public instruction as having obtained a composite score of at least twenty-four on an ACT or an equivalent score on a nationally recognized standardized test approved by the state board of higher education.
2. Except as provided in subsection 3, any resident student who graduates from a high school during the 2009-10 school year is eligible to receive a North Dakota technical scholarship, provided the student is certified by the superintendent of public instruction as having obtained:
- a. A composite score of at least twenty-four on an ACT or an equivalent score on a nationally recognized standardized test approved by the state board of higher education; or
- b. A score of at least five on each of three WorkKeys assessments or an equivalent score on a nationally recognized standardized test, recommended by the department of career and technical education and approved by the superintendent of public instruction.
3. A student is eligible to receive a scholarship under either subsection 1 or 2, but may not receive a scholarship under both subsections.

SECTION 6. AMENDMENT. Section 15.1-21-08.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-08.1. Parental directive - Administration of tests and assessments - Report.

⁸⁷ Section 15.1-21-02.7 was repealed by section 1 of Senate Bill No. 2028, chapter 139, and section 5 of Senate Bill No. 2136, chapter 157.

1. A student's parent may direct the school district in which the student is enrolled not to administer to the student any state test or state assessment required in accordance with section 15.1-21-08.
2. In addition to the authority granted under subsection 1, a student's parent may direct that the school district in which the student is enrolled not administer any other specific test or assessment to the student, except a parental directive under this subsection does not apply to:
 - a. Any test or assessment required by the student's school district of enrollment or this state for the completion of any grade from kindergarten through twelve; or
 - b. Any test or assessment required by the student's school district of enrollment or this state for high school graduation;
 - c. ~~The ACT; or~~
 - d. ~~WorkKeys assessments.~~
3.
 - a. A parental directive is valid only if it is presented to the school district using a standardized form, prepared by the superintendent of public instruction, and signed by the student's custodial parent.
 - b. A parental directive is valid only until the conclusion of the school year in which it is received by the school district.
 - c. A parental directive submitted to a school district in accordance with this section must be retained as part of the student's educational record.
4. A school district is not liable for any consequences incurred by a student as a result of a parental directive submitted in accordance with this section.
5. A school district is not required to provide instruction or activities for a student during the administration of any test or assessment referenced in the parental directive submitted by the student's parent.
6. Each school district shall post the parental directive form on its website and make the form available to a parent, upon request.
7. At the time and in the manner directed by the superintendent of public instruction, each school district shall provide a report regarding:
 - a. The number of parental directives received;
 - b. The number of parental directives applicable to students who are economically disadvantaged, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency; and
 - c. Any loss of funding stemming from the parental directives.

SECTION 7. AMENDMENT. Section 15.1-21-19 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Except as otherwise provided, each public and nonpublic school student in grade eleven shall may take the:
 - a. The ACT or an equivalent nationally recognized standardized test approved by the state board of higher education, including the writing test; or three
 - b. Three WorkKeys assessments or an equivalent nationally recognized standardized test, recommended by the department of career and technical education and approved by the superintendent of public instruction. ~~The student shall determine which summative assessment to take. The superintendent of public instruction is responsible for the cost of procuring and administering one summative assessment per student.~~
2. The student's career advisor or guidance counselor shall meet with the student to review the student's assessment results.
3. ~~A school district superintendent or a school administrator in the case of a nonpublic school student may exempt a student from the requirements of this section if taking the test is not required by the student's individualized education program plan or if other special circumstances exist.~~
4. ~~At the time and in the manner determined by the superintendent of public instruction, each school district superintendent and each school administrator in the case of a nonpublic school shall report the number of eleventh grade students who:~~
 - a. Took the ACT, including the writing test;
 - b. Took the three WorkKeys assessments; and
 - c. Were exempted from the requirements of this section, together with the reason for each exemption.

SECTION 8. AMENDMENT. Section 15.1-21-20 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-20. Summative assessment - General educational development diploma - Selection - Cost.

1. Except as otherwise provided, each student pursuing a general educational development diploma may take the:
 - a. The ACT or an equivalent nationally recognized standardized test approved by the state board of higher education; or three
 - b. Three WorkKeys assessments or an equivalent nationally recognized standardized test, recommended by the department of career and technical education and approved by the superintendent of public instruction. ~~The student shall determine which summative assessment to take. The school district in which the student resides at the time the student takes the summative assessment is responsible for the cost of one summative assessment and its administration per student.~~
2. The student's career advisor or guidance counselor shall meet with the student to review the student's assessment results.

3. This section is applicable only to a student who has not reached the age of twenty-one before August first of the year of enrollment.

SECTION 9. REPEAL. Section 15.1-21-17 of the North Dakota Century Code is repealed.

SECTION 10. SUPERINTENDENT OF PUBLIC INSTRUCTION STUDY - INTERIM EDUCATION ASSESSMENTS - REPORT TO LEGISLATIVE MANAGEMENT. During the 2021-22 interim, the superintendent of public instruction shall study interim education assessment systems. The study must include consultation and collaboration with education stakeholders and the kindergarten through grade twelve education coordination council. The study also must include an evaluation and review of existing vendors, data standardization, statewide longitudinal data system compatibility, the costs associated with the interim assessment systems, and the benefits of local and statewide interim assessment systems. Before June 1, 2022, the superintendent of public instruction shall report the findings and recommendations of the study, including any proposed legislation necessary to implement the recommendations, to the legislative management.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 159

SENATE BILL NO. 2289

(Senators Oban, Poolman, Schaible)
(Representatives Mock, Pyle, Sanford)

AN ACT to create and enact a new section to chapter 15.1-21 of the North Dakota Century Code, relating to the creation of a North Dakota scholarship; to amend and reenact sections 15-10-59, 15.1-21-02.6, 15.1-21-02.8, and 15.1-21-02.9 of the North Dakota Century Code, relating to references to the North Dakota scholarship, North Dakota academic scholarship, and North Dakota career and technical education scholarship; to repeal sections 15.1-21-02.4 and 15.1-21-02.5 of the North Dakota Century Code, relating to the North Dakota academic and career and technical education scholarships; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁸⁸ **SECTION 1. AMENDMENT.** Section 15-10-59 of the North Dakota Century Code is amended and reenacted as follows:

15-10-59. Annual report - Scholarships.

The state board of higher education shall provide to the legislative management an annual report regarding the number of North Dakota scholarships, North Dakota academic scholarships, and North Dakota career and technical education scholarships provided and demographic information pertaining to the recipients.

⁸⁹ **SECTION 2. AMENDMENT.** Section 15-10-59 of the North Dakota Century Code is amended and reenacted as follows:

15-10-59. Annual report - Scholarships.

The state board of higher education shall provide to the legislative management an annual report regarding the number of North Dakota ~~scholarships, North Dakota academic scholarships, and North Dakota career and technical education~~ scholarships provided and demographic information pertaining to the recipients.

SECTION 3. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

North Dakota scholarship.

Any resident student who meets the requirements of section 15.1-21-02.6 is eligible to receive a North Dakota scholarship if the student:

1. Completed an individual consultative process or a nine-week course under subsection 2 of section 15.1-21-18;

⁸⁸ Section 15-10-59 was also amended by section 2 of Senate Bill No. 2289, chapter 159.

⁸⁹ Section 15-10-59 was also amended by section 1 of Senate Bill No. 2289, chapter 159.

2. Completed the civics test under section 15.1-21-27;
3. Completed a four-year rolling plan, as determined by the superintendent of public instruction;
4. Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading scale, or an equivalent course proficiency score if the student was enrolled in a school district participating in an approved innovative education program under section 15.1-06-08.2 and the school district obtained a waiver under section 15.1-06-08.1;
5. Completed the requirements in at least four of the following while enrolled in grades nine through twelve:
 - a. Twenty-five hours of community service;
 - b. A ninety-five percent attendance rate as determined under section 15.1-20-02.1, not including any school-related absences;
 - c. A career exploration experience, as determined by the superintendent of public instruction;
 - d. At least two years in organized cocurricular activities;
 - e. At least two years in organized extracurricular activities;
 - f. A capstone project, as determined by the superintendent of public instruction;
 - g. An online learning course; and
 - h. Successful demonstration of competency in twenty-first century skills, as determined by the superintendent of public instruction; and
6. Completed the requirements in two of the following subdivisions while enrolled in grades nine through twelve:
 - a. (1) Received:
 - (a) A composite score of at least twenty-four on an ACT; or
 - (b) A score of at least 1180 on an SAT; and
 - (2) Completed the requirements in at least two of the following:
 - (a) A grade of at least "C" in an advanced placement course, or an equivalent course proficiency score;
 - (b) A grade of at least "C" in a dual-credit English or mathematics course, or an equivalent course proficiency score;
 - (c) A grade of at least "C" in one unit of algebra II, or an equivalent course proficiency score;
 - (d) A score of at least three on an advanced placement examination;

- (e) A score of at least four on an international baccalaureate examination; and
 - (f) A cumulative grade point average of at least 3.0 on a 4.0 grading scale, or an equivalent course proficiency score if the student was enrolled in a school district participating in an approved innovative education program under section 15.1-06-08.2 and the school district obtained a waiver under section 15.1-06-08.1, in core courses required for admission to institutions of higher education under the control of the state board of higher education;
 - b. (1) Earned four units of career and technical education, including two units from a coordinated plan of study recommended by the department of career and technical education and approved by the superintendent of public instruction;
 - (2) 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; and
 - (3) Successfully completed the requirements in at least two of the following:
 - (a) A career-ready practices course developed and recommended by the department of career and technical education and approved by the superintendent of public instruction;
 - (b) A grade of at least "C" in a dual-credit course, or an equivalent course proficiency score;
 - (c) A technical assessment or industry credential, as determined by the department of career and technical education;
 - (d) Forty hours in a workplace learning experience, approved by the superintendent of public instruction;
 - (e) Forty hours in a work-based learning experience aligned to the Strengthening Career and Technical Education for the 21st Century Act [Pub. L. 115-224; 132 Stat. 1563; 20 U.S.C. 2301 et seq.]; and
 - (f) Received:
 - [1] A score of at least three on a reading and mathematics assessment administered under subsection 1 of section 15.1-21-08 while enrolled in grades nine through twelve; or
 - [2] ACT scores of at least nineteen in English and at least twenty-two in mathematics if the school in which the student was enrolled used an ACT assessment for accountability; or
 - c. (1) Received:

- (a) A score of at least thirty-one on an ASVAB test and successfully completed basic training in one of the branches of the United States military; or
- (b) A score of at least eighty-five on an ASVAB test;
- (2) Obtained a grade of at least "C" in a physical education course, or an equivalent course proficiency score; and
- (3) Completed any two of subparagraphs a through f of paragraph 2 of subdivision a, or any two of subparagraphs a through f of paragraph 3 of subdivision b.

⁹⁰ **SECTION 4. 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 scholarship, 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, maintains a cumulative grade point average of 2.75, and maintains progress toward degree completion.
- 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 scholarship, 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, maintains a cumulative grade point average of 2.75, and maintains progress toward degree completion.
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.

⁹⁰ Section 15.1-21-02.6 was also amended by section 3 of Senate Bill No. 2136, chapter 157, and section 5 of Senate Bill No. 2289, chapter 159.

- b. A scholarship under this section is valid only for six academic years after the student's graduation from high school and may be applied to a graduate program.
- 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 section 15.1-21-02.5,~~ or section 2 of this Act and who:
 - a. Graduates from a high school in this state;
 - b. Graduates from a high school in a bordering state under chapter 15.1-29;
 - c. 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. a. For purposes of North Dakota scholarship eligibility under this section, "full-time" has the same meaning as the term is defined by the institution the student is attending.
- b. A student who is enrolled less than full-time may retain scholarship eligibility if the student is in the final semester or quarter before graduation. The waiver of the full-time enrollment status requirement for scholarship eligibility may not apply to a student more than once.
- c. For the purpose of North Dakota scholarship eligibility under this section, "progress toward degree completion" means earning the following minimum number of credits after each semester or quarter term disbursement to qualify for the subsequent disbursement:
 - (1) Twenty-four credits after disbursement two;
 - (2) Thirty-nine credits after disbursement three;
 - (3) Fifty-four credits after disbursement four;
 - (4) Sixty-nine credits after disbursement five;
 - (5) Eighty-four credits after disbursement six; and
 - (6) Ninety-nine credits after disbursement seven.

⁹¹ **SECTION 5. 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 a North Dakota scholarship, ~~a North Dakota academic scholarship, or a North Dakota career and technical education scholarship~~ in the amount of seven

⁹¹ Section 15.1-21-02.6 was also amended by section 3 of Senate Bill No. 2136, chapter 157, and section 4 of Senate Bill No. 2289, chapter 159.

hundred fifty dollars for each semester during which the student is enrolled full time at an accredited institution of higher education in this state, maintains a cumulative grade point average of 2.75, and maintains progress toward degree completion.

- b. The state board of higher education shall provide to any student certified as being eligible by the superintendent of public instruction a North Dakota scholarship, ~~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, maintains a cumulative grade point average of 2.75, and maintains progress toward degree completion.
2. The state board shall monitor each scholarship recipient to ensure 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. A scholarship under this section is valid only for six academic years after the student's graduation from high school and may be applied to a graduate program.
6. A scholarship under this section is available to any eligible resident student who fulfills the requirements of ~~section 15.1-21-02.4, section 15.1-21-02.5, or section 2~~ of this Act and who:
 - a. Graduates from a high school in this state;
 - b. Graduates from a high school in a bordering state under chapter 15.1-29;
 - c. 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.
 - a. For purposes of North Dakota scholarship eligibility under this section, "full-time" has the same meaning as the term is defined by the institution the student is attending.
 - b. A student who is enrolled less than full-time may retain scholarship eligibility if the student is in the final semester or quarter before graduation.

The waiver of the full-time enrollment status requirement for scholarship eligibility may not apply to a student more than once.

- c. For the purpose of North Dakota scholarship eligibility under this section, "progress toward degree completion" means earning the following minimum number of credits after each semester or quarter term disbursement to qualify for the subsequent disbursement:

- (1) Twenty-four credits after disbursement two;
- (2) Thirty-nine credits after disbursement three;
- (3) Fifty-four credits after disbursement four;
- (4) Sixty-nine credits after disbursement five;
- (5) Eighty-four credits after disbursement six; and
- (6) Ninety-nine credits after disbursement seven.

⁹² **SECTION 6. AMENDMENT.** Section 15.1-21-02.8 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.8. North Dakota scholarship - Eligibility - One-time exception.

1. a. Notwithstanding section 15.1-21-02.6, if a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a semester is below 2.75, the board shall grant an exception and provide the North Dakota scholarship to which the student would otherwise be entitled for the next semester in which the student is enrolled full time. The exception provided by this section is applicable to a student only one time.
- b. If a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a semester is below 2.75 for a second time, the student is no longer eligible to receive ~~any additional~~ North Dakota, North Dakota academic, or North Dakota career and technical education scholarship.
2. a. Notwithstanding section 15.1-21-02.6, if a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a quarter is below 2.75, the board shall grant an exception and provide the North Dakota scholarship to which the student would otherwise be entitled for the next quarter in which the student is enrolled full time. The exception provided by this section is applicable to a student only one time.
- b. If a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a quarter is below 2.75 for a second time, the student is no longer eligible to receive ~~any additional~~ North Dakota, North Dakota academic, or North Dakota career and technical education scholarship.

⁹² Section 15.1-21-02.8 was also amended by section 4 of Senate Bill No. 2136, chapter 157, and section 7 of Senate Bill No. 2289, chapter 159.

⁹³ **SECTION 7. AMENDMENT.** Section 15.1-21-02.8 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.8. North Dakota scholarship - Eligibility - One-time exception.

1. a. Notwithstanding section 15.1-21-02.6, if a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a semester is below 2.75, the board shall grant an exception and provide the North Dakota scholarship to which the student would otherwise be entitled for the next semester in which the student is enrolled full time. The exception provided by this section is applicable to a student only one time.
- b. If a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a semester is below 2.75 for a second time, the student is no longer eligible to receive a North Dakota, ~~North Dakota academic, or North Dakota career and technical education~~ scholarship.
2. a. Notwithstanding section 15.1-21-02.6, if a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a quarter is below 2.75, the board shall grant an exception and provide the North Dakota scholarship to which the student would otherwise be entitled for the next quarter in which the student is enrolled full time. The exception provided by this section is applicable to a student only one time.
- b. If a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a quarter is below 2.75 for a second time, the student is no longer eligible to receive a North Dakota, ~~North Dakota academic, or North Dakota career and technical education~~ scholarship.

⁹⁴ **SECTION 8. AMENDMENT.** Section 15.1-21-02.9 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.9. North Dakota scholarship - Information system.

Each school district shall use North Dakota eTranscripts, or an alternative information system designated by the information technology department in collaboration with the department of public instruction, to submit official transcripts for the North Dakota, North Dakota academic, or North Dakota career and technical education scholarship to the superintendent of public instruction.

⁹⁵ **SECTION 9. AMENDMENT.** Section 15.1-21-02.9 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.9. North Dakota scholarship - Information system.

⁹³ Section 15.1-21-02.8 was also amended by section 4 of Senate Bill No. 2136, chapter 157, and section 6 of Senate Bill No. 2289, chapter 159.

⁹⁴ Section 15.1-21-02.9 was also amended by section 9 of Senate Bill No. 2289, chapter 159.

⁹⁵ Section 15.1-21-02.9 was also amended by section 8 of Senate Bill No. 2289, chapter 159.

Each school district shall use North Dakota eTranscripts, or an alternative information system designated by the information technology department in collaboration with the department of public instruction, to submit official transcripts for the North Dakota, ~~North Dakota academic, or North Dakota career and technical education~~ scholarship to the superintendent of public instruction.

⁹⁶ **SECTION 10. REPEAL.** Sections 15.1-21-02.4 and 15.1-21-02.5 of the North Dakota Century Code are repealed.

SECTION 11. EFFECTIVE DATE. Sections 2, 5, 7, 9, and 10 of this Act become effective on July 31, 2024.

Approved April 19, 2021

Filed April 20, 2021

⁹⁶ Section 15.1-21-02.4 was amended by section 1 of House Bill No. 1083, chapter 155, section 1 of House Bill No. 1135, chapter 156, section 1 of Senate Bill No. 2136, chapter 157, and section 3 of Senate Bill No. 2141, chapter 158; section 15.1-21-02.5 was amended by section 2 of House Bill No. 1083, chapter 155, section 2 of House Bill No. 1135, chapter 156, section 2 of Senate Bill No. 2136, chapter 157, and section 4 of Senate Bill No. 2141, chapter 158.

CHAPTER 160

HOUSE BILL NO. 1436

(Representatives Schreiber-Beck, Longmuir, Pyle, Zubke)
(Senator Oban)

AN ACT to amend and reenact subsection 1 of section 15.1-21-16 of the North Dakota Century Code, relating to summer school courses; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15.1-21-16 of the North Dakota Century Code is amended and reenacted as follows:

1. a. ~~Remedial mathematics~~Mathematics provided to students enrolled in any grade from kindergarten through eight;
- b. ~~Remedial reading~~Reading provided to students enrolled in any grade from kindergarten through eight;
- c. ~~Beginning after the conclusion of the 2009-10 school calendar, mathematics provided to students enrolled in any grade from five through eight;~~
- d. ~~Beginning after the conclusion of the 2009-10 school calendar, reading provided to students enrolled in any grade from five through eight;~~
- e. ~~Beginning after the conclusion of the 2009-10 school calendar, science~~Science provided to students enrolled in any grade from five through eight; and
- f. ~~Beginning after the conclusion of the 2009-10 school calendar, social~~
- d. Social studies provided to students enrolled in any grade from five through eight; and

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

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 161

HOUSE BILL NO. 1246

(Representatives M. Nelson, Adams, Sanford)
(Senator Bakke)

AN ACT to amend and reenact section 15.1-27-04.1 of the North Dakota Century Code, relating to the education foundation aid funding formula and the treatment of federal impact aid funding.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁷ **SECTION 1. AMENDMENT.** Section 15.1-27-04.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-04.1. Baseline funding - Establishment - Determination of state aid. (Effective through June 30, 2025)

1. To determine the amount of state aid payable to each district, the superintendent of public instruction shall establish each district's baseline funding. A district's baseline funding consists of:
 - a. All state aid received by the district in accordance with chapter 15.1-27 during the 2018-19 school year;
 - b. An amount equal to the property tax deducted by the superintendent of public instruction to determine the 2018-19 state aid payment;
 - c. An amount equal to seventy-five percent of the revenue received by the school district during the 2017-18 school year for the following revenue types:
 - (1) Revenue reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
 - (2) Mineral revenue received by the school district through direct allocation from the state treasurer and not reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
 - (3) Tuition reported under code 1300 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08, with the exception of revenue received specifically for the operation of an educational program provided at a residential treatment facility and, tuition received for the provision of an adult farm

⁹⁷ Section 15.1-27-04.1 was also amended by section 11 of House Bill No. 1388, chapter 141.

management program, and beginning in the 2021-22 school year, seventeen percent of tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid, and an additional seventeen percent of tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid each school year thereafter, until the 2024-25 school year when sixty-eight percent of tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid must be excluded from the tuition calculation under this paragraph;

- (4) Revenue from payments in lieu of taxes on the distribution and transmission of electric power;
 - (5) Revenue from payments in lieu of taxes on electricity generated from sources other than coal; and
 - (6) Revenue from the leasing of land acquired by the United States for which compensation is allocated to the state under 33 U.S.C. 701(c) (3); and
- d. An amount equal to the total revenue received by the school district during the 2017-18 school year for the following revenue types:
- (1) Mobile home tax revenue;
 - (2) Telecommunications tax revenue; and
 - (3) Revenue from payments in lieu of taxes and state reimbursement of the homestead credit and disabled veterans credit; and
- e. Beginning with the 2020-21 school year, the superintendent shall reduce the baseline funding for any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2012-13 school year. The reduction must be proportional to the number of weighted student units in the grades that are offered through another school district relative to the total number of weighted student units the school district offered in the year before the school district became an elementary district. The reduced baseline funding applies to the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter. For districts that become an elementary district prior to the 2020-21 school year, the superintendent shall use the reduced baseline funding to calculate state aid for the 2020-21 school year and for each year thereafter.
2. a. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's 2017-18 weighted student units to determine the district's baseline funding per weighted student unit.
- b. For any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2017-18 school year, the superintendent shall adjust the district's baseline funding per weighted student unit used to calculate state aid. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's weighted student units

after the school district becomes an elementary district to determine the district's adjusted baseline funding per weighted student unit. The superintendent shall use the district's adjusted baseline funding per weighted student unit in the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter.

- c. Beginning with the 2021-22 school year and for each school year thereafter, the superintendent shall reduce the district's baseline funding per weighted student unit. Each year the superintendent shall calculate the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit provided in subsection 3. The superintendent shall reduce the district's baseline funding per weighted student unit by fifteen percent of the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit for the 2021-22 school year. For each year thereafter, the reduction percentage is increased by an additional fifteen percent. However, the district's baseline funding per weighted student unit, after the reduction, may not be less than the payment per weighted student unit provided in subsection 3.
3. a. For the 2019-20 school year, the superintendent shall calculate state aid as the greater of:
 - (1) The district's weighted student units multiplied by nine thousand eight hundred thirty-nine dollars;
 - (2) One hundred one percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by nine thousand eight hundred thirty-nine dollars; or
 - (3) The district's baseline funding as established in subsection 1.
 - b. For the 2020-21 school year and each school year thereafter, the superintendent shall calculate state aid as the greater of:
 - (1) The district's weighted student units multiplied by ten thousand thirty-six dollars;
 - (2) One hundred two percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by ten thousand thirty-six dollars; or
 - (3) The district's baseline funding as established in subsection 1 less the amount in paragraph 1, with the difference reduced by fifteen percent for the 2021-22 school year and fifteen percent each school year thereafter, and then the difference added to the amount determined in paragraph 1.

- c. The superintendent also shall adjust state aid determined in this subsection:
- (1) For the 2019-20 school year, to ensure the amount does not exceed one hundred five percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units from the previous school year.
 - (2) For the 2020-21 school year and each school year thereafter, to ensure the amount does not exceed one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units from the previous school year.
4. After determining the product in accordance with subsection 3, the superintendent of public instruction shall:
- a. Subtract an amount equal to sixty mills multiplied by the taxable valuation of the school district, except the amount in dollars subtracted for purposes of this subdivision may not exceed the previous year's amount in dollars subtracted for purposes of this subdivision by more than twelve percent, adjusted pursuant to section 15.1-27-04.3; and
 - b. Subtract an amount equal to seventy-five percent of all revenue types listed in subdivisions c and d of subsection 1. Before determining the deduction for seventy-five percent of all revenue types, the superintendent of public instruction shall adjust revenues as follows:
 - (1) Tuition revenue shall be adjusted as follows:
 - (a) In addition to deducting tuition revenue received specifically for the operation of an educational program provided at a residential treatment facility and, tuition revenue received for the provision of an adult farm management program, and tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid as directed each school year in paragraph 3 of subdivision c of subsection 1, the superintendent of public instruction also shall reduce the total tuition reported by the school district by the amount of tuition revenue received for the education of students not residing in the state and for which the state has not entered a cross-border education contract; and
 - (b) The superintendent of public instruction also shall reduce the total tuition reported by admitting school districts meeting the requirements of subdivision e of subsection 2 of section 15.1-29-12 by the amount of tuition revenue received for the education of students residing in an adjacent school district.
 - (2) After adjusting tuition revenue as provided in paragraph 1, the superintendent shall reduce all remaining revenues from all revenue types by the percentage of mills levied in 2018 by the school district for sinking and interest relative to the total mills levied in 2018 by the school district for all purposes.

5. The amount remaining after the computation required under subsection 4 is the amount of state aid to which a school district is entitled, subject to any other statutory requirements or limitations.
6. On or before June thirtieth of each year, the school board shall certify to the superintendent of public instruction the final average daily membership for the current school year.
7. For purposes of the calculation in subsection 4, each county auditor, in collaboration with the school districts, shall report the following to the superintendent of public instruction on an annual basis:
 - a. The amount of revenue received by each school district in the county during the previous school year for each type of revenue identified in subdivisions c and d of subsection 1;
 - b. The total number of mills levied in the previous calendar year by each school district for all purposes; and
 - c. The number of mills levied in the previous calendar year by each school district for sinking and interest fund purposes.

Baseline funding - Establishment - Determination of state aid. (Effective after June 30, 2025)

1. To determine the amount of state aid payable to each district, the superintendent of public instruction shall establish each district's baseline funding. A district's baseline funding consists of:
 - a. All state aid received by the district in accordance with chapter 15.1-27 during the 2018-19 school year;
 - b. An amount equal to the property tax deducted by the superintendent of public instruction to determine the 2018-19 state aid payment;
 - c. An amount equal to seventy-five percent of the revenue received by the school district during the 2017-18 school year for the following revenue types:
 - (1) Revenue reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
 - (2) Mineral revenue received by the school district through direct allocation from the state treasurer and not reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
 - (3) Tuition reported under code 1300 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08, with the exception of revenue received specifically for the operation of an educational program provided at a residential treatment facility and, tuition received for the provision of an adult farm

management program, and beginning in the 2025-26 school year, eighty-five percent of tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid, until the 2026-27 school year, and each school year thereafter, when all tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid must be excluded from the tuition calculation under this paragraph;

- (4) Revenue from payments in lieu of taxes on the distribution and transmission of electric power;
 - (5) Revenue from payments in lieu of taxes on electricity generated from sources other than coal; and
 - (6) Revenue from the leasing of land acquired by the United States for which compensation is allocated to the state under 33 U.S.C. 701(c) (3); and
 - d. An amount equal to the total revenue received by the school district during the 2017-18 school year for the following revenue types:
 - (1) Mobile home tax revenue;
 - (2) Telecommunications tax revenue; and
 - (3) Revenue from payments in lieu of taxes and state reimbursement of the homestead credit and disabled veterans credit.
 - e. Beginning with the 2020-21 school year, the superintendent shall reduce the baseline funding for any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2012-13 school year. The reduction must be proportional to the number of weighted student units in the grades that are offered through another school district relative to the total number of weighted student units the school district offered in the year before the school district became an elementary district. The reduced baseline funding applies to the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter. For districts that become an elementary district prior to the 2020-21 school year, the superintendent shall use the reduced baseline funding to calculate state aid for the 2020-21 school year and for each year thereafter.
- 2. a. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's 2017-18 weighted student units to determine the district's baseline funding per weighted student unit.
 - b. For any school district that becomes an elementary district pursuant to section 15.1-07-27 after the 2017-18 school year, the superintendent shall adjust the district's baseline funding per weighted student unit used to calculate state aid. The superintendent shall divide the district's baseline funding determined in subsection 1 by the district's weighted student units after the school district becomes an elementary district to determine the district's adjusted baseline funding per weighted student unit. The superintendent shall use the district's adjusted baseline funding per

- weighted student unit in the calculation of state aid for the first school year in which the school district becomes an elementary district and for each year thereafter.
- c. Beginning with the 2021-22 school year and for each school year thereafter, the superintendent shall reduce the district's baseline funding per weighted student unit. Each year the superintendent shall calculate the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit provided in subsection 3. The superintendent shall reduce the district's baseline funding per weighted student unit by fifteen percent of the amount by which the district's baseline funding per weighted student unit exceeds the payment per weighted student unit for the 2021-22 school year. For each year thereafter, the reduction percentage is increased by an additional fifteen percent. However, the district's baseline funding per weighted student unit, after the reduction, may not be less than the payment per weighted student unit provided in subsection 3.
3. a. For the 2019-20 school year, the superintendent shall calculate state aid as the greater of:
 - (1) The district's weighted student units multiplied by nine thousand eight hundred thirty-nine dollars;
 - (2) One hundred one percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by nine thousand eight hundred thirty-nine dollars; or
 - (3) The district's baseline funding as established in subsection 1.
 - b. For the 2020-21 school year and each school year thereafter, the superintendent shall calculate state aid as the greater of:
 - (1) The district's weighted student units multiplied by ten thousand thirty-six dollars;
 - (2) One hundred two percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units, not to exceed the district's 2017-18 baseline weighted student units, plus any weighted student units in excess of the 2017-18 baseline weighted student units multiplied by ten thousand thirty-six dollars; or
 - (3) The district's baseline funding as established in subsection 1 less the amount in paragraph 1, with the difference reduced by fifteen percent for the 2021-22 school year and fifteen percent each school year thereafter, and then the difference added to the amount determined in paragraph 1.
 - c. The superintendent also shall adjust state aid determined in this subsection:

- (1) For the 2019-20 school year, to ensure the amount does not exceed one hundred five percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units from the previous school year.
 - (2) For the 2020-21 school year and each school year thereafter, to ensure the amount does not exceed one hundred ten percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's weighted student units from the previous school year.
4. After determining the product in accordance with subsection 3, the superintendent of public instruction shall:
 - a. Subtract an amount equal to sixty mills multiplied by the taxable valuation of the school district; and
 - b. Subtract an amount equal to seventy-five percent of all revenue types listed in subdivisions c and d of subsection 1. Before determining the deduction for seventy-five percent of all revenue types, the superintendent of public instruction shall adjust revenues as follows:
 - (1) Tuition revenue shall be adjusted as follows:
 - (a) In addition to deducting tuition revenue received specifically for the operation of an educational program provided at a residential treatment facility and, tuition revenue received for the provision of an adult farm management program, and tuition received under an agreement to educate students from a school district on an air force base with funding received through federal impact aid as directed each school year in paragraph 3 of subdivision c of subsection 1, the superintendent of public instruction also shall reduce the total tuition reported by the school district by the amount of tuition revenue received for the education of students not residing in the state and for which the state has not entered a cross-border education contract; and
 - (b) The superintendent of public instruction also shall reduce the total tuition reported by admitting school districts meeting the requirements of subdivision e of subsection 2 of section 15.1-29-12 by the amount of tuition revenue received for the education of students residing in an adjacent school district.
 - (2) After adjusting tuition revenue as provided in paragraph 1, the superintendent shall reduce all remaining revenues from all revenue types by the percentage of mills levied in 2018 by the school district for sinking and interest relative to the total mills levied in 2018 by the school district for all purposes.
5. The amount remaining after the computation required under subsection 4 is the amount of state aid to which a school district is entitled, subject to any other statutory requirements or limitations.

6. On or before June thirtieth of each year, the school board shall certify to the superintendent of public instruction the final average daily membership for the current school year.
7. For purposes of the calculation in subsection 4, each county auditor, in collaboration with the school districts, shall report the following to the superintendent of public instruction on an annual basis:
 - a. The amount of revenue received by each school district in the county during the previous school year for each type of revenue identified in subdivisions c and d of subsection 1;
 - b. The total number of mills levied in the previous calendar year by each school district for all purposes; and
 - c. The number of mills levied in the previous calendar year by each school district for sinking and interest fund purposes.

Approved April 22, 2021

Filed April 23, 2021

CHAPTER 162

HOUSE BILL NO. 1027

(Legislative Management)
(Education Funding Formula Review Committee)

AN ACT to create and enact five new sections to chapter 15.1-27 of the North Dakota Century Code, relating to school district transportation aid payments; to amend and reenact section 15.1-31-05 of the North Dakota Century Code, relating to the transportation of open enrollment students; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

School district transportation of students - Payments.

1. Subject to legislative appropriation, the superintendent of public instruction shall pay each school district providing schoolbus transportation in contract schoolbuses or in district-owned and operated schoolbuses, and each school district with students riding commercial buses to and from school within the incorporated limits of a city, the following amounts from state funds:
 - a. For schoolbuses and school vehicles transporting students:
 - (1) Fifty-two cents per mile [1.61 kilometers] for vehicles that have a capacity of fewer than ten students; and
 - (2) One dollar and eleven cents per mile [1.61 kilometers] for schoolbuses that have a capacity of ten or more students; and
 - b. Thirty cents per one-way trip for each student transported.
2. The superintendent of public instruction shall provide per mileage payments if:
 - a. A school district qualifies to receive payment pursuant to subsection 1; and
 - b. The school district operates schoolbuses in accordance with state law relating to schoolbus standards and school vehicle driver requirements. A school district shall certify compliance with state law relating to schoolbus standards and school vehicle driver requirements when applying for payment under this section. The superintendent of public instruction may adopt rules governing certification of compliance under this subdivision.
3. Subject to legislative appropriation, the superintendent of public instruction shall reimburse school districts fifty cents per day per mile [1.61 kilometers] one-way for each mile over two miles [3.22 kilometers] for students transported by family transportation in accordance with section 15.1-30-02, according to the distance between the home of the student and the school. The distance must be measured by the route from the front door of the school

attended to the front door of the residence of the family of the student according to the most convenient public course traveled.

4. The superintendent of public instruction shall use the latest available student enrollment count in each school district in applying the provisions of this section, with the exception of the 2021-22 and 2022-23 school years, for which the superintendent of public instruction shall calculate each school district's payment based on the district's miles and ridership data from the 2018-19 school year or the previous school year, whichever is greater.
5. This section does not authorize the reimbursement of any costs incurred in providing transportation for students to attend extracurricular activities or events.

SECTION 2. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

School district transportation of special education students - Payments.

1. Subject to legislative appropriation, the superintendent of public instruction shall pay each school district transporting students enrolled in special education programs approved by the superintendent of public instruction:
 - a. The amount provided in section 1 of this Act for vehicles that have a capacity of fewer than ten students if the school district is transporting fewer than ten students per vehicle;
 - b. The amount provided in section 1 of this Act for vehicles that have a capacity of ten or more students if the school district is transporting ten or more students per vehicle; and
 - c. The additional amount provided in section 1 of this Act, per one-way trip, for each student transported.
2. Subject to legislative appropriation, a school district entitled to payments under this section is entitled to receive transportation aid for all miles [kilometers] traveled and for all students transported, regardless of whether the students transported live within the incorporated limits of the city in which the students' school is located.
3. Subject to legislative appropriation, the superintendent of public instruction shall reimburse school districts fifty cents per day per mile [1.61 kilometers] if:
 - a. The student being transported has a disability, as defined in chapter 15.1-32;
 - b. The student has an individualized education plan that requires the student attend a public or nonpublic school located outside the student's school district of residence;
 - c. The student is transported by an adult family member in family provided transportation; and
 - d. The reimbursement does not exceed two round trips per day between the home of the student and the school.

4. Notwithstanding any other provision of law, the superintendent of public instruction, upon request from the school district, shall make the payments due to a school district under this section directly to a multidistrict special education unit.

SECTION 3. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

School district transportation of career and technical education students - Payments.

1. Subject to legislative appropriation, the superintendent of public instruction shall pay each school district transporting students to and from schools in other school districts, to and from area career and technology centers, and to and from schools within the district for career and technical education courses offered through cooperative arrangements approved by the state board for career and technical education:
 - a. The amount provided in section 1 of this Act for vehicles that have a capacity of fewer than ten students if the school district is transporting fewer than ten students per vehicle;
 - b. The amount provided in section 1 of this Act for vehicles that have a capacity of ten or more students if the school district is transporting ten or more students per vehicle; and
 - c. The additional amount provided in section 1 of this Act, per one-way trip, for each student transported.
2. Subject to legislative appropriation, a school district entitled to payments under this section is entitled to receive transportation aid for all miles [kilometers] traveled and for all students transported, regardless of whether the students transported live within the incorporated limits of the city in which the students' school is located.
3. Notwithstanding any other provision of law, the superintendent of public instruction, upon request from the school district, shall make the payments due to a school district under this section directly to an area career and technology center.

SECTION 4. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

School district closure - Distribution of transportation payments.

1. If a school district ceases to exist, the superintendent of public instruction shall calculate the amount of transportation payments to which the former school district would have been entitled for providing transportation services during the school district's final year of operation and shall pay a percentage of the amount certified to each school district in the state which enrolls students who attended the former school district during the prior school year. Each school district eligible for payment under this section is entitled to receive the percentage of the total amount certified which is the same as the percentage of the number of the district's students who attended the former school district during the prior school year bears to the total number of students who attended the former school district during the prior school year.

2. Subject to legislative appropriation, the superintendent of public instruction shall pay the amount to which a school district is entitled under this section in the manner and at the time provided for other state payments in section 15.1-27-01.

SECTION 5. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

State transportation payments to school districts.

1. Subject to legislative appropriation, the superintendent of public instruction shall determine the total amount of payments to be made to the school districts for the transportation of students and shall pay the amount certified to each school district. Payments must be made in the same manner and at the time provided for other state payments in section 15.1-27-01. The superintendent of public instruction may not distribute more than one-half of the amount appropriated for transportation grants for any biennium in the first year of the biennium. If total transportation reimbursement claims exceed the amount appropriated by the legislative assembly, the superintendent of public instruction shall reduce transportation reimbursements on a prorated basis for all school districts requesting reimbursements.
2. A school district may not receive more than ninety percent of the actual costs incurred for the transportation of students.
3. For purposes of this section, actual costs include the transportation operating expenditures reported to the superintendent of public instruction for the most recent year plus the eight-year average cost of transportation equipment determined by the superintendent of public instruction. Any district having contracted for transportation services may determine the actual costs for the first year the district provides its own transportation services by using the statewide average cost of transportation during the first year.

SECTION 6. AMENDMENT. Section 15.1-31-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-31-05. Open enrollment - Transportation.

A school district of residence may provide transportation to a student participating in open enrollment. If a district of residence does not provide transportation to a student participating in open enrollment, transportation may be provided by the admitting district. A school district may not receive transportation aid disbursements under subdivision a of subsection 1 of section 1 of this Act or subsection 3 of section 1 of this Act for transporting students who are participating in open enrollment, or who are enrolled pursuant to a written contract entered by the sending and admitting districts which waives the charge and collection of tuition for the student.

SECTION 7. LEGISLATIVE MANAGEMENT STUDY - CAREER AND TECHNICAL EDUCATION STUDENT TRANSPORTATION COSTS. During the 2021-22 interim, the legislative management shall consider studying the impact of additional career and technical education center student transportation on student transportation costs. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 163

SENATE BILL NO. 2269

(Senator Poolman)
(Representative Martinson)

AN ACT to create and enact a new section to chapter 15.1-32 of the North Dakota Century Code, relating to a postsecondary transitional grant program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-32 of the North Dakota Century Code is created and enacted as follows:

Postsecondary transitional grant program - Students.

The superintendent of public instruction shall provide integrated formula payments to postsecondary transitional programs for eligible students enrolled in a postsecondary transitional program within the state at the rate provided under section 15.1-27-04.1. For purposes of this section, "eligible student" means a student with a documented intellectual or developmental disability who is at least eighteen years of age but has not reached the age of twenty-two, who has graduated from a public high school in the state or obtained an equivalent degree, and who enrolls in a postsecondary transitional program. By June thirtieth of each year, postsecondary transitional programs shall submit to the superintendent of public instruction for the reimbursement of eligible students enrolled in the program. Grant payments under this section may not exceed the per student rate under section 15.1-27-04.1. The superintendent of public instruction shall review and approve postsecondary transitional programs and develop a system for the distribution of payments necessary to implement this section.

Approved April 19, 2021

Filed April 20, 2021

ELECTIONS

CHAPTER 164

HOUSE BILL NO. 1253

(Representatives Louser, Christensen, Kasper, B. Koppelman, Rohr, D. Ruby,
Schauer, Toman)
(Senators Hogue, Meyer, K. Roers, Vedaa)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24, a new section to chapter 16.1-01, sections 16.1-07-13.1 and 16.1-12-10, and a new section to chapter 54-09 of the North Dakota Century Code, relating to election administration; to amend and reenact section 15.1-09-15, subsection 1 of section 16.1-01-01, section 16.1-01-03, subsection 5 of section 16.1-01-04.1, sections 16.1-01-05.1, 16.1-01-06, 16.1-01-07, and 16.1-01-08, subsection 5 of section 16.1-01-09, subsection 7 of section 16.1-01-09.1, sections 16.1-01-12, 16.1-01-16, and 16.1-01-17, the new section to chapter 16.1-01 of the North Dakota Century Code, as created by section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, sections 16.1-02-01, 16.1-02-02, 16.1-02-05, 16.1-02-06, 16.1-02-07, 16.1-02-10, 16.1-02-11, and 16.1-02-13, subsection 2 of section 16.1-05-01, sections 16.1-06-02, 16.1-06-04, 16.1-06-11, 16.1-06-12, 16.1-06-14, 16.1-06-17, 16.1-06-18, 16.1-06-19, 16.1-06-25, and 16.1-06-26, subsection 1 of section 16.1-07-05, sections 16.1-07-06, 16.1-07-07, 16.1-07-08, 16.1-07-09, and 16.1-07-10, subsection 1 of section 16.1-07-12.1, sections 16.1-07-15, 16.1-08.1-01, 16.1-08.1-03.1, 16.1-10-07, 16.1-11-05.1, 16.1-11-06, 16.1-11-10, 16.1-11-11, 16.1-11-12, 16.1-11-16, 16.1-11-18, 16.1-11-19, 16.1-11-20, 16.1-11-21, 16.1-11-22, 16.1-11-31, 16.1-11-32, 16.1-11-33, 16.1-11-35, 16.1-11-36, 16.1-11-37, 16.1-11-39, 16.1-11.1-02, 16.1-11.1-03, 16.1-11.1-08, 16.1-12-01, 16.1-12-02.1, 16.1-12-03, 16.1-12-06, 16.1-12-07, 16.1-12-09, 16.1-13-05, 16.1-13-09, 16.1-13-14, 16.1-13-17, 16.1-13-18, 16.1-13-19, 16.1-13-23, 16.1-13-25, 16.1-13-27, 16.1-13-28, 16.1-13-29, 16.1-13-30, and 16.1-13-31, subsection 1 of section 16.1-15-01, and sections 16.1-15-01.1, 16.1-15-02, 16.1-15-08, 16.1-15-09, 16.1-15-10, 16.1-15-13, 16.1-15-15, 16.1-15-17, 16.1-15-19, 16.1-15-20, 16.1-15-21, 16.1-15-25, 16.1-15-30, 16.1-15-37, 16.1-15-42, 16.1-15-43, 16.1-15-45, 16.1-15-47, 16.1-16-01, 16.1-16-02, 16.1-16-04, 16.1-16-05, and 16.1-16-07 of the North Dakota Century Code, relating to election administration; to repeal sections 16.1-06-10.1, 16.1-07-11, 16.1-07-13, and 16.1-13-24 of the North Dakota Century Code, relating to election administration and the removal of obsolete language; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁸ **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The secretary of state for employees with access to personally identifying information of residents or businesses of the state or with access to elections systems that are critical infrastructure under section 44-04-24.

SECTION 2. AMENDMENT. Section 15.1-09-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-15. School district election - Declaration of winner.

On the ~~sixth~~^{thirteenth} day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election.

SECTION 3. A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

Definitions.

For purposes of this title, unless the context otherwise requires, "candidate" means:

1. An individual holding public office;
2. An individual who publicly has declared that individual's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office;
3. An individual who has formed a campaign or other committee for that individual's candidacy for public office;
4. An individual who has circulated a nominating petition to have that individual's name placed on the ballot; and
5. An individual who, in any manner, has solicited or received a contribution for that individual's candidacy for public office, whether before or after the election for that office.

SECTION 4. AMENDMENT. Subsection 1 of section 16.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

1. The secretary of state ~~must be~~^{is}, ex officio, supervisor of elections and may employ additional personnel to administer this title. The secretary of state shall supervise the conduct of elections and in that supervisory capacity has, in

⁹⁸ Section 12-60-24 was also amended by section 1 of House Bill No. 1073, chapter 98, section 2 of House Bill No. 1073, chapter 98, section 18 of House Bill No. 1247, chapter 352 section 1 of Senate Bill No. 2062, chapter 452, section 1 of Senate Bill No. 2110, chapter 218, section 1 of Senate Bill No. 2131, chapter 378, section 1 of Senate Bill No. 2174, chapter 447, section 1 of Senate Bill No. 2187, chapter 323, section 1 of Senate Bill No. 2338, chapter 379.

addition to other powers conferred by law, the power to examine upon the secretary of state's request or the request of any election official, any election ballot or other material, ~~electronic voting system or counting machine~~ authorized by chapter 16.1-06, or device used in connection with any election, for the purpose of determining sufficient compliance with the law and established criteria and standards adopted by the secretary of state according to section 16.1-06-26. The secretary of state, upon determining that any ballot or other material, ~~electronic voting system or counting machine~~, or device is not in sufficient compliance with the law or established criteria and standards, shall direct the proper changes to be made, and in the case of ~~electronic voting systems and counting machines~~, may decertify the ~~electronic voting systems and counting machines~~ according to the rules adopted under section 16.1-06-26.

SECTION 5. AMENDMENT. Section 16.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-03. Opening and closing of the polls.

The polls at all primary, general, and special elections must be opened at nine a.m. or earlier, but not earlier than seven a.m., as designated for any precinct by resolution of the governing body of the city or county in which the precinct is located. The polls must remain open continuously until seven p.m. or such a later hour, not later than nine p.m., as may be designated for a precinct by resolution of the governing body of the city or county in which the precinct is located. All electors standing in line to vote at the time the polls are set to close must be allowed to vote, but electors arriving after closing time may not be allowed to vote. A voter may take up to thirty minutes to mark and cast the ballot after receiving the ballot from the election judge. After the polls close, the election board shall generate the report of the vote totals not later than thirty minutes after the last elector in line at the closing time received a ballot. An elector remaining in the polling place after the thirty minutes have expired who has not completed marking the ballot must be offered the choice of casting the ballot as marked or continuing to mark the ballot. If the elector chooses to continue marking the ballot, the ballot selections must be excluded from the report of the vote totals generated by the election board but must be forwarded by the election board to the canvassing board and added to the final tally. The secretary of state shall develop uniform, mandatory procedures for election boards to ensure the secrecy of each elector's ballot. The election officers present are responsible for determining who arrived in time to vote, and the election officers shall establish appropriate procedures for making that determination. All determinations required to be made pursuant to this section relating to polling hours must be made, and the county auditor notified of them ~~the determinations~~, no later than thirty days ~~prior to~~ before an election.

⁹⁹ **SECTION 6. AMENDMENT.** Subsection 5 of section 16.1-01-04.1 of the North Dakota Century Code is amended and reenacted as follows:

5. If an individual is not able to show a valid form of identification but asserts qualifications as an elector in the precinct in which the individual desires to vote, the individual may mark a ballot that must be securely set aside in a sealed envelope designed by the secretary of state. After the ballot is set aside, the individual may show a valid form of identification to either a polling place election board member if the individual returns to the polling place before the polls close, or to an employee of the office of the election official

⁹⁹ Section 16.1-01-04.1 was also amended by section 2 of House Bill No. 1447, chapter 165.

responsible for the administration of the election before the meeting of the canvassing board occurring on the ~~sixth~~thirteenth day after the election. Each ballot set aside under this subsection must be presented to the members of the canvassing board for proper inclusion or exclusion from the tally.

SECTION 7. AMENDMENT. Section 16.1-01-05.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-05.1. Voter lists - Addition or transfer of names.

Through the use of the central voter file provided for in chapter 16.1-02, the secretary of state shall establish a procedure by which a county auditor may transfer a ~~person's~~an individual's name from the voter list of one precinct to the voter list of another precinct in the state if ~~that person~~the individual establishes a new residence, and by which a ~~person~~an individual who establishes residence in the state may have ~~that person's~~the individual's name placed on the voter list in the appropriate precinct. The procedure provided for in this section may not be used to require the registration of electors.

SECTION 8. AMENDMENT. Section 16.1-01-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-06. Highest number of votes elects.

Unless otherwise expressly provided by the laws of this state, in all elections for the choice of any officer, the ~~person~~individual receiving the highest number of votes for any office ~~must be~~is deemed to have been elected to that office.

SECTION 9. AMENDMENT. Section 16.1-01-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-07. Constitutional amendments and other questions to be advertised - Notification by secretary of state - Manner of publishing.

~~Whenever~~If a proposed constitutional amendment or other question is to be submitted to the people of the state for popular vote, the secretary of state shall, ~~not less than fifty-five days before the election,~~ certify the amendment or other question to each county auditor not less than fifty-five days before the election, and each auditor shall cause notice ~~thereof~~of the question to be included in the notice required by section 16.1-13-05. Questions to be submitted to the people of a particular county must be advertised in the same manner.

~~The~~At the same time the secretary of state certifies notice to the county auditors of the submission of a constitutional amendment or other question, the secretary of state shall, ~~at the same time the secretary of state certifies notice to the county auditors of the submission of a constitutional amendment or other question,~~ certify the ballot form for ~~such~~the questions. The ballot form must conform to the provisions of section 16.1-06-09 and must be used by all county auditors ~~in preparing to prepare~~ ballots for submission to the electorate of each county and ~~in the preparation of to~~ prepare sample ballots. ~~Any requirements in this title that a sample ballot be published will be met by the~~The publication of either the paper ballot or the ballot as it will appear to ~~persons~~individuals using an ~~electronic~~electronic voting system device, ~~depending upon whichever corresponds to~~ the method of voting used in the area involved, will satisfy any requirement in this title for a sample ballot to be published. Absentee voter ballots may not be considered in determining which method of voting is used in an area. If both paper ballots and electronic voting system ballots are used in an area, both forms must be published as sample ballots to meet publication and

~~notice requirements.~~ For two consecutive weeks before the sample ballot is published, an analysis of any constitutional amendment, initiated measure, or referred measure, written by the secretary of state after consultation with the attorney general, must be published in columns to enable the electors to become familiar with the effect of the proposed constitutional amendment or initiated or referred measure.

SECTION 10. AMENDMENT. Section 16.1-01-08 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-08. Correcting errors on ballots - Requiring performance of duty - Correcting or prosecuting wrongful performance.

1. The secretary of state shall ~~thoroughly~~ investigate thoroughly, when the matter comes to the secretary of state's attention, any of the following:
 - 1- ~~a.~~ Any error or omission ~~which that~~ has occurred or is about to occur in the placing of any name on an official election ballot; however, a factual dispute regarding a candidate's residency may be resolved only by a court order.
 - 2- ~~b.~~ Any error ~~which that~~ has been or is about to be committed in printing the ballot.
 - 3- ~~c.~~ Any wrongful act ~~which that~~ has been or is about to be done by any judge or election clerk, county auditor, canvassing board, a canvassing board member, or any other ~~person~~individual charged with any duty concerning the election.
 - 4- ~~d.~~ Any neglect of duty which has occurred or is about to occur.
2. If required, the secretary of state shall order the officer or ~~person~~individual charged with ~~such~~the error, wrong, or neglect to correct the error, desist from the wrongful act, or perform any required duty. The secretary of state may call upon any county auditor for aid in ~~investigation and correction of~~investigating and correcting the problem. The secretary of state shall cause any ~~person~~individual who violates the secretary of state's order to be prosecuted; if the violation constitutes an offense pursuant to this chapter. If the administrative remedies fail to correct the problem, or if the secretary of state refuses to act, any ~~person~~individual may petition the supreme court, or the district court of the relevant county ~~whereif~~ the election of a county officer is involved, for an order compelling the correction of the error, wrong, neglect, or act.

SECTION 11. AMENDMENT. Subsection 5 of section 16.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

5. When signed petitions are delivered to the secretary of state, the chairperson of the sponsoring committee shall submit to the secretary of state an affidavit stating that to the best of that individual's knowledge, the petitions contain at least the required number of signatures. The chairperson also shall submit a complete list of petition circulators which must include each circulator's full name and residential address. The residential address must be in this state and identify the circulator's street address, city, and zip code. Upon submission of the petitions to the secretary of state, the petitions are considered filed and may not be returned to the sponsoring committee for the purpose of continuing the circulation process or resubmitting the petitions at a

later time. An elector's name may not be removed by the elector from a petition that has been submitted to and received by the secretary of state.

SECTION 12. AMENDMENT. Subsection 7 of section 16.1-01-09.1 of the North Dakota Century Code is amended and reenacted as follows:

7. When recall petitions are delivered to the secretary of state or other filing officer with whom a petition for nomination to the office in question is filed, the chairman of the sponsoring committee shall submit to the secretary of state or other filing officer an affidavit stating that to the best of that individual's knowledge, the petitions contain at least the required number of signatures. The chairperson also shall submit a complete list of petition circulators which must include each circulator's full name and residential address. The residential address must be in this state and identify the circulator's street address, city, and zip code. Upon submission of the petitions to the appropriate filing officer, the petitions are considered filed and may not be returned to the chairman of the sponsoring committee for the purpose of continuing the circulation process or resubmitting the petitions at a later time. An elector's name may not be removed by the elector from a recall petition that has been submitted to and received by the appropriate filing officer.

SECTION 13. AMENDMENT. Section 16.1-01-12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-12. Election offenses - Penalty.

1. It is unlawful for an individual, measure committee as described in section 16.1-08.1-01, or other organization to:
 - a. Fraudulently alter another individual's ballot or, substitute one ballot for another, or to otherwise defraud a voter of that voter's vote.
 - b. Obstruct a qualified elector on the way to a polling place.
 - c. Vote more than once in any election.
 - d. Knowingly vote in the wrong election precinct or district.
 - e. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
 - f. Knowingly exclude a qualified elector from voting or knowingly allow an unqualified ~~person~~individual to vote.
 - g. Knowingly vote when not qualified to do so.
 - h. Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
 - i. Circulate an initiative, referendum, recall, or any other election petition not in its entirety or ~~circulate such a petition~~ when unqualified to do so.
 - j. Pay or offer to pay any individual, measure committee, or other organization, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained for circulating an initiative, referendum, or recall petition. This subsection does not prohibit the

payment of salary and expenses for circulation of the petition on a basis not related to the number of signatures obtained, as long as the circulators file ~~their~~ the intent to remunerate ~~prior to~~ before submitting the petitions and, in the case of initiative and referendum petitions, fully disclose all contributions received pursuant to chapter 16.1-08.1 to the secretary of state upon submission of the petitions. The disclosure of contributions received under this section does not affect the requirement to file a pre-election report by individuals or organizations soliciting or accepting contributions for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly under chapter 16.1-08.1. Any signature obtained in violation of this subdivision is void and may not be counted.

- k. Willfully fail to perform any duty of an election officer after having accepted the responsibility of being an election officer by taking the oath as prescribed in this title.
 - l. Willfully violate any rule adopted by the secretary of state pursuant to this title.
 - m. Willfully make any false canvass of votes, or make, sign, publish, or deliver any false return of an election, knowing the same canvass or return to be false; or willfully deface, destroy, or conceal any statement or certificate entrusted to the individual's or organization's care.
 - n. Destroy ballots, ballot boxes, election lists, or other election supplies except as provided by law, or negatively impact the confidentiality, integrity, or availability of any system used for voting.
 - o. Sign a name other than that individual's own name to an initiative, referendum, recall, or any other election petition.
2. a. A violation of subdivisions b, e, f, or h through l of subsection 1 is a class A misdemeanor.
- b. A violation of subdivisions a, c, d, g, or m of subsection 1 is a class C felony.
- c. A violation of subdivision n of subsection 1 ~~occurring after an election but before the final canvass, or during an election;~~ is a class C felony, ~~and in other cases is a class A misdemeanor.~~
- d. A violation of subdivision o of subsection 1 is a class A misdemeanor if an individual signs one or two names other than the individual's own name to a petition and is a class C felony if an individual signs more than two names other than the individual's own name to a petition.
- e. An organization, as defined in section 12.1-03-04, that violates this section is subject to the organizational fines in section 12.1-32-01.1. The court in which the conviction is entered shall notify the secretary of state of the conviction and shall order the secretary of state to revoke the certificate of authority of any convicted organization or limited liability company. The organization may not reapply to the secretary of state for authorization to do business under any name for one year upon conviction of a class A

misdemeanor and for five years upon conviction of a class C felony under this section.

- f. An individual who is a member of an organization may be convicted of a violation as an accomplice under section 12.1-03-01.
3. Every act ~~which by this chapter is made~~this chapter makes criminal when committed with reference to the election of a candidate is equally criminal when committed with reference to the determination of a question submitted to qualified electors to be decided by votes cast at an election.

SECTION 14. AMENDMENT. Section 16.1-01-16 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-16. Secretary of state to establish a uniform state-based administrative complaint procedure.

The secretary of state shall establish a uniform state-based administrative complaint procedure to remedy grievances according to section 402 of the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15512]. The complaint procedure must be uniform and nondiscriminatory and address complaints of violations of any provision of title III of the Help America Vote Act of 2002, including a violation that has occurred, is occurring, or is about to occur. A complaint filed under the complaint procedure must be in writing, and notarized, and be signed and sworn by the person~~individual~~ filing the complaint. The secretary of state ~~is authorized to~~may consolidate complaints. At the request of a complainant, the secretary of state shall establish a procedure for providing a review on the record. If the secretary of state determines there is a violation of a provision of title III of the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15481-15502], the secretary of state shall determine and provide an appropriate remedy. If the secretary of state determines that a violation of title III of the Help America Vote Act of 2002 has not occurred, the secretary of state shall dismiss the complaint and publish the results of the review. The secretary of state shall make a final determination with respect to a complaint within ninety days of the date the complaint is filed with the secretary of state, unless the complainant consents to a longer period of time for the secretary of state to make a determination. If the secretary of state fails to meet the ninety-day deadline for determining a complaint, the complaint must be resolved within sixty days under an alternative dispute resolution procedure.

SECTION 15. AMENDMENT. Section 16.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-17. Estimated fiscal impact of an initiated or referred measure.

~~At least ninety days before a statewide election at which~~As soon as practicable after the secretary of state approves an initiated or referred measure ~~will be voted upon for the ballot~~, the legislative council shall coordinate the determination of the estimated fiscal impact of the initiated or referred measure. Upon notification from the secretary of state that signed petitions have been submitted for placement of an initiated or referred measure on the ballot, the legislative management shall hold hearings, receive public testimony, and gather information on the estimated fiscal impact of the measure. Each agency, institution, or department shall provide information requested in the format and time frame prescribed by the legislative council for identifying the estimated fiscal impact of the measure. At least thirty days before the public vote on the measure, the legislative council shall submit a statement of the estimated fiscal impact of the measure to the secretary of state. Upon receipt,

the secretary of state shall include a notice within the analysis required by section 16.1-01-07 specifying where copies of the statement of the estimated fiscal impact can be obtained. Within thirty days of the close of the first complete fiscal year after the effective date of an initiated or referred measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the legislative council under this section shall submit a report to the legislative council on the actual fiscal impact for the first complete fiscal year resulting from provisions of the initiated or referred measure and a comparison to the estimates provided to the legislative council under this section, and the legislative council shall issue a report of the actual fiscal impact of the initiated or referred measure.

¹⁰⁰ **SECTION 16. AMENDMENT.** Section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

SECTION 1. A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

Use of nonpublic funds prohibited - Penalty.

1. The state and political subdivisions may not solicit, accept, or use any grants or donations from private persons for elections operations or administration except:
 - a. The use of privately owned facilities for polling places;
 - b. Food for poll workers; and
 - c. Other nonmonetary donations that are not used to prepare, process, mark, collect, or tabulate ballots or votes.
2. An individual who knowingly violates subsection 1 is guilty of a class A misdemeanor.

SECTION 17. AMENDMENT. Section 16.1-02-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-01. Permanent central voter file.

A permanent, centralized electronic database of voters, to be known as the central voter file, is established with the offices of the secretary of state and county auditors linked together by a centralized statewide system. The county auditor is chief custodian of the central voter file records in each county. The secretary of state shall maintain the central voter file and provide training and documentation that users who have been granted access to the system shall follow. The central voter file must be accessible by the secretary of state and all county auditors for purposes of preventing and determining voter fraud, making changes and updates, and generating information, including pollbooks, reports, inquiries, forms, and voter lists.

SECTION 18. AMENDMENT. Section 16.1-02-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-02. Costs of creating and maintaining a central voter file.

¹⁰⁰ Section 16.1-01-15.1 was created by section 1 of House Bill No. 1256, chapter 166.

~~The creation of the central voter file and its maintenance through June 30, 2011, must be paid for with funds from the state's election fund, provided the election fund contains adequate funding to create and maintain the central voter file. The creation of the central voter file and its maintenance through June 30, 2011, may not be paid for from funds in the secretary of state's budget, the state's general fund, or from county funds. Beginning July 1, 2011, the~~ The offices required to perform the functions and duties of this chapter shall bear the costs incurred in performing those duties, and the secretary of state shall pay the costs of operating and maintaining the central voter file. As used in this section, costs of maintaining the central voter file mean costs of annual software licenses, hosting costs for the software in the state data center hosting, costs of necessary enhancements to the software, database updates, and the costs for implementing the duties and responsibilities of the secretary of state's office relating to the central voter file.

SECTION 19. AMENDMENT. Section 16.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-05. Entry of new voters into the central voter file - Query of the central voter file for double voting - Postelection verification.

1. ~~Within forty-five days before the meeting of the county canvassing board~~ following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, ~~within eighty-five days following an election before the meeting of the state canvassing board~~, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.

SECTION 20. AMENDMENT. Section 16.1-02-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-06. Reporting deceased individuals and changes of names - Changes to records in the central voter file.

1. The state health officer shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older who has died while maintaining residence in this state since the last report. Within thirty days after receiving a report, the secretary of state shall designate each individual included in the report as "deceased" in the central voter file. ~~The secretary of~~

~~state shall prepare and distribute a list of individuals designated as "deceased" to each county auditor.~~

2. The state health officer shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by marriage since the last report. ~~The secretary of state shall prepare and distribute a list of those individuals to each county auditor.~~
3. After receiving notice of death of an individual who has died outside the county, the county auditor shall designate that individual as "deceased" in the central voter file. Notice must be in the form of a printed obituary or a written statement signed by an individual having knowledge of the death of the individual.

SECTION 21. AMENDMENT. Section 16.1-02-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-07. Reporting changes of names - Changes to records in the central voter file.

The state court administrator shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by divorce or any order or decree of the court since the last report. ~~The secretary of state shall prepare and distribute a list of those individuals to each county auditor.~~ Any individual who has obtained a protection order under section 14-07.1-03 or who is protected by a disorderly conduct restraining order under section 12.1-31.2-01 must be listed in the central voter file with a "secured active" designation. A "secured active" designation means a record maintained as an active voter for pollbook purposes, but otherwise is an exempt record. The state court administrator or the bureau of criminal investigation shall make available upon request of the secretary of state the name of each individual who has obtained such an order.

SECTION 22. AMENDMENT. Section 16.1-02-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-10. Posting voting history - Failure to vote - Individuals designated inactive.

~~Within seventy-five days after each election~~Before the end of the contest period allowed under section 16.1-16-04, each county auditor shall post the voting history for each individual who voted in the election. After the close of each even-numbered calendar year, the secretary of state shall determine if any individual has not voted during the preceding four years and shall change the status of each such individual to "inactive" in the central voter file. ~~The secretary of state shall prepare a report to each county auditor which contains the name of each individual who has been designated as "inactive" in the central voter file.~~ Although not counted in an election, a late absentee ballot from an individual may not be used to designate an individual as "inactive" in the central voter file.

SECTION 23. AMENDMENT. Section 16.1-02-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-11. Secretary of state ~~to may~~ adopt rules for the purpose of maintaining the central voter file.

The secretary of state ~~shall~~may adopt rules and procedures according to subsection 3 of section 16.1-01-01 ~~for the purpose of implementing to implement this chapter and for updating and maintaining to update and maintain the central voter file.~~ The rules ~~must~~may:

1. Provide for the establishment and maintenance of a central voter file.
2. Provide for the generation and assignment of a unique identifier to each individual contained in the central voter file.
3. Provide procedures for entering data into the central voter file.
4. Provide for any additional information to be requested of and obtained from an individual which is to be maintained in the central voter file, not already provided by law, but necessary for the proper administration of the central voter file.
5. Provide for the exchange of records maintained by the appropriate state and county agencies and officials for receiving regular reports regarding individuals and records of individuals contained in the central voter file.
6. Allow each county auditor and the secretary of state to add, modify, and delete information from the central voter file to ensure accurate and up-to-date records.
7. Allow each county auditor and the secretary of state to have access to the central voter file for review, search, and inquiry capabilities.
8. Provide security and protection of all information contained in the central voter file and to ensure that unauthorized access and entry is prohibited.
9. Provide a system for each county to identify the precinct to which an individual should be assigned for voting purposes.

SECTION 24. AMENDMENT. Section 16.1-02-13 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-13. Information contained in pollbooks generated from the central voter file.

The county auditor shall generate a pollbook for each precinct in the county from the central voter file by the day before an election. With the exception of a record designated "secured active" and the voter's birth date and driver's license or nondriver identification card number issued by the department of transportation, which are exempt records, the precinct pollbooks are open records under section 44-04-18. When providing access to or a copy of a pollbook, the election official administering the election shall redact from the pollbook any voter records designated as secured active along with the voter's date of birth and identification numbers listed on the paper pollbook used in an election. If an electronic pollbook is used, the election official, upon request for a copy of the pollbook, shall generate a list including the allowable information detailed in this section for the individuals who voted in the election. The list provided from an electronic pollbook may be requested by precinct or county. The secretary of state shall prescribe procedures for generating pollbooks and for transporting the pollbooks to the election judges/poll clerks for use on election day. Pollbooks/Electronic pollbooks may have a secure connection from the polling place to the data maintained in the central voter file to ensure the integrity of the

election. Each pollbook generated from the central voter file must contain the following information for each individual contained therein in the pollbook:

1. The complete legal name of the individual.
2. The complete residential address of the individual.
3. The complete mailing address of the individual, if different from the individual's residential address.
4. The unique identifier generated and assigned to the individual.
5. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides. A ballot-style code identifying this information may be used in place of the information required by this subsection.
6. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the pollbook.

SECTION 25. AMENDMENT. Subsection 2 of section 16.1-05-01 of the North Dakota Century Code is amended and reenacted as follows:

2. The election judges must be appointed in the following manner:
 - a. Except as provided in subdivision b:
 - (1) The election judges for each polling place must be appointed in writing by the district chairs representing the two parties that cast the largest number of votes in the state at the last general election. In polling places in which over one thousand votes are cast in any election, the county auditor may request each district party chair to appoint an additional election judge.
 - (2) The district party chair shall notify the county auditor of the counties in which the precincts are located of the appointment of the election judges at least forty days before the primary, general, or special election. If this notice is not received within the time specified in this section, the county auditor shall appoint the judges and provide notice of the appointment to the district party chair. If the county auditor has exhausted all practicable means to select judges from within the boundaries of the precincts within the polling place and vacancies still remain, the county auditor may select election judges who reside outside of the voting precinct but who reside within the polling place's legislative districts. If vacancies still remain, the county auditor may select election judges who reside outside of the legislative districts but who reside within the county.
 - b. For special elections involving only no-party offices, the election official responsible for the administration of the election, with the approval of the majority of the members of the applicable governing body, shall appoint the election judges for each polling place.

SECTION 26. AMENDMENT. Section 16.1-06-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-02. Ballots prepared by county auditor or local official - Penalty.

For a local election, the ballots must be printed and distributed under the direction of the auditor or clerk of the local subdivision. For all other elections, ballots must be printed and distributed under the direction of the county auditor, subject to the supervision and approval of the secretary of state as to the legal sufficiency of the form, style, wording, and contents of the ballots. If an auditor or clerk of a local subdivision, a county auditor, or the secretary of state causes or approves the printing of a ballot listing an individual as a candidate when the official knows or should know the individual does not meet the qualifications, or has not satisfied the requirements to be a candidate, the official is guilty of an infraction.

SECTION 27. AMENDMENT. Section 16.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-04. Form and quality of ballots generally.

1. All official ballots prepared under this title must:
 - 1- a. Be printed on uniform quality and color of paper in an ink color suitable to make the ballot clearly legible and compatible with the electronic voting system requirements necessary to tabulate the votes.
 - 2- b. Be of sufficient length to contain the names of all candidates to be voted for at that election.
 - 3- c. Have the language "Vote for no more than _____ name (or names)" placed immediately under the name of each office.
 - 4- d. Have printed ~~thereon~~ on the ballot "To vote for the candidate of your choice, ~~you must~~ darken the oval next to the name of that candidate. To vote for a person whose name is not printed on the ballot, ~~you must~~ darken the oval next to the blank line provided and write that person's name on the blank line."
 - 5- e. Leave sufficient space for each office to write ~~a name, or names, as the case may be,~~ in lieu of those printed on the ballot.
 - 6- f. ~~Immediately~~ Have an oval printed preceding and on the same line as the name of each candidate ~~must be printed an oval in which the voter is to darken to mark the voter's choice by darkening the oval next to the name of the candidate chosen.~~
 - 7- g. Provide text boxes at the bottom of the first side of the ballot. The text box at the bottom of the first column is to contain the words "Official Ballot, the name of the county, the name or number of the precinct, and the date of the election". The text box is to contain the words "All ballots, other than those used to vote absentee, must first be initialed by appropriate election officials in order to be counted". The text box at the bottom of the third column is to contain the word "initials" preceded by a blank line where the judge or inspector shall initial the ballot.

~~Any precinct that uses an electronic counting machine may require the use of a particular writing instrument to mark the ballot so the ballots may be properly counted.~~

2. The ballot must contain the names of all candidates, the contents of measures as required by section 16.1-06-09, and the statements of questions to be submitted to the voters. The ballot must be arranged in a manner and form approximating as far as possible the requirements of this section.

SECTION 28. AMENDMENT. Section 16.1-06-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-11. Electronic voting~~Voting~~ systems authorized.

~~The use of electronic voting~~Voting systems may be used in accordance with the provisions of this chapter is hereby authorized in any election precinct upon finding and declaration by resolution of the city governing body, and also of the board of county commissioners of the county in which such election precinct is located, that such use is advisable or necessary in that precinct. Thereafter, a system or Voting systems may be procured, on a temporary or permanent basis, under terms and conditions, including assumption and division of cost of acquisition and maintenance by the city and county, agreed upon by the respective governing bodies, provided the system or systems being procured have been approved and certified for procurement and use in the state by the secretary of state according to section 16.1-06-26. The system or ~~systems~~then may then be used in any state, county, city, or district election in that precinct or other voting area of which that precinct is a part.

SECTION 29. AMENDMENT. Section 16.1-06-12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-12. Definitions.

As used in this title with regard to electronic voting systems:

1. ~~"Automatic tabulating equipment" means an apparatus which automatically tabulates and counts votes recorded on ballots or entered directly into a computer or other electronic device by means of a touchscreen or other data entry device and data processing machines which can be used for counting votes and tabulating results.~~
2. "Ballot" means a handcount paper ballot or for an electronic from which the votes for candidates and questions are tabulated by hand or by a voting system includes a tabulating paper ballot, recorded by optical scan reader, containing the names of offices and candidates and the questions to be voted on, which is used in conjunction with the marking device and on which votes may be recorded. For direct recording electronic voting systems, ballot means the ballot display provided by electro-optical devices showing the names and candidates and the questions to be voted on that allows a voter to directly enter choices into electronic storage with the use of a touchscreen or other data entry device. The term includes the digital image of a marked ballot captured by a voting system.
2. "Ballot marking device" means a device for marking ballots with ink or other substance, or any other method for recording votes on ballots such that the votes may be tabulated and counted by tabulation.
3. "Counting center" means the a location or locations designated by the county auditor for the automatic tabulating and counting of ballots and tabulation of votes from the ballots.

4. ~~"Direct-recording electronic voting system"~~Digital scan means a voting system that records votes by means of a ballot display provided by electro-optical devices that allows a voter to directly enter choices into electronic storage with the use of a touchscreen or other data entry device. An alphabetic keyboard may be employed as an entry device to facilitate voting for write-in candidates. A voter's choices are stored in the direct-recording electronic voting system's internal memory devices and added to the choices of all other votersprocedure in which votes cast on a paper ballot are tabulated by examining marks made in voting response locations on the ballot and an image of the ballot is captured and retained.
5. ~~"Electronic voting system"~~Voting system means ~~the system, or the combination of electronic voting systems and devices authorized under this chapter, that may employ a marking device in conjunction with ballots or the use of a touchscreen or other data entry device and automatic tabulating equipment for the recording, tabulating, and counting of votes in an election.~~
6. ~~"Electronic voting system device"~~ means a single unit of an electronic voting system.
7. ~~"Marking device"~~ means a device for marking ballots with ink or other substance, or any other method for recording votes on ballots in a manner that the votes may be tabulated and counted by automatic tabulating equipment.
8. ~~"Optical scan"~~ means a procedure in which votes cast on a paper ballot are tabulated by means of examining marks made in voting response locations on the ballot with an optical reader and devices authorized under this chapter which may employ a ballot marking device with use of a touchscreen or other data entry device to record and count votes in an election.

SECTION 30. AMENDMENT. Section 16.1-06-14 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-14. Requirements for electronic voting systems.

Any electronic voting system used in an election in this state must:

1. Provide facilities for voting for nominated candidates, for persons not in nomination, and upon questions or measures submitted to the voters.
2. Permit each voter to vote for as many persons for any office as the voter is entitled to vote for, and must allow each voter to vote in primary elections for candidates for nomination by the political party of the voter's choice, but ~~it~~the system must preclude each voter from voting for more persons for any office than the voter is entitled to vote for, from voting more than once for the same candidate or upon the same measure or question submitted to the voters, or voting the ballot of more than one political party in any primary election.
3. Permit each voter, insofar as is possible, by the replacement of spoiled ballots, to change the voter's vote for any candidate, or upon any measure or question submitted to the voters, up to the time the voter begins the final operation to register the voter's vote.
4. Permit and require ~~voting in absolute secrecy while voting, and must be so constructed and controlled that~~so no person other individual can see or know for whom ~~any other~~an elector has voted or is voting, except a voter ~~whom the~~

~~person has assisted or is an individual assisting in voting, marking the ballot at the request of the elector as prescribed by law, and that no person may individual is able to see or know the number of votes registered for any candidate or tamper with any mechanism while the polls are open.~~

5. Be provided with a procedure by the use of which, immediately after the polls are closed, all voting is absolutely prevented.
6. Be so constructed that when properly operated ~~it~~the system shall register or record correctly and accurately every vote cast.
7. Be so constructed that a voter may readily learn the method of operating ~~it~~the system.
8. Permit voting by ballot or by entering directly into a computer or other electronic device by means of a touchscreen or other data entry device.
9. Permit voting for presidential electors by making only one mark.
10. Permit write-in voting and absentee voting.
11. Permit the rotation of names of candidates on ballots as required by this title.
12. ~~In the case of electronic systems procured after August 1, 2003, be capable of notifying a voter that the voter has overvoted, undervoted, and in the case of a primary election, cross-party voted before the voter casts a ballot.~~
13. ~~In the case of direct-recording electronic voting systems, be capable of preventing a voter from overvoting and cross-party voting before the voter casts a ballot.~~
14. ~~In the case of direct-recording electronic voting systems, be capable of producing in random order a paper copy of each ballot cast on the system.~~
15. ~~Ensure that any direct-recording electronic voting system procured or used in the state may not transmit uncounted votes or ballots through the internet.~~
16. Fulfill the criteria and standards established by the secretary of state according to section 16.1-06-26.

SECTION 31. AMENDMENT. Section 16.1-06-17 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-17. County auditor to provide ballots and other electronic voting system supplies.

At the same time as other election supplies are provided and distributed, the county auditor shall provide to each precinct in the county using an electronic voting system:

1. A sufficient number of electronic voting system devices and ballots ~~if the electronic voting system employs ballots.~~
2. One facsimile diagram of the entire face of the electronic voting system ~~device~~devices as ~~it~~the devices will appear on election day~~while the polls are open.~~

3. Appropriate instruction material for the use of the ~~electronic~~ voting system devices.
4. All other materials required to carry out the election process through the use of ~~electronic~~the voting system~~system~~.

SECTION 32. AMENDMENT. Section 16.1-06-18 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-18. Delivery of ballots.

County auditors shall deliver, or cause to be delivered, by ~~mail or other~~ reliable method, to the inspector of elections in each ~~precinct~~polling place the official ballots, ~~if available~~. The ballots must be delivered in sealed packages marked plainly with the name of the precinct for which the ballots are intended. The county auditor also shall deliver or cause to be delivered a suitable seal for ~~the purpose of sealing the wrapper~~ containing the ballots as provided in section 16.1-15-08.

SECTION 33. AMENDMENT. Section 16.1-06-19 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-19. Instructions, advertisements, maps, and ballots posted in polling places.

Each county auditor shall have posters printed, in large type, containing full instructions to electors on obtaining and voting ballots and a copy of section 16.1-01-12, any federal laws regarding prohibitions on acts of fraud and misrepresentations, and general information on voting rights under applicable federal and state laws, including instructions on how to contact the appropriate officials if these rights are alleged to have been violated. The county auditor shall furnish at least one such poster to the election inspector in each election polling place who, before the opening of the polls, shall conspicuously post at least one poster in the polling place. The county auditor, at the time of delivering the ballots to the inspector of elections in each polling place, shall deliver at least five copies of the newspaper publication or other copy of the complete text of any constitutional amendment or initiated or referred measure to ~~such~~the inspector of elections. One of the newspaper publications or copies must be posted conspicuously in the polling place on the morning of the election. Each county auditor shall furnish the election inspector in each polling place with four copies of a map showing the election ~~precinct's~~precinct boundaries and information regarding the date of the election and the hours during which polling places will be open. ~~The inspector shall, before~~Before the opening of the polls, the inspector shall post the maps and information regarding the date of the election and the hours during which polling places will be open at the entry to and in other conspicuous places around the polling place.

SECTION 34. AMENDMENT. Section 16.1-06-25 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-25. ~~Electronic voting~~Voting systems - Violations - Penalty.

Any person who violates any of the provisions of this chapter relating to ~~electronic~~ voting systems, who tampers with or injures any ~~electronic~~ voting system or device to be used or being used in any election, or who prevents the correct operation of any such system or device to be used or being used in any election is guilty of a class A ~~misdemeanor~~C felony.

SECTION 35. AMENDMENT. Section 16.1-06-26 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-26. Secretary of state to adopt rules for the purpose of certifying and decertifying electronic voting systems and electronic counting machines.

1. The secretary of state may adopt rules according to subsection 3 of section 16.1-01-01 for certifying and decertifying ~~electronic counting machines authorized in section 16.1-06-10.1 and~~ electronic voting systems authorized in section 16.1-06-11, including any software, hardware, and firmware components used as a part of an ~~electronic~~ voting system or ~~electronic counting machine device~~ for use and procurement in the state. The rules may:
 - 1- a. Establish criteria and standards with which all electronic voting systems and ~~electronic counting machines~~ must comply.
 - 2- b. Describe the procedures for ~~electronic voting systems and electronic counting machines~~, any single device of an ~~electronic~~ voting system and ~~electronic counting machine~~, and any update and enhancement made to them, to be certified and decertified for procurement and use in the state.
 - 3- c. Define what constitutes a vote on each electronic voting system and ~~electronic counting machine~~ which has been certified for procurement in the state.
 - 4- d. Describe the procedures for the secretary of state to follow when defining what constitutes a vote on any new electronic voting system and ~~electronic counting machine~~, any single device of an ~~electronic~~ voting system and ~~electronic counting machine~~, and any update and enhancement made to them.

An electronic

2. A voting system and electronic counting machine, a single device of an ~~electronic~~ voting system and ~~electronic counting machine~~, and an update and enhancement made to them, in use by a county ~~prior to~~before August 1, 2003, must be reviewed by the secretary of state according to rules adopted under this section by April 1, 2004, and must meet the requirements of the rules, or must be replaced by another electronic voting system and ~~electronic counting machine~~, a single device of an ~~electronic~~ voting system and ~~electronic counting machine~~, and an update and enhancement made to them, ~~that meets~~meeting the requirements of the rules by January 1, 2006.

SECTION 36. AMENDMENT. Subsection 1 of section 16.1-07-05 of the North Dakota Century Code is amended and reenacted as follows:

1. At any time in an election year, any qualified elector may apply to the county auditor, the auditor or clerk of the city, or the business manager of the school district, as the case may be, by personal delivery, facsimile, electronic mail or otherwise, for an official ballot to be voted at that election. A voter may obtain an application form approved by the secretary of state, for an absent voter's ballot for a general, special, primary, county, city, or school election from the secretary of state, a county or city auditor, a candidate, a political party, or a political committee. The application form must ~~include a space for~~provide the applicant the ability to indicate ~~whether the application is for all statewide~~which

elections in the calendar year ~~or only for the election that is immediately after the date of the application~~ the applicant wishes to vote by absentee ballot.

SECTION 37. AMENDMENT. Section 16.1-07-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-06. Application form.

1. Application for an absent voter's or mail ballot must be made on a form, prescribed by the secretary of state, to be furnished by the proper officer of the county, city, or school district in which the applicant is an elector, ~~or~~ any form, approved by the secretary of state, ~~or any blank~~ containing the following:
 - a. The applicant's name.
 - b. The applicant's current or most recent North Dakota residential address.
 - c. The applicant's mailing address.
 - d. The applicant's current contact telephone number, if available.
 - e. The election for which the ballot is being requested.
 - f. The date of the request.
 - g. An affirmation that the applicant has resided, or will reside, in the precinct for at least thirty days next preceding the election and will be a qualified elector of the precinct.
 - h. The applicant's signature, a notification the signature on this affidavit will be compared to the signature on the affidavit on the envelope in which the absentee ballot must be placed.
 - i. The designation of the individual's status as a citizen of this country and resident of this state living outside the United States, a uniformed service member living away from the individual's North Dakota residence, or an immediate family member of the uniformed service member living away from the individual's North Dakota residence.
 - j. The applicant's date of birth.
 - k. The identification number from one of the applicant's valid forms of identification, a copy of the applicant's long-term care certificate, and, if necessary, a copy of the applicant's supplemental identification under section 16.1-01-04.1.
2. If the applicant is unable to sign the applicant's name to the application, the applicant shall mark (X) or use the applicant's signature stamp on the application in the presence of a disinterested individual. The disinterested individual shall print the name of the individual marking the X or using the signature stamp below the X or signature stamp and shall sign the disinterested individual's own name following the printed name together with the notation "witness to the mark".
3. If the applicant does not possess or cannot secure an approved form of identification as provided for under section 16.1-01-04.1 due to a disability

with which the individual lives and which prevents the individual from traveling to obtain, the application also must be signed by another qualified elector who, by signing, certifies that the applicant is a qualified elector. The secretary of state shall prescribe the form of the certification required under this subsection. An individual may not certify the qualifications of more than four applicants in an election.

4. ~~The application for a uniformed service member or an immediate family member temporarily stationed away from the individual's residence in this state, or a resident of the state temporarily living outside the country must include the following additional information if the individual desires to access the ballot by electronic means:~~
 - a. Facsimile telephone number; or
 - b. Electronic mail address.
5. An incomplete application must be returned to the applicant for completion and resubmission.
6. Except for the applicant's date of birth, identification card number, and any supplemental documentation provided under section 16.1-01-04.1, the application is an open record under section 44-04-18.

SECTION 38. AMENDMENT. Section 16.1-07-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-07. Delivering application form for ballot.

The officers specified in section 16.1-07-05, upon request, shall ~~mail~~provide an application form for an absent voter's ballot to the voter or may deliver the application form to the voter upon a personal application made at the officer's office. The officers may also make available or distribute the applications, prescribed by the secretary of state, to the public without any specific request being made for the applications.

SECTION 39. AMENDMENT. Section 16.1-07-08 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-08. Delivering ballots - Envelopes accompanying - Affidavit on envelope - Challenging electors voting by absentee ballot - Inability of elector to sign name.

1. Upon receipt of an application for an official ballot properly filled out and duly signed, or as soon ~~thereafter~~after receipt of the application as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, city auditor, or business manager of the school district, as the case may be, shall send to the absent voter by mail or secure electronic delivery, if the secretary of state determines the necessary technology is available and according to the choice made by the voter on the application for the ballot, at the expense of the political subdivision conducting the election, one official ballot, or personally deliver the ballot to the applicant or the applicant's agent, which agent may not, at that time, be a candidate for any office to be voted upon by the absent voter. The agent shall sign the agent's name before receiving the ballot and deposit with the auditor or business manager of the school district, as the case may be, authorization in writing from the applicant to receive the ballot or according to requirements set forth for signature by

mark. The auditor or business manager of the school district, as the case may be, may not provide an absent voter's ballot to ~~a person~~ an individual acting as an agent who cannot provide a signed, written authorization from an applicant. ~~No~~ A person may not receive compensation, including money, goods, or services, for acting as an agent for an elector, ~~and a person may a person~~ not act as an agent for more than four electors in any one election. A voter voting by absentee ballot may not require the political subdivision providing the ballot to bear the expense of the return postage for an absentee ballot.

2. With the exception provided in section 16.1-07-24 for secure remote electronic casting of a ballot granted to a covered voter, the absent voter marking the ballot by electronic means shall return the instrument containing the vote selections made by the voter to the assigned polling place where, after being recorded in the pollbook by a poll clerk, the choices listed in the instrument will be converted into the official ballot. Upon confirmation by the voter the vote selections marked by the ballot marking device are correct, the voter shall cast the ballot in the tabulation device.
3. Any qualified elector living with a disability that prevents the elector from reading or marking the ballot without assistance and who wishes to cast an absentee ballot may mark the electronic ballot by electronic means. The voter then shall deposit the ballot electronically on the secure server that is used by covered voters as defined in section 16.1-07-18. Upon system notification that a ballot has been left by a qualified voter, an election official shall print the ballot, place the ballot in a secrecy envelope, attach the absent voter's application for the ballot, and securely store the enveloped ballot and the application with all the other absentee ballots. When the absentee ballot election board meets to process and count absentee ballots, the ballot from the covered voter must be transferred onto a paper ballot and tabulated with all the other valid absent voters' ballots.
4. If there is more than one ballot to be voted by an elector of the precinct and the voting system will be unable to tabulate one or more of the ballots, one of each kind must be included and a secrecy envelope and a return envelope must be enclosed with the ballot or ballots. The front of the return envelope must bear the official title and post-office address of the officer supplying the voter with the ballot and upon the other side a printed voter's affidavit in substantially the following form:

Precinct _____

Name _____

Residential Address _____

City _____ ND Zip Code _____

Under penalty of possible criminal prosecution for making a false statement, I swear that I reside at the residential address provided above, that I have resided in my precinct for at least thirty days next preceding the election, and this is the only ballot I will cast in this election.

Applicant's Signature _____

Date _____

The signature on this affidavit will be compared to the signature on the affidavit included in the application for the absentee ballot.

5. If the absent voter is unable to sign the voter's name on the affidavit required under this section, the voter shall mark (X) or use the applicant's signature stamp on the affidavit in the presence of a disinterested individual. The disinterested individual shall print the name of the individual marking the X or using the signature stamp below the X or signature stamp and shall sign the disinterested individual's own name following the printed name together with the notation "witness to the mark".
- 3-6. Each individual requesting an absent voter's ballot under this chapter must be provided a set of instructions, prescribed by the secretary of state, sufficient to describe the process of voting by absent voter's ballot. The voting instructions must contain a statement informing the individual that the individual is entitled to complete the absent voter's ballot in secrecy.
- 4-7. Each individual requesting an absent voter's ballot by mail under this chapter who cannot read the English language or ~~who because of blindness or other lives with a disability is unable to mark~~ preventing the individual from marking the voter's ballot, upon request, may receive, upon request, the assistance of any individual of the voter's choice, other than the voter's employer, an officer or agent of the voter's union, a candidate running in that election, or a relative of a candidate as described in subsection 2 of section 16.1-05-02, in marking the voter's ballot.
8. An election official shall deliver an absentee ballot to a qualified elector only upon receipt of an application meeting the requirements of section 16.1-07-06 from the elector.

SECTION 40. AMENDMENT. Section 16.1-07-09 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-09. Canvassing of mailed absent voter's ballots received late.

~~In the case of congressional, state, county, city, or school district elections, if an envelope postmarked or otherwise officially marked by the United States postal service or other mail delivery system before the date of election and containing an absent voter's ballot is received by the officer too late to be forwarded to a polling place of the proper voting precinct in time to be tabulated after election day, the ballot must be tallied by the canvassing board of the county, the governing body of the city, or the school board of the school district, as the case may be, at the time the returns are canvassed. Any envelope without a postmark or other official marking by the United States postal service or other mail delivery system or with an illegible postmark or other official marking and containing an absentee voter's ballot must be received by mail by the proper officer prior to the meeting of the canvassing board. An absent voter may personally deliver the absent voter's ballot to the appropriate officer's office at any time before five p.m. on the day before the election. Any envelope containing an absent voter's ballot with a postmark or official date stamp on the day of election or thereafter may not be tallied with the ballots timely submitted for the election. Before forwarding any ballot to a canvassing board pursuant to this section, the officer forwarding the ballot shall print the date of receipt on the envelope. Upon receipt, the canvassing board shall determine that the elector was qualified to vote in that precinct, that the elector did not previously vote in that precinct on the date of the election, and that the signatures on the absentee ballot application and the~~

voter's affidavit were signed by the same ~~person~~individual before allowing the ballot to be tallied.

SECTION 41. AMENDMENT. Section 16.1-07-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-10. Care and custody of ballot - Submitted ballot may not be returned.

Upon receipt of an envelope containing the absent voter's ballot, the proper officer immediately shall attach the application of the absent voter and file the ballot with other absentee ballots from the same precinct. If the election official has reason to suspect the signature on the application was made by a different individual than the individual who signed the affidavit on the return ballot envelope, the election official shall attempt to contact the absent voter as soon as practicable to provide an opportunity to validate the signatures. Contact shall first be attempted by phone if the absent voter provided a phone number on the submitted application. If the election official is unable to speak with the absent voter, the election official shall mail a notice informing the absent voter the absentee ballot has been identified as having a signature mismatch and will be rejected if not verified. After submission to the appropriate election officer, a marked absent voter's ballot may not be returned to the voter for any reason other than to complete any missing information required on the affidavit on the back of the return envelope. Before delivering the absentee ballots to ~~a polling place of the proper~~the absentee ballot precinct, the proper officer shall package the ballots in a manner so the ballots are sealed securely. The package must be endorsed with the name of the proper voting precinct, the name and official title of the officer, and the words "This package contains an absent voter's ballot and must be opened only according to the processing provisions of section 16.1-07-12." The officer shall keep the package safely in the officer's office until ~~it~~the package is delivered by the officer as provided in this chapter.

SECTION 42. AMENDMENT. Subsection 1 of section 16.1-07-12.1 of the North Dakota Century Code is amended and reenacted as follows:

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners ~~may~~shall create a special precinct, known as an absentee ballot precinct, ~~for the purpose of counting to count~~ all absentee ballots cast in an election in that county. The election board of the absentee ballot precinct must be known as the absentee ballot counting board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.

SECTION 43. Section 16.1-07-13.1 of the North Dakota Century Code is created and enacted as follows:

16.1-07-13.1. Signature mismatch - Verification of signatures.

1. If an election official, absentee ballot precinct election board, or the canvassing board has reason to suspect the absent voter's signatures on the application and the affidavit on the returned ballot envelope do not match, the election official shall notify the absent voter the signatures do not appear to match. The notification must include instructions by which the absent voter may confirm the validity of the signatures, a statement that verification is required before the ballot can be counted, the date and time of the canvassing board meeting, and a statement that verification must be completed by the

absent voter before close of the meeting of the canvassing board occurring six days after the election.

2. The absent voter may confirm the validity of the signatures by written communication or personal visit to the office of the election official administering the election. If the voter confirms by written communication, the written communication must include a copy of the identification used when applying for the ballot. If the voter confirms through a personal visit to the election official, the voter must show the identification used when applying for the ballot. The election official shall make a copy of the identification shown, and the copy must be included with the application and ballot when provided to the election board or canvassing board, whichever would be appropriate based on when the voter verified the signatures. The canvassing board shall include in the final tally the ballot from an absent voter who has completed the verification process and was eligible to vote the returned ballot.
3. An individual contacted regarding the mismatch of signatures may deny making the application or returning the ballot. The election official receiving the denial shall turn the application and uncounted ballot over to the county state's attorney for investigation of attempted voter fraud.
4. The election official shall record in the minutes of the county canvassing board the manner and number of attempts made to contact an absent voter for signature verification, the number of ballots included in the tally because the signatures were verified, and the number of ballots ultimately rejected by the canvassing board along with the reasons for the rejections.
5. After the meeting of the canvassing board, the election official shall send a written notice to each absent voter whose ballot was rejected and not counted because of signature mismatch.

SECTION 44. AMENDMENT. Section 16.1-07-15 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-15. Early voting precinct - Election board appointment - Closing and canvassing.

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners may, before the sixty-fourth day before the day of the election, create a special precinct, known as an early voting precinct, to facilitate the conduct of early voting in that county according to ~~chapters 16.1-43 and 16.1-45~~this title. At the determination of the county auditor, more than one polling place may be utilized for the purposes of operating the early voting precinct. The election board of the early voting precinct must be known as the early voting precinct election board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.
2. If the board of county commissioners establishes an early voting precinct according to this section, the following provisions apply:
 - a. Early voting must be authorized during the fifteen days immediately before the day of the election. The county auditor shall designate the business days and times during which the early voting election precinct will be open and publish notice of the early voting center locations, dates, and times in

the official county newspaper once each week for three consecutive weeks immediately before the day of the election.

- b. The county auditor shall appoint the early voting precinct election board for each early voting polling place that consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county, as set out in section 16.1-05-01, to act as judges. Each official of the board shall take the oath required by section 16.1-05-02 and must be compensated as provided in section 16.1-05-05.
- c. The county auditor, with the consent of the board of county commissioners, shall designate each early voting polling place in a public facility, accessible to the elderly and the physically disabled as provided in section 16.1-04-02. With respect to polling places at early voting precincts, "election day" as used in sections 16.1-10-03 and 16.1-10-06.2 includes any time an early voting precinct polling place is open.
- d. At the close of each day of early voting, the inspector, along with a judge from each political party represented on the board, shall secure all election-related materials, including:
 - (1) The pollbooks and access to any electronically maintained pollbooks.
 - (2) The ballot boxes containing voted ballots.
 - (3) Any void, spoiled, and unvoted ballots.
- e. Ballot boxes containing ballots cast at an early voting polling place may not be opened until the day of the election except as may be necessary to clear a ballot jam or to move voted ballots to a separate locked ballot box in order to make room for additional ballots.
- f. Each early voting polling place may be closed, as provided in chapter 16.1-15, at the end of the last day designated for early voting in the county. Results from the early voting precinct may be counted, canvassed, or released under chapter 16.1-15 as soon as any precinct within the county, city, or legislative district closes its polls on the day of the election. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing.
- g. The early voting precinct election board shall comply with the requirements of chapters 16.1-05, 16.1-06, 16.1-11, 16.1-11.1, 16.1-13, and 16.1-15, as applicable.

SECTION 45. AMENDMENT. Section 16.1-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-01. Definitions.

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

1. "Affiliate" means an organization that controls, is controlled by, or is under common control with another organization. For purposes of this definition, control means the possession, direct or indirect, of the power to direct or

cause the direction of the management and policies of an organization, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise. Control is presumed to exist if an organization, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing fifty percent or more of the voting securities of any other organization.

2. "Association" means any club, association, union, brotherhood, fraternity, organization, or group of any kind of two or more persons, including labor unions, trade associations, professional associations, or governmental associations, which is united for any purpose, business, or object and which assesses any dues, membership fees, or license fees in any amount, or which maintains a treasury fund in any amount. The term does not include corporations, cooperative corporations, limited liability companies, political committees, or political parties.
3. ~~"Candidate" means an individual who seeks nomination for election or election to public office, and includes:~~
 - a. ~~An individual holding public office;~~
 - b. ~~An individual who has publicly declared that individual's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office;~~
 - c. ~~An individual who has formed a campaign or other committee for that individual's candidacy for public office;~~
 - d. ~~An individual who has circulated a nominating petition to have that individual's name placed on the ballot; and~~
 - e. ~~An individual who has, in any manner, solicited or received a contribution for that individual's candidacy for public office, whether before or after the election for that office.~~
4. "Conduit" means a person that is not a political party, political committee, or candidate and which receives a contribution of money and transfers the contribution to a candidate, political party, or political committee when the contribution is designated specifically for the candidate, political party, or political committee and the person has no discretion as to the recipient and the amount transferred. The term includes a transactional intermediary, including a credit card company or a money transfer service that pays or transfers money to a candidate on behalf of another person.
- ~~5-4.~~ "Contribution" means a gift, transfer, conveyance, provision, receipt, subscription, loan, advance, deposit of money, or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to public office or aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any of the above purposes. The term includes funds received by a candidate for public office or a political party or committee which are transferred or signed over to that candidate, party, or committee from another candidate, party, or political committee or other source including a conduit. The term "anything of value" includes any good or

service of more than a nominal value. The term "nominal value" means the cost, price, or worth of the good or service is trivial, token, or of no appreciable value. The term "contribution" does not include:

- a. A loan of money from a bank or other lending institution made in the regular course of business.
- b. Time spent by volunteer campaign or political party workers.
- c. Money or anything of value received for commercial transactions, including rents, advertising, or sponsorships made as a part of a fair market value bargained-for exchange.
- d. Money or anything of value received for anything other than a political purpose.
- e. Products or services for which the actual cost or fair market value are reimbursed by a payment of money.
- f. An independent expenditure.
- g. The value of advertising paid by a political party, multicandidate political committee, or caucus which is in support of a candidate.
- h. In-kind contributions from a candidate to the candidate's campaign.

6-5. "Cooperative corporations", "corporations", and "limited liability companies" are as defined in this code, and for purposes of this chapter "corporations" includes nonprofit corporations. However, if a political committee, the only purpose of which is accepting contributions and making expenditures for a political purpose, incorporates for liability purposes only, the committee is not considered a corporation for the purposes of this chapter.

7-6. "Expenditure" means:

- a. A gift, transfer, conveyance, provision, loan, advance, payment, distribution, disbursement, outlay, or deposit of money or anything of value, except a loan of money from a bank or other lending institution made in the regular course of business, made for a political purpose or for the purpose of influencing the passage or defeat of a measure.
- b. A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure.
- c. The transfer of funds by a political committee to another political committee.
- d. An independent expenditure.

8-7. "Expenditure categories" means the categories into which expenditures must be grouped for reports under this chapter. The expenditure categories are:

- a. Advertising;
- b. Campaign loan repayment;

- c. Operations;
- d. Travel; and
- e. Miscellaneous.

- ~~9-8.~~ "Independent expenditure" means an expenditure made for a political purpose or for the purpose of influencing the passage or defeat of a measure if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate, committee, or political party.
- ~~10-9.~~ "Patron" means a person who owns equity interest in the form of stock, shares, or membership or maintains similar financial rights in a cooperative corporation.
- ~~11-10.~~ "Person" means an individual, partnership, political committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons.
- ~~12-11.~~ "Personal benefit" means a benefit to the candidate or another person which is not for a political purpose or related to a candidate's responsibilities as a public officeholder, and any other benefit that would convert a contribution to personal income.
- ~~13-12.~~ "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures for political purposes and includes:
- a. A political action committee not connected to another organization and free to solicit funds from the general public, or derived from a corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or an association that solicits or receives contributions from its employees or members or makes expenditures for political purposes on behalf of its employees or members;
 - b. A candidate committee established to support an individual candidate seeking public office which solicits or receives contributions for political purposes;
 - c. A political organization registered with the federal election commission, which solicits or receives contributions or makes expenditures for political purposes;
 - d. A multicandidate political committee, including a caucus, established to support multiple groups or slates of candidates seeking public office, which solicits or receives contributions for political purposes; and
 - e. A measure committee, including an initiative or referendum sponsoring committee at any stage of its organization, which solicits or receives contributions or makes expenditures for the purpose of aiding or opposing a measure sought to be voted upon by the voters of the state, including any activities undertaken for the purpose of drafting an initiative or referendum petition, seeking approval of the secretary of state for the circulation of a petition, or seeking approval of the submitted petitions.

- 44.13.** "Political party" means any association, committee, or organization which nominates a candidate for election to any office which may be filled by a vote of the electors of this state or any of its political subdivisions and whose name appears on the election ballot as the candidate of such association, committee, or organization.
- 45.14.** "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office and includes using "vote for", "oppose", or any similar support or opposition language in any advertisement whether the activity is undertaken by a candidate, a political committee, a political party, or any person. In the period thirty days before a primary election and sixty days before a special or general election, "political purpose" also means any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or "challenger" is used in support of or in opposition to the election or nomination of a candidate to public office. The term does not include activities undertaken in the performance of a duty of a public office or any position taken in any bona fide news story, commentary, or editorial.
- 46.15.** "Public office" means every office to which an individual can be elected by vote of the people under the laws of this state.
- 47.16.** "Subsidiary" means an affiliate of a corporation under the control of the corporation directly or indirectly through one or more intermediaries.
- 48.17.** "Ultimate and true source" means the person that knowingly contributed over two hundred dollars solely to influence a statewide election or an election for the legislative assembly.

SECTION 46. AMENDMENT. Section 16.1-08.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.1. Special requirements for statements required of persons engaged in activities regarding ballot measures.

1. For each reportable contribution and expenditure under section 16.1-08.1-02.4, the threshold for reporting is one hundred dollars for any person engaged in activities described in subdivision e of subsection 4312 of section 16.1-08.1-01.
2. For contributions received from any contributor, a person engaged in activities described in subdivision e of subsection 4312 of section 16.1-08.1-01 shall include the following information regarding each subcontributor that has stated a contribution is for the express purpose of furthering the passage or defeat of a ballot measure in the statements required under section 16.1-08.1-02.4:
 - a. A designation as to whether any person contributed in excess of one hundred dollars of the total contribution;
 - b. The name and mailing address of each subcontributor that contributed in excess of one hundred dollars of the total contribution;
 - c. The contribution amounts of each disclosed subcontributor; and
 - d. The occupation, employer, and address for the employer's principal place of business of each disclosed subcontributor.

3. An initiative and referendum sponsoring committee also shall file a disclosure statement by the date the secretary of state approves the petition for circulation, and shall file an additional statement on the date the petitions containing the required number of signatures are submitted to the secretary of state for review. The statements required under this subsection must be in the same form as the year-end statements under section 16.1-08.1-02.4.
4. A sponsoring committee shall file a statement regarding its intent to compensate circulators before paying for petitions to be circulated.

SECTION 47. AMENDMENT. Section 16.1-10-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-07. Candidate guilty of corrupt practice to vacate nomination of office.

If any ~~person~~individual is found guilty of any corrupt practice, the ~~person~~individual must be punished by being deprived of the ~~person's~~individual's government job, or the ~~person's~~individual's nomination or election must be declared void, as the case may be. This section does not remove from office a ~~person~~an individual who is already in office and who has entered upon the discharge of the ~~person's~~individual's duties when ~~such~~the office is subject to the impeachment provisions of the Constitution of North Dakota.

SECTION 48. AMENDMENT. Section 16.1-11-05.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-05.1. Participation in endorsements for nomination.

~~No person~~

1. An individual may not participate directly or indirectly in the endorsement for nomination of more than one ~~person~~individual for each office to be filled, except a ~~person~~an individual may sign a petition for placement of a candidate's name on the primary ballot:
4. a. For more than one ~~person~~individual for each office for an office not under party designation.
2. b. For more than one ~~person~~individual for each office for an office under party designation only if all the candidates for whom the ~~person~~individual signs a petition for an office are running under the same party designation.
2. Except for ~~persons~~individuals allowed to seek nomination to more than one office pursuant to section 16.1-12-03, ~~no person~~an individual may not accept endorsement for nomination by certificate or petition to more than one office. ~~No~~A political party is ~~entitled to~~may not endorse for nomination by certificate more than one set of nominees.

SECTION 49. AMENDMENT. Section 16.1-11-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-06. State candidate's petition or political party certificate of endorsement required to get name on ballot - Contents - Filing.

1. Every candidate for United States senator, United States representative, a state office, including the office of state senator or state representative, and

judges of the supreme and district courts shall present to the secretary of state, between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixty-fourth day before any primary election, either:

- a. The certificate of endorsement signed by the state or district chairman of any legally recognized political party containing the candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, and the party which the candidate represents; or
- b. The nominating petition containing the following:
 - (1) The candidate's name, post-office address, and telephone number, and the title of the office to which the candidate aspires, the appropriate district judgeship number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
 - (2) The name of the party the candidate represents if the petition is for an office under party designation.
 - (3) The signatures and printed names of qualified electors, the number of which must be determined as follows:
 - (a) If the office is under party designation, the signatures of three percent of the total vote cast for the candidates of the party with which the candidate affiliates for the same position at the last general election. However, no more than three hundred signatures may be required.
 - (b) If there was no candidate of a party for a position at the preceding general election, at least three hundred signatures.
 - (c) If the office is under the no-party designation, at least three hundred signatures.
 - (d) If the office is a legislative office, the signatures of at least one percent of the total resident population of the legislative district as determined by the most recent federal decennial census.
 - (4) The mailing address and the date of signing for each signer.
2. If the petition or certificate of endorsement is for the office of governor and lieutenant governor, the petition or certificate must contain the names and other information required of candidates for both ~~those~~ offices. ~~If the~~
3. A petition or certificate of endorsement is mailed, it may be filed electronically, through the mail, or by personal delivery. However, the petition or certificate must be complete and in the possession of the secretary of state before four p.m. of the sixty-fourth day before the primary election.

SECTION 50. AMENDMENT. Section 16.1-11-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-10. Applicant's name placed upon ballot - Affidavit to accompany petition.

Upon receipt by the secretary of state of the petition or certificate of endorsement provided for in section 16.1-11-06 accompanied by the following affidavit, the secretary of state shall place the applicant's name upon the primary election ballot in the columns of the applicant's party as hereinafter provided or within the no-party office for which the applicant desires nomination. Upon receipt by the county auditor of the petition provided for in section 16.1-11-11 accompanied by the following affidavit, the county auditor shall place the applicant's name upon the primary election ballot within the no-party office for which the applicant desires nomination. The affidavit may be filed electronically, through the mail, or by personal delivery. However, the affidavit must be in the possession of the appropriate filing officer before four p.m. on the sixty-fourth day before the primary election. If the affidavit is filed electronically, the candidate shall retain the original copy. The affidavit must be substantially as follows:

State of North Dakota)

) ss.

County of _____)

I, _____, being sworn, say that I reside at _____, in the city of _____, in the county of _____ of North Dakota; and zip code of _____; that I am a candidate for nomination to the office of _____ to be chosen at the primary election to be held on _____, _____, and I request that my name be printed upon the primary election ballot as provided by law, as a candidate of the _____ party for said office. I am requesting that my name be listed on the ballot as I have identified my ballot name below. I understand that nicknames are allowed as part of my ballot name, but titles and campaign slogans are not permissible. I have reviewed the requirements to hold office and I certify that I am qualified to serve if elected.

Ballot name requested

Candidate's signature

Subscribed and sworn to before me on _____, _____.

Notary Public

NOTARY SEAL

My Commission Expires _____

SECTION 51. AMENDMENT. Section 16.1-11-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-11. County candidates' petitions - Filing - Contents.

Every candidate for a county office shall present; a petition to the county auditor of the county in which the candidate resides between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixty-fourth day before any primary election; to the county auditor of the county in which the candidate resides, a petition containing. The petition or certificate of

endorsement may be filed electronically, through the mail, or by personal delivery. However, the petition or certificate of endorsement must be complete and in the possession of the county auditor before four p.m. on the sixty-fourth day before the primary election. A petition under this section must include the following:

1. The candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, the appropriate district number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
2. The printed names and signatures of qualified electors, the number of which must be determined as follows:
 - a. If the office is a county office, the signatures of not less than two percent of the total vote cast for the office at the most recent general election at which the office was voted upon.
 - b. If the office is a county office and multiple candidates were elected to the office at the preceding general election at which the office was voted upon, the signatures of not less than two percent of the votes cast for all candidates divided by the number of candidates that were to be elected to that office.
 - c. If the office is a county office and no candidate was elected or no votes were cast for the office at any general election, the number of signers equal to the percentage as provided in paragraph 1 applied to at least two percent of the total average vote cast for the offices of sheriff and county auditor at the most recent general election at which those officers were elected in the petitioner's county. This average must be determined by dividing by two the total vote cast for those offices.
 - d. In no case may more than three hundred signatures be required.
3. The residential address, mailing address (if different from residential address), and date of signing for each signer. A post office box does not qualify as a residential address. In those areas of the state where street addresses are not available, a description of where the residential address is located shall must be used.

~~If the petition or certificate of endorsement is mailed, it must be in the possession of the county auditor before four p.m. on the sixty-fourth day before the primary election.~~

SECTION 52. AMENDMENT. Section 16.1-11-12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-12. Applicant's name placed on ballot.

1. Upon receipt of the petition or certificate of endorsement provided for in section 16.1-11-06 ~~by the secretary of state and when,~~ accompanied by an affidavit as provided in section 16.1-11-10, the secretary of state shall place the name of the applicant on the primary election ballot in the party or appropriate section if the documentation meets all applicable requirements.
2. Upon receipt of the petition or certificate of endorsement provided for in section 16.1-11-11 ~~by the county auditor and when,~~ accompanied by an affidavit as provided in section 16.1-11-10, the county auditor shall place the

name of the applicant on the appropriate section of the no-party primary election ballot ~~if the documentation meets all applicable requirements.~~

3. A candidate whose name was placed on the ballot under this section may have the candidate's name removed from the ballot by submitting a written request to the appropriate filing officer within forty-eight hours after the filing deadline under ~~section~~sections 16.1-11-06 and 16.1-11-11.

SECTION 53. AMENDMENT. Section 16.1-11-16 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-16. Form of nominating petitions.

1. Each nominating petition circulated by candidates for any state, district, county, or other political subdivision office must include or have attached the following information, which must be made available to each signer at the time of signing:
 - a. The candidate's name, address, and telephone number and the title of the office to which the candidate aspires, including the appropriate district number if applicable, ~~or~~and whether the petition is intended for ~~an~~ a full or unexpired term of office ~~if applicable.~~
 - b. The name of the party the candidate represents if the petition is for an office under party designation.
 - c. The date of the election at which the candidate is seeking nomination or election.
2. Only qualified electors of the state, district, county, or other political subdivision, as the case may be, may sign nominating petitions. In addition to signing and printing the ~~person's~~individual's name, petition signers shall include the following information:
 - a. The date of signing.
 - b. Complete residential address. A post office box does not qualify as a residential address. In ~~these~~ areas of the state where street addresses are not available, a description of where the residential address is located ~~shall~~must be used.
 - c. Complete mailing address if different from residential address.
3. Incomplete signatures or accompanying information of petition signers which ~~does~~does not meet the requirements of this section ~~invalidate such~~invalidates the applicable signatures. The use of ditto marks to indicate ~~that~~ the information contained on the previous signature line carries over does not invalidate a signature. Signatures that are not accompanied by a complete date are not invalid if the signatures are preceded and followed by a signature that is accompanied by a complete date.

SECTION 54. AMENDMENT. Section 16.1-11-18 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-18. ~~Party committees to fill~~Filling vacancy occurring in endorsement or nomination by petition for party office.

1. If a vacancy occurs in any party certificate of endorsement at the primary election for any state or legislative district office, the proper state or district executive committee of the political party may fill the vacancy by filing another certificate of endorsement with the ~~proper officer~~secretary of state as provided in ~~sections~~section 16.1-11-06 and 16.1-11-41.
2. If no party endorsement has been made by certificate and a vacancy occurs in a slate of candidates seeking party nomination by petition at the primary election, the proper state or district executive committee may fill the vacancy by filing a certificate of endorsement with the ~~proper officer~~secretary of state as provided in ~~sections~~section 16.1-11-06 and 16.1-11-41.
3. If party endorsements by certificate have been made for any state or district office and a vacancy occurs in the slate of ~~persons~~individuals seeking nomination at the primary election because of the unavailability of the ~~person~~individual who is seeking nomination by petition, that vacancy may not be filled except by petition.
4. ~~If a vacancy occurs in a slate of statewide candidates after the candidates have been nominated at the primary election, the proper state executive committee may fill any vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When such a certificate is filed, the secretary of state shall certify the new nomination and the name of the person who has been nominated to fill the vacancy in place of the original nominee to the various auditors. If the secretary of state already has forwarded the certificate, the secretary of state forthwith shall certify to the auditors the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.~~
5. ~~If a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the proper district executive committee may fill the vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When the certificate is filed, the secretary of state shall certify the new nomination to the various county auditors affected by the change by forwarding to them the name of the person who has been nominated to fill the vacancy in place of the original nominee. The certification must include the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.~~
6. ~~A vacancy in a nomination following a primary election may not be filled according to subsection 4 or 5 unless the nominated candidate:~~

- a. Dies;
- b. Would be unable to serve, if elected, as a result of a debilitating illness;
- c. Ceases to be a resident of the state or an individual nominated for legislative office will not be a resident of the legislative district at the time of the election; or
- d. Ceases to be qualified to serve, if elected, as otherwise provided by law.

Vacancies to be filled according to the provisions of this section may be filled not later than the sixty-fourth day ~~prior to~~before the election.

SECTION 55. AMENDMENT. Section 16.1-11-19 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-19. Filling vacancy existing on no-party ballot - Petition required - Time of filing.

1. If a vacancy exists on a no-party ballot for a state office or for judge of a district court, the vacancy may be filled by filing with the secretary of state, before four p.m. on the sixty-fourth day ~~prior to~~before the primary election, a written petition as provided in section 16.1-11-06, stating ~~that~~ the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, ~~the petition~~ the petition must be in the possession of the secretary of state before four p.m. on the sixty-fourth day ~~prior to~~before the primary election. The petition for the nomination of any ~~person~~individual to fill the vacancy must be signed by qualified electors equal in number to at least two percent of the total vote cast for governor at the most recent general election in the state or district at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.
2. If a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor, before four p.m. of the sixty-fourth day ~~prior to~~before the primary election, a written petition as provided in section 16.1-11-11, stating ~~that~~ the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, ~~the petition~~ the petition must be in the possession of the county auditor before four p.m. on the sixty-fourth day ~~prior to~~before the primary election. The petition for the nomination of any ~~person~~individual to fill the vacancy must be signed by qualified electors as provided in subdivision c of subsection 2 of section 16.1-11-11.
3. A vacancy in the no-party ballot must be deemed to exist when a candidate who was qualified by filing a petition pursuant to section 16.1-11-06 or 16.1-11-11 dies, resigns, or otherwise becomes disqualified to have the candidate's name printed on the ballot.

SECTION 56. AMENDMENT. Section 16.1-11-20 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-20. Certified list of nominees transmitted to county auditor by secretary of state.

At least fifty-five days before any primary election, the secretary of state shall electronically transmit electronically to each county auditor a certified list containing the names of each ~~person~~individual for whom nomination papers have been filed in the secretary of state's office and who ~~are~~is entitled to be voted for at the primary election. A designation of the office for which each is a candidate, and if applicable, the party or principle represented by each must be included.

SECTION 57. AMENDMENT. Section 16.1-11-21 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-21. County auditor to publish sample primary election ballot and notice of time and place of election.

The county auditor shall publish, once each week for two consecutive weeks before the primary election, in the official county newspaper, and if no newspaper is published in the county then in a newspaper published in an adjoining county in the state, ~~the following~~a notice accompanied by a statement substantially the same as: "The arrangement of candidate names on ballots in your precinct may vary from the published sample ballots, depending on the precinct and legislative district in which you reside." The notice must include:

1. A copy of the sample ballot of the primary election, as arranged by order and direction of the county auditor. The form of the sample ballot must conform in all respects to the form prescribed for the sample primary ballot by the secretary of state. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in the county. ~~Absent voters' ballots may not be considered in determining which form of voting is used.~~ Candidates from each legislative district that falls within the boundaries of the county must be listed in a separate box or category within the sample ballot by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district.
2. The date of the primary election.
3. The hours during which the polls will be open.
4. ~~The statement that the primary election balloting will be held in the regular name and address for each polling place in each precinct the county.~~

~~The notice must be published in the official county newspaper once each week for two consecutive weeks before the primary election and include a statement in substantially the following format:~~

~~The arrangement of candidate names appearing on ballots in your precinct may vary from the published sample ballots, depending upon the precinct and legislative district in which you reside.~~

SECTION 58. AMENDMENT. Section 16.1-11-22 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-22. Primary election ballot - Form - Voters to vote for candidates of only one political party.

At the primary election there may be only one ballot containing the separate sections for all parties or principles. The judges and the inspector of elections shall inform each elector at the primary, before voting, if the voter votes for candidates of

more than one political party the voter's political party ballot will be rejected. The ballot must be in the following form:

1. The ballot must be entitled the "consolidated primary election ballot".
2. Each political party or principle having candidates at the primary election must have a separate section on the ballot.
3. At the head of each ~~column~~section must be printed the name of the political party or principle which it represents.
4. Spanning the columns containing the political party ballot ~~sections~~ and ~~prior to~~before the party names or principle titles must be printed: "In a Political Party Primary Election, you may only vote for the candidates of one political party. This ballot contains the number of political parties or principles and a description of where the political parties or principles are to be found in the ~~columns~~sections below. If you vote in more than one political party's section, your Political Party Ballot will be rejected; however, all votes on the No Party and Measure Ballots will still be counted."
5. Immediately below the warning against voting for candidates of more than one political party must be printed: "To vote for the candidate of your choice, you must darken the oval next to the name of that candidate. To vote for a ~~person~~an individual whose name is not printed on the ballot, you must darken the oval next to the blank line provided and write that ~~person's~~individual's name on the blank line."
6. The offices specified in section 16.1-11-26 must be arranged in each section with the name of each office in the center of each political party section at the head of the names of all the ~~aspirants~~candidates for the office.
7. Immediately under the name of each office must be printed: "Vote for no more than _____ name (or names)."
8. Immediately preceding and on the same line as the name of each ~~aspirant~~candidate must be printed an oval in which the voter is to mark the voter's choice by darkening the oval next to the name of the candidate chosen.
9. The political party or principle which cast the largest vote for governor at the most recent primary election at which the office of governor was voted upon must have the first section, and the political party or principle casting the next largest vote must have the second section, and so on.

~~The judges and the inspector of elections shall inform each elector at the primary, before voting, that if the voter votes for candidates of more than one political party the voter's political party ballot will be rejected.~~

SECTION 59. AMENDMENT. Section 16.1-11-31 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-31. Precinct election reports.

~~Optical scan ballot~~Vote tabulation machines must print reports detailing the election results from the precinct after the close of the polls.

SECTION 60. AMENDMENT. Section 16.1-11-32 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-32. Poll lists kept by clerks of elections.

The clerks of primary elections shall keep either one paper or one electronic list of the names of all ~~persons~~individuals voting at each primary election. The clerks must return the list, which must be a part of the records and filed with other election returns. Only one complete list of voters may be kept whether or not a special election is held simultaneously with the primary election.

SECTION 61. AMENDMENT. Section 16.1-11-33 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-33. Judges of election to run report of primary election - Contents.

The judges of a primary election in each ~~precinct~~polling place shall run a separate report for each political party or principle requesting the report, containing the names of all ~~persons~~individuals voted for at the primary election, the number of votes cast for each candidate, and for what office. The report must be ~~subscribed~~approved and signed by the election inspector and election judges and must be filed with the returns in the office of the county auditor.

SECTION 62. AMENDMENT. Section 16.1-11-35 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-35. Nominations by write-in.

~~The provisions of this title do~~This title does not prevent any elector from writing on the paper ballot, ~~or in the case of direct recording electronic voting system devices, or~~ entering by touchscreen or other data entry device, the name of any ~~person~~individual for whom the elector desires to vote, and ~~such~~the vote must be counted according to the provisions for the counting of write-in votes found in section ~~46.1-12-02.2~~16.1-15-01.1.

SECTION 63. AMENDMENT. Section 16.1-11-36 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-36. Vote required at primary election for nomination.

~~A person~~An individual may not be deemed nominated as a candidate for any office at any primary election unless that ~~person~~individual receives a number of votes at least equal to the number of signatures required, ~~or which would have been required had the person not had the person's name placed on the ballot through a certificate of endorsement, on a petition to have a candidate's name for that office placed on the primary ballot.~~

SECTION 64. AMENDMENT. Section 16.1-11-37 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-37. Vote required for nomination on no-party ballot - Partisan nominations prohibited.

The number of ~~persons~~individuals to be nominated as candidates for any one no-party office ~~must be that is~~ the number of ~~persons~~individuals who receive the highest number of votes and who total twice the number of available positions for the office if that many ~~persons~~individuals are candidates for nomination. ~~Provided, however, that a person~~However, an individual may not be deemed nominated as a

candidate for any no-party office at any primary election unless the number of votes received by the ~~person~~individual ~~equals~~is no less than the number of signatures of qualified electors required to be obtained on a petition to have a candidate's name for the office placed on the primary ballot. ~~No partisan~~Partisan nominations may not be made for any of the offices mentioned in section 16.1-11-08.

SECTION 65. AMENDMENT. Section 16.1-11-39 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-39. ~~Persons~~Individuals nominated in accordance with provisions of chapter eligible as candidates in general election.

1. All ~~persons~~individuals nominated in accordance with the provisions of this chapter are eligible as candidates to be voted for at the ensuing general election, except as provided in this section.
2. Upon receipt of the documents filed by each candidate, the filing officer immediately shall complete a thorough review of the documents and notify the candidate of any necessary corrections that must be made before four p.m. on the sixty-fourth day before the primary election. The filing officer may not place a candidate's name on the primary election ballot if the filed documents are insufficient and remain uncorrected.
3. If the filing officer discovers, after four p.m. on the sixty-fourth day before the primary election, an insufficiency in the certificate of endorsement or petition or affidavit of candidacy filed by a candidate, the candidate may not be deemed nominated until the insufficiency is corrected. Upon discovery of the insufficiency, the filing officer immediately shall notify the candidate in writing of the necessary corrections. The candidate shall file the necessary corrections as soon as practicable, but not later than four p.m. on the sixty-fourth day before the general election.

SECTION 66. AMENDMENT. Section 16.1-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11.1-02. Application for mail ballots.

The county auditor shall mail an application form for a mail ballot to each ~~individual~~active voter listed in the central voter file for the county and each qualified individual eligible to vote in the state for the first time on one date no sooner than the fiftieth day before the election and no later than the fortieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the form provided in section 16.1-07-06.

SECTION 67. AMENDMENT. Section 16.1-11.1-03 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11.1-03. Mail ballot distribution.

The county auditor shall mail to each qualified applicant an official mail ballot with a return identification envelope, voter's affidavit, and instructions according to section 16.1-07-08.

reviewed the requirements to hold office and I certify that I am qualified to serve if elected.

Ballot name requested

Date _____

Candidate's signature

Subscribed and sworn to before me on _____, _____.

Notary Public

NOTARY SEAL My Commission Expires _____

SECTION 71. AMENDMENT. Section 16.1-12-03 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-03. Certificate of nomination to contain only one name - PersonIndividual to participate in only one nomination - Exception.

No certificate of nomination provided for by this chapter, except in the case of presidential electors, may contain the name of more than one nominee for each office to be filled. A ~~person~~An individual elected or appointed to an office appearing on the no-party ballot or seeking nomination and election to a no-party office may also seek nomination to legislative office and may serve in the legislative assembly, unless the no-party office is the office of district court judge, or a statewide elective office. Except as may be permitted in this section, no ~~person~~individual may participate directly or indirectly in the nomination of more than one ~~person~~individual for each office to be filled on the general election ballot, except a ~~person~~an individual may sign a certificate of nomination by petition for more than one ~~person~~individual for each office, and no ~~person~~individual may accept a nomination to more than one office on the general election ballot. No political party is entitled to more than one set of nominees on the official general election ballot.

SECTION 72. AMENDMENT. Section 16.1-12-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-06. PersonIndividual nominated by more than one party -~~Column in which name placed.~~

When one ~~person~~individual has been nominated for the same office by more than one body of electors qualified to make nominations for public office, the nominee shall file with the secretary of state ~~on~~ or before the last day fixed by law for filing certificates of nomination for the office, a signed statement designating the ~~column on the official ballot in which~~political party the nominee desires the nominee's name to ~~appear~~represent. The ~~column~~political party so designated must be the ~~column allotted to~~political party of one of the bodies of electors by whom the ~~person~~individual was nominated. In the absence of a timely written designation as provided by this section, the secretary of state shall place the ~~person's~~individual's name in the ~~column allotted to~~political party of the body of electors from which ~~the individual's nomination was first received notice of the person's nomination~~first.

SECTION 73. AMENDMENT. Section 16.1-12-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-07. If nominee declines - Certificate void.

Any ~~person~~individual intending to decline a nomination shall do so by filing written notice of that intention with the officer with whom the certificate nominating the ~~person~~individual is filed. If the written notice is filed with the appropriate officer within forty-eight hours after four p.m. on the sixty-fourth day before the election, the nomination is void. If written notice is mailed, it must be in the physical possession of the appropriate officer within forty-eight hours after four p.m. on the sixty-fourth day before the election.

SECTION 74. AMENDMENT. Section 16.1-12-09 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-09. Filling vacancy existing on no-party ballot - Petition required - Time of filing.

1. Whenever a vacancy exists on a no-party ballot for a state office or for judge of a district court, ~~such~~the vacancy may be filled by filing with the secretary of state, before four p.m. on the sixty-fourth day, a written petition as provided in section 16.1-11-06, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. ~~If the petition is mailed, it must be in the physical possession of the secretary of state before four p.m. on the sixty-fourth day prior to the general election.~~ The petition for the nomination of any ~~person~~individual to fill ~~such~~the vacancy must be signed by qualified electors equal in number to at least two percent of the total vote cast for the office of governor in the state or district, at the most recent general election at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.
2. Whenever a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor before four p.m. of the sixty-fourth day a written petition as provided in section 16.1-11-11, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. ~~If such petition is mailed or otherwise delivered, it must be in the possession of the county auditor before four p.m. on the sixty-fourth day prior to the general election.~~ The petition for the nomination of any ~~person~~individual to fill the vacancy must be signed by qualified electors equal in number to at least thirty percent of the total vote cast for the office of governor at the most recent general election in the county or district at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.
3. A vacancy in the no-party ballot must be deemed to exist when:
 - 1- a. A candidate nominated at the primary election dies, resigns, or otherwise becomes disqualified to have the candidate's name printed on the ballot at the general election.
 - 2- b. No candidates were nominated at the primary election because the office did not yet exist.
 - 3- c. The timing of the vacancy in an office makes it impossible to have ~~it~~the office placed on the primary ballot.

4. The petition or certificate of endorsement may be filed electronically, through the mail or by personal delivery, and must be complete and in the possession of the filing officer before four p.m. on the sixty-fourth day before the general or special election.

SECTION 75. Section 16.1-12-10 of the North Dakota Century Code is created and enacted as follows:

16.1-12-10. Party committee to fill vacancy occurring after nomination for party office.

1. If a vacancy occurs in a slate of statewide candidates after the candidates have been nominated at the primary election, the state executive committee of the party that submitted the slate of statewide candidates may fill the vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the individual for whom the new nominee is to be substituted, the fact the committee was authorized to fill vacancies, and any other information required to be provided in an original certificate of nomination. When the certificate of nomination to fill a vacancy is filed, the secretary of state shall certify the new nomination and the name of the individual who has been nominated to fill the vacancy in place of the original nominee to the various county auditors. If the secretary of state already has forwarded the certificate, the secretary of state shall certify to the county auditors the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the individual for whom the new nominee is substituting, as soon as possible. Failure to publish the name of a new nominee does not invalidate the election.
2. If a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the executive committee of the district in which the vacancy occurs and of the party that submitted the slate of legislative candidates may fill the vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the individual for whom the new nominee is to be substituted, the fact the committee was authorized to fill vacancies, and any other information required to be provided in an original certificate of nomination. When the certificate of nomination to fill a vacancy is filed, the secretary of state shall certify the new nomination to the various county auditors affected by the change by forwarding to the auditors the name of the individual who has been nominated to fill the vacancy in place of the original nominee, as soon as possible. The certification must include the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the individual for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.
3. A vacancy in a nomination following a primary election may not be filled according to subsection 1 or 2 unless the nominated candidate:
 - a. Dies;
 - b. Would be unable to serve, if elected, as a result of a debilitating illness;

- c. Ceases to be a resident of the state;
 - d. Is nominated to be a member of the legislative assembly and, at the time of the election, will not be a resident of the legislative district to be represented; or
 - e. Ceases to be qualified to serve, if elected, as otherwise provided by law.
4. Vacancies to be filled according to this section may be filled not later than the sixty-fourth day before the election.

SECTION 76. AMENDMENT. Section 16.1-13-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-05. Notice of election - Contents - Publication with sample ballot.

1. Notice of all general elections must be published by the county auditor in the official county newspaper at the same time as, and as a part of, the publication of the sample ballot preceding the election. The notice must be substantially as follows:

Notice is given that on Tuesday, November _____, ____, at the polling places in the various precincts in the county of _____, an election will be held for the election of state, district, and county officers, which election will be opened at _____ a.m. and will continue open until _____ p.m. of that day with the following exceptions:

Dated _____, _____

Signed _____

County Auditor

2. The county auditor shall publish a copy of the sample ballot of the general election once each week for two consecutive weeks before the election in the official county newspaper. If no newspaper is published in the county, the publication must be in a newspaper published in an adjoining county in the state. The form of the sample ballot as ordered and arranged by the county auditor must conform in all respects to the form prescribed by the secretary of state for the sample general election ballot. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in the county. ~~Absentee voter ballots may not be considered in determining which form of voting is used.~~ Candidates from each legislative district which falls within the boundaries of the county must be listed in a separate box or category within the sample ballot by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district. Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county ~~which~~ that cast the highest total vote for governor at the last general election at which the office of governor was filled. The notice must include a statement in substantially the following format:

The arrangement of candidate names appearing on ballots in your precinct

may vary from the published sample ballots, depending upon the precinct and legislative district in which you reside.

SECTION 77. AMENDMENT. Section 16.1-13-09 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-09. Resignation of members of legislative assembly after certificate of election.

Any ~~person~~individual who receives a certificate of election as a member of the legislative assembly may resign ~~such~~the office ~~although the person may not have even if the individual has not~~ entered upon the execution of the duties thereof ~~nor of the office or~~ taken the requisite oath of office.

SECTION 78. AMENDMENT. Section 16.1-13-14 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-14. Special election to fill vacancies - Party committee to call convention to nominate - Individual nominations.

If a special election is called to fill a vacancy in any office for which a party nomination may be made, the proper party committee shall call a convention to make a party nomination for ~~such~~the office, and the ~~precinct committeemen of the district~~ must be duly convened and shall elect the required number of delegates to ~~such~~the convention. Individual nominations for special elections must be made in accordance with the provisions of chapter 16.1-12.

SECTION 79. AMENDMENT. Section 16.1-13-17 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-17. Certificate of nomination by convention - Contents - Delivery.

All nominations made by a convention as provided in this chapter must be certified. The certificate must be delivered by the secretary or president of the convention by registered or certified mail or in person, without charge, to the secretary of state. The certificates of nomination must be in writing and must contain all of the following:

1. The name of each ~~person~~individual nominated, ~~that person's individual's~~ post-office address, telephone number, the office for which ~~that person~~the individual is nominated, the legislative district number if applicable, and whether the certificate is intended for an unexpired or full term of office if applicable.
2. A designation in not more than five words of the party or principle which the convention represents.
3. The signature, post-office address, and verification of the presiding officer and secretary of the convention.

~~The certificate as prescribed in this section must be delivered by the secretary or president of the convention by registered or certified mail or in person, without charge, to the secretary of state or the county auditor, as the case may be.~~

SECTION 80. AMENDMENT. Section 16.1-13-18 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-18. Two or more organizations filing certificates representing same party - Secretary of state to determine authorized organization - Review of determination.

If two or more organizations claiming or purporting to represent the same political party shall file certificates of nomination under the same party designation, or if the certificates indicate that the nominations were made by any ~~person~~individual or organization representing the same political party, the secretary of state, within the time prescribed by law for certifying state nominations to the county auditor, shall determine from the best available sources of information which organization filing the certificates is the legally authorized representative of the party. The decision of the secretary of state in determining which organization is the legally authorized representative of the party is subject to review by the district court in a proper action instituted for such purpose.

SECTION 81. AMENDMENT. Section 16.1-13-19 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-19. Election not to be held in room where alcoholic beverages sold.

~~No election may~~An election may not be held in a room in which alcoholic beverages ~~commonly are being sold while the polls are open or while election board members are completing assigned work.~~

SECTION 82. AMENDMENT. Section 16.1-13-23 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-23. Preparation of ballot by elector - Depositing - Second-chance voting.

Upon receipt of a ballot within the provided secrecy sleeve, the elector, ~~forthwith~~ and without leaving the polling place, shall retire alone to one of the voting booths or compartments to prepare the elector's ballot by darkening the oval opposite the name of each individual for whom the elector wishes to vote. In the case of a ballot containing a constitutional amendment, an initiated or referred measure, or any other question to be submitted to a vote of the people, the elector shall darken the oval opposite the word or words expressing the elector's wish. After preparing the ballot, the elector shall place the ballot back in the provided secrecy sleeve so ~~it~~the ballot is concealed and so the ~~endorsement~~initials of the inspector or election judge may be seen. The elector then shall deposit the ballot in the optical scanning device and wait to determine if the ballot is deposited into the ballot box or if the optical scanning device has indicated a possibility for a second-chance voting condition. If a second-chance voting condition is indicated, a voter may spoil and receive up to two additional ballots. The voter's third ballot must be cast as is and may not be returned to the voter even if errors exist causing certain votes not to be counted.

SECTION 83. AMENDMENT. Section 16.1-13-25 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-25. Elector may write name on ballot - Counting.

The provisions of this title do not prevent any elector from writing on the paper ballot; ~~or in the case of direct-recording electronic voting system devices, entering by touchscreen or other data entry device, the name of any person~~individual for whom the elector desires to vote, and ~~such~~the vote must be counted according to the provisions for the counting of write-in votes found in section ~~16.1-12-02.2~~16.1-15-01.1.

SECTION 84. AMENDMENT. Section 16.1-13-27 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-27. Assistance to elector - Polling place accessibility.

Any elector may receive the assistance of any ~~person~~individual of the elector's choice, other than the elector's employer, officer or agent of the elector's union, a candidate running in that election, or a relative of a candidate as provided in subsection 2 of section 16.1-05-02, in marking the elector's ballot. If the elector requests the assistance of a member of the election board, ~~however,~~ the elector shall receive the assistance of both election judges in the marking of the elector's ballot. ~~No one~~An individual assisting any elector in marking a ballot under this chapter may not give information regarding the ballot. ~~No~~An elector, other than one who requests assistance, may not divulge to anyone within the polling place the name of any candidate for whom the elector intends to vote, nor ask, nor receive the assistance of any ~~person~~individual within the polling place to mark the elector's ballot. Parking facilities at polling places must be accessible to individuals living with physical disabilities and the elderly ~~and the physically disabled,~~ and must be clearly marked.

SECTION 85. AMENDMENT. Section 16.1-13-28 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-28. Penalty for requesting voter to vote in certain manner.

Any ~~person~~individual chosen to assist a voter who ~~shall request~~requests the assisted voter ~~the person is assisting~~ to vote for or against any person or any issue is guilty of a class B misdemeanor.

SECTION 86. AMENDMENT. Section 16.1-13-29 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-29. Election booths or compartments - Number required - Expense.

The inspector of elections shall provide a sufficient number of voting booths or compartments in the inspector's polling place, which must be designed to enable the elector to mark, or in the case of ~~direct recording electronic voting system~~ballot marking devices, enter by touchscreen or other data entry device, the elector's ballot screened from observation. The number of booths or compartments in precincts may not be less than one for each one hundred fifty electors or fraction thereof one hundred fifty electors in the precinct~~precincts served by the polling place~~. The expense of providing the booths or compartments must be paid in the same manner as other election expenses. ~~One electronic voting system~~At least one certified tabulation device and ballot marking device must be provided in each ~~precinct~~polling place.

SECTION 87. AMENDMENT. Section 16.1-13-30 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-30. One ~~person~~individual to occupy booth - Time limit in booth.

~~Not~~No more than one ~~person~~individual may be permitted to occupy any one voting booth or compartment at one time except when providing lawful assistance. A ~~person~~An individual may not remain in or occupy a booth or compartment longer than necessary to prepare the ~~person's~~individual's ballot.

SECTION 88. AMENDMENT. Section 16.1-13-31 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-31. Removal of ballot from polling place before closing of polls - Prohibited.

~~No person~~An individual may not take or remove any ballot from the polling place before the close of the polls.

SECTION 89. AMENDMENT. Subsection 1 of section 16.1-15-01 of the North Dakota Century Code is amended and reenacted as follows:

1. In the canvass of the votes at any election, a ballot is void and may not be counted if:
 - a. It is not endorsed with the initials as provided in this title; or
 - b. It is impossible to determine the elector's choice from the ballot or parts of a ballot, and in the case of electronic voting systems, based upon the criteria established by the secretary of state for ~~counting votes on each electronic voting system authorized for procurement and use in the state according to determining what constitutes a vote under~~ section 16.1-06-26.

SECTION 90. AMENDMENT. Section 16.1-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-01.1. Counting write-in votes.

1. ~~An election board or~~A canvassing board may not ~~count or~~ be required to ~~report officially~~list in the official abstract of votes:
 - a. The number of write-in votes for an individual required to file a certificate of write-in candidacy under section 16.1-12-02.2 but who has ~~not filed~~failed to file a certificate of candidacy and ~~been~~be certified as a write-in candidate;
 - b. The number of write-in votes for a fictitious person or individual clearly not eligible to qualify for the office for which the vote was cast;
 - c. A statement concerning a candidate under this subsection;
 - d. The number of write-in votes for a candidate for office if the total number of write-in votes cast for the contest constitutes ten percent or less of the votes cast by the voters for the candidate receiving the most votes for the office or political party's nomination of a candidate for the office, except in the case of a primary election in which enough votes were cast as write-in votes to qualify a name for the general election ballot; ~~and~~or
 - e. The number of write-in votes for a candidate receiving fewer than three write-in votes unless the number of votes received qualifies the candidate to be nominated or elected.
2. A write-in vote for a candidate whose name is printed on the ballot will be tallied as a vote for the candidate if the voter has not voted for more candidates than allowed for the contest or voted for the same candidate more than once in that contest.

3. A write-in vote that does not need to be canvassed individually based on the requirements of subsection 1 must be listed on the official canvass report as "scattered write-ins".

SECTION 91. AMENDMENT. Section 16.1-15-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-02. Board of election to generate canvass reports - Location - Public may attend.

After the polls are closed, the inspector of elections and the judges immediately shall ~~immediately~~ generate the canvass report from the electronic voting system. The ballots counted by the machine must be equal in number with the names on the poll clerks' lists. If the numbers are not equal, the pollbooks are to be rechecked to find the discrepancy. The canvass ~~shall~~must continue without adjournment until completed and must be open to the public. Ballots may not be removed to another location before the canvass report is generated after the ballot boxes have been opened. Except in unusual and compelling circumstances, the canvass shall occur at the polling place. If good and substantial reasons exist for the removal of the ballots and election records to another location for canvass, ~~the other location must be in the same precinct and the removal must be approved by the election board. In no case may the ballots be removed to another location prior to generating the canvass report after the ballot boxes have been opened.~~ Upon approval of a change of location by the election board as provided in this section, the approximate time and location of the canvass must be prominently posted on the main entrance to the polling place, the ballots and records must be moved in the presence of the election board, and the canvass as provided in this chapter must proceed immediately upon arrival at the alternate location.

SECTION 92. AMENDMENT. Section 16.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-08. Wrapping and returning of ballots to county recorder - Ballots set aside to election official administering the election.

1. After generating the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the election board shall ~~cause the ballots containing lawful write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar manner~~wrap all ballots. The ballots and wrappers ~~must then be tightly~~ then must be secured tightly at the outer end to completely envelop and hold the ballots together. Ballots that are void must be secured in a separate wrapper and must be marked "void". Ballots that are spoiled must be ~~separately~~ separately secured and marked "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be endorsed with the names or numbers of the polling places, the precincts served by the polling places, and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the county auditor so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned in person to the county recorder. At the meeting of the county canvassing board, the county ~~recorder~~auditor shall deliver the report of the ballots containing lawful write-in votes from all the precincts within the county ~~if these votes were not~~ are required to be canvassed ~~by the polling place~~

~~election board on election night. Ballots used with any electronic voting system or counted by an electronic counting machine must be sealed and returned as provided in this section according to section 16.1-15-01.1.~~

2. Each ballot within a sealed envelope set aside for an individual who was unable to provide a valid form of identification when appearing to vote in the election must be delivered to the election official responsible for the administration of the election so the envelope containing the ballot is available if the individual for whom the ballot was set aside appears in the official's office to verify the individual's eligibility as an elector. The verified and unverified ballots set aside must be delivered to the members of the canvassing board for proper inclusion in or exclusion from the canvass of votes.

SECTION 93. AMENDMENT. Section 16.1-15-09 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-09. Electronic voting Voting systems –~~Electronic counting machines~~ - Returns.

1. Election officers shall generate reports of votes cast ~~upon electronic and counted by~~ voting systems and counted on electronic counting machines for all candidates and for any measures or questions in the same manner as now or hereafter provided by law or rule insofar as such provisions of law or rule are applicable.
2. Within the ability of an electronic counting machine a tabulation device to accurately do so, all votes are ~~to~~ must be counted by the machine. After the election results have been accumulated centrally in the county auditor's office, if the number or percentage of write-in votes for an office meet the criteria established in section ~~16.1-12-02-216.1-15-01.1~~, the county canvassing board shall review and approve the canvass of the votes for the write-in names for that office conducted by the county auditor's office to determine final election results.
3. ~~Votes cast upon a direct-recording electronic voting system must be tabulated from the voter's choices stored in the system's internal memory devices that are added to the choices of all other voters.~~
4. The county auditor shall designate the public place or places where electronic voting system absentee and mail ballots and ballots to be counted on electronic counting machines must be delivered by the election inspector and the two election judges to be and counted in the presence of the election inspector and at least two election judges. The county auditor shall designate the public place or places where votes cast upon direct-recording electronic voting systems are to be counted.
- 5-4. ~~All counting centers used for counting votes cast upon electronic voting systems shall have tabulating equipment that has an element that generates~~ Each voting system must generate a printed record at the beginning of its the system's operation which verifies that the tabulating elements for each candidate position and each question and the public counter are all set at zero. The tabulating equipment ~~must~~ voting system also must be equipped with an element that generates a printed record, at the end of its the system's operation, a printed record of the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate on the

ballot, and the total number of votes cast for or against any measure appearing on the ballot. The election inspector and ~~the two~~ election judges ~~must~~shall certify both printed records.

- ~~6-5.~~ If any ~~electronic voting system~~ ballot or a ballot counted by an ~~electronic counting machine~~ is damaged or defective so that ~~it~~the ballot cannot be counted properly counted by the ~~automatic tabulating or electronic counting equipment~~voting system, a true duplicate copy must be made by election officials of opposed interests and substituted for the damaged or defective ballot. All duplicate ballots must be clearly labeled duplicate clearly, must bear a serial number that must be recorded on the damaged or defective ballot, and must be wrapped and delivered with other ballots to the county recorder.

SECTION 94. AMENDMENT. Section 16.1-15-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-10. Failure of automatic tabulating or electronic counting equipment~~voting system~~ - Counting by alternate method.

If the ~~automatic tabulating or electronic counting equipment~~ used as part of any ~~electronic voting system, any electronic voting system device, or any electronic machine~~ fails to operate during the ballot count at any election, the ballots must be counted by an alternate method.

SECTION 95. AMENDMENT. Section 16.1-15-13 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-13. County recorder to keep ballots - Exception - Use of ballots as evidence.

Immediately upon receiving the ballots as provided in section 16.1-15-08, the county recorder shall give a receipt to the election judges and shall place the ballots properly arranged in the order of the precinct number in boxes that ~~shall be~~are securely locked. The boxes must be placed in a fireproof vault and must be kept securely for forty-five days if the ballots do not contain federal offices and twenty-two months if the ballots contain federal offices. ~~With the exception of the ballots containing lawful write-in votes that may be counted at the meeting of the county canvassing board, the~~The ballots may not be opened nor inspected, except upon court order in a contested election, when it is necessary to produce them at a trial for any offense committed at an election, or to permit election officials to complete their duties. Either forty-five days or twenty-two months after the election dependent upon the retention schedule outlined in this section, upon determination by the county recorder that no contest is pending, the ballots must be destroyed. If any contest of the election of any officer voted for at the election or a prosecution under the provisions of this title is pending at the expiration of ~~such~~the time, the ballots may not be destroyed until the contest or prosecution is finally determined. The ballots returned to the county recorder as provided in this section must be received in evidence without introducing further foundation.

SECTION 96. AMENDMENT. Section 16.1-15-15 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-15. County canvassing board - Composition.

The county canvassing board must be composed of the county recorder, county auditor, chairman of the board of county commissioners, and a representative of each of the two political parties that received the highest number of votes cast for governor

at the most recent general election at which a governor was elected. An individual who served on an election board during the election may not serve as a political party representative on the canvassing board for that same election. The district chairmen of the political parties from each legislative district within the county shall appoint the respective political party representative. The county canvassing board must be comprised of at least five members, and both political parties must be represented. Each political party from each legislative district within a county may request representation on the canvassing board if there is equal representation from each of the political parties. For any special county election when the county is composed of more than one legislative district and the election does not involve any legislative or statewide office, the county canvassing board must be composed of the county recorder, county auditor, and chairman of the board of county commissioners, and one representative as appointed by the state chairman for each of the two political parties that received the highest number of votes cast for governor at the most recent general election at which a governor was elected.

SECTION 97. AMENDMENT. Section 16.1-15-17 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass.

On the ~~sixth~~thirteenth day following each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or both in regard to the election. Any correction of any previous certification of election results as provided in this section must be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results.

SECTION 98. AMENDMENT. Section 16.1-15-19 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-19. County canvassing board to disregard technicalities, misspelling, and abbreviations - Ballots set aside - Write-in votes canvassed - Votes from unestablished precincts~~polling places~~ disregarded.

In canvassing the election returns, the county canvassing board shall disregard technicalities, misspelling, and the use of initial letters or abbreviations of the name of any candidate for office if it can be ascertained for whom the vote was intended. Under section 16.1-01-04.1, the board shall include in the canvass the votes from any ballot set aside and subsequently verified by the individual who marked the ballot, and review each envelope containing an unverified ballot forwarded to the board from the polling place election officials. The envelopes for all ballots set aside along with the envelopes containing uncounted ballots from unverified individuals must be kept with all other election materials for the required retention period under section 16.1-15-13. Under section ~~16.1-12-02.2~~16.1-15-01.1, the board shall review and approve the canvass report of all qualifying write-in votes. The board may not count votes polled in any place except at established precincts~~polling places~~. The county canvassing board is authorized to initial all absentee ballots cast pursuant to section 16.1-07-09 ~~that which~~ were not considered or counted by the absentee ballot precinct election boards~~board~~ and to make a final determination of eligibility for all

ballots ~~which that~~ were rejected at the various precincts in the county for the reasons provided in sections ~~16.1-07-11~~ 16.1-07-10 and 16.1-07-12.

SECTION 99. AMENDMENT. Section 16.1-15-20 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-20. County canvassing board may subpoena members of election board to correct errors - Failure to obey subpoena is a contempt.

When the returns of the election board officers are made to the county canvassing board, if any provision of law relative to the duties of the election board officers has not been complied with by ~~said the~~ officers and the provision of law is capable of correction by the election board, the county canvassing board may issue its subpoenas to the election board officers of the ~~precinct where in~~ polling place in which the defect occurs. The subpoenas must require the election board officers to appear ~~forthwith~~ as soon as possible before the county canvassing board to correct any omission or mistake according to the facts. The amended or corrected returns then must be acted upon by the board. If any election board officer, subpoenaed as provided in this section, neglects or refuses to obey the subpoena, the ~~person individual~~ so neglecting or refusing must be arrested upon a bench warrant issued out of the office of the clerk of the district court in the county where the proceedings occur. The ~~person individual~~ arrested must be brought before the county canvassing board and shall make the necessary correction. A refusal on the part of an election board officer to make a correction must be deemed a contempt of the district court.

SECTION 100. AMENDMENT. Section 16.1-15-21 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-21. Primary election statement prepared by county canvassing board - Contents.

The county canvassing board, upon canvassing the returns of a primary election, shall prepare an abstract signed by the members of the board and filed in the office of the county auditor. ~~A separate abstract of the votes cast must be transmitted to the secretary of state according to reporting instructions specified by the secretary of state.~~ The abstract filed in the office of the county auditor must contain all of the following:

1. The names of all candidates voted for at the primary election with the number of votes received by each and for what office. The abstract must be made separately for each political party or principle.
2. The names of the ~~persons individuals~~ or candidates of each political party or principle who receive the highest number of votes for the respective offices. If more than one ~~person individual~~ is required to be elected to a given office at the next ensuing general election, there must be included in the abstract the names of so many of the candidates of the party receiving the next highest number of votes for that office as there are ~~persons individuals~~ to be elected to the office at said ensuing general election. The abstract must be made separately for each political party.
3. The total number of ballots cast at the primary election.

~~A separate abstract of the votes cast must be transmitted to the secretary of state according to reporting instructions specified by the secretary of state.~~

SECTION 101. AMENDMENT. Section 16.1-15-25 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-25. County auditor to forward abstract of votes of general election to secretary of state - Contents - Abstract for presidential electors.

~~Within eight days and before~~Before four p.m. on the eighth day following any general election, the county auditor of each county shall provide to the secretary of state a certified abstract of the votes cast in the county at the election according to the reporting instructions specified by the secretary of state.

SECTION 102. AMENDMENT. Section 16.1-15-30 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-30. Determining tie vote for legislative assembly.

If the requisite number of ~~persons are~~individuals is not elected to the state senate or house of representatives because two or more ~~persons~~individuals have equal and the highest number of votes for one and the same office, a recount must be done pursuant to section 16.1-16-01. If a recount results in a tie vote, ~~the county auditor, if the legislative district in question is within one county, shall notify the secretary of state. The secretary of state shall notify the persons~~individuals with equal and the highest number of votes to appear in the office of the secretary of state at a time fixed by the secretary of state. The time fixed may not be more than five days from the date the tie is determined by the county auditor. On the date fixed, the ~~persons~~individuals notified to appear shall publicly decide by a drawing of names which of them must be declared elected, and the secretary of state shall prepare and deliver to the ~~person~~individual elected a certificate of election as provided in this chapter. ~~If the legislative district in question is within the boundaries of more than one county, the county auditor of the county which cast the greater number of votes for the office of governor at the last election at which a governor was elected shall proceed in accordance with this section.~~

SECTION 103. AMENDMENT. Section 16.1-15-37 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-37. Examination of abstracts by state canvassing board - Messenger dispatched to county when error discovered.

After the state canvassing board is formed, ~~it~~the board shall examine the certified abstracts of the county canvassing boards and verify the computed final results as provided in section 16.1-15-33 ~~and if~~. If it appears that:

1. ~~Any~~any material mistake has been made in the computation of votes cast for any ~~person~~individual, or
2. ~~The~~the county canvassing board in any county has failed to canvass the votes or any part ~~thereof~~of the votes cast in any precinct in ~~its~~the county, the board may dispatch a messenger to the county auditor of the county, at the expense of the county, with the board's requirement in writing to the county auditor to certify the fact concerning the mistake or the reason why the votes were not canvassed. The county auditor, to whom the requirement is delivered, shall make a true and full answer ~~thereto~~to the board under the county auditor's hand and official seal and shall deliver the answer with all convenient dispatch to the secretary of state.

SECTION 104. AMENDMENT. Section 16.1-15-42 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-42. Certificate of result of general or special election by state canvassing board - Secretary of state to receive.

The statements provided for in section 16.1-15-41 must be certified by the members of the state canvassing board; who shall subscribe their names to the statements. The board then shall determine what ~~persons~~individuals have been duly elected to the offices and, shall prepare and subscribe on each statement a certificate of that determination, and shall deliver the ~~same statement~~ to the secretary of state. The candidate ~~or candidates~~ to be elected for each office receiving the highest number of votes must be duly elected to the office. ~~A person~~An individual who was entitled to have the ~~person's~~individual's name appear on the primary election ballot, but whose name was not placed on the primary election ballot, may not be elected to a no-party office as a write-in candidate unless ~~that person~~the individual receives a number of votes equal to or more than the number of signatures ~~which that~~ would have been required to have ~~that person's~~the individual's name placed on the primary election ballot.

SECTION 105. AMENDMENT. Section 16.1-15-43 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-43. When special election ordered.

If a certificate of election cannot be issued for a judicial district office or a state office because any two or more ~~persons~~individuals have equal and the highest number of votes, the governor, by proclamation, shall order a new election.

SECTION 106. AMENDMENT. Section 16.1-15-45 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-45. Form of certificate of election for state officers - Signatures.

A certificate of election must be prepared by the secretary of state for each ~~person~~individual elected to a state or a district office. The certificate must be signed by the governor and the secretary of state, have the great seal of the state affixed, and be attested by at least one of the other members of the state canvassing board. The certificate, in substance, must be in the following form:

At an election held on _____, ____, _____ was elected to the office of _____ of this state for the term of _____ years from _____, _____, (or, if to fill a vacancy, for the residue of the term ending on _____, ____), and until a successor is duly elected and qualified.

Given at Bismarck on _____, ____.

~~The certificate must be signed by the governor and the secretary of state, and must have the great seal of the state affixed, and must be attested by at least one of the other members of the state canvassing board.~~

SECTION 107. AMENDMENT. Section 16.1-15-47 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-47. Certificate of election to member of Congress - Signing - Delivering.

The certificate of election to a member of Congress must be signed by the governor with the great seal affixed and must be countersigned by the secretary of state. The governor shall cause the certificate to be delivered to the ~~person~~individual elected.

SECTION 108. AMENDMENT. Section 16.1-16-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-16-01. Election recounts.

A recount of any primary, special, or general election for nomination or election to a presidential, congressional, state, judicial district, multicounty district, legislative, county, or city office, or for the approval or disapproval of any measure, question, or bond issue submitted to the qualified electors of this state or one of its political subdivisions must be conducted according to guidelines established by the secretary of state and as follows:

1. A recount must be conducted when:
 - a. Any individual failed to be nominated by the individual's party or to a no-party office in a primary election by one percent or less of the highest vote cast for a candidate seeking nomination from the political party for the office sought or for a candidate for the no-party office sought.
 - b. Any individual failed to be elected in a general or special election by one-half of one percent or less of the highest vote cast for a candidate for that office.
 - c. A question, measure, or bond issue submitted to the qualified electors has been decided by a margin not exceeding one-fourth of one percent of the total vote cast for and against the question at any election.
2. A demand for a recount may be made by any of the following:
 - a. Any individual who failed to be nominated by the individual's party or to a no-party office in a primary election by more than one percent and less than two percent of the highest vote cast for a candidate seeking nomination from the political party for the office sought or for a candidate for the no-party office sought.
 - b. Any individual who failed to be elected in a general or special election by more than one-half of one percent and less than two percent of the highest vote cast for a candidate for that office.
3. A demand for a recount must be made within three days after the canvass of the votes by the county canvassing board in the case of county elections and city elections that are combined with the county and by the state canvassing board in the case of presidential, congressional, state, judicial district, multicounty district, or legislative elections. The demand must be in writing, must recite one of the conditions in subsection 2 as a basis for the recount, must contain a bond in an amount previously established by the auditor or auditors doing the recount sufficient to pay the cost of the recount, and must be filed with:
 - a. The secretary of state when the recount is for a congressional, state, district, or legislative office.

- b. The county auditor when the recount is for a county office or city office when a city election is combined with the county.
4. Within four days after the canvass of the votes by the state canvassing board in the case of presidential, congressional, state, judicial district, multicounty district, or legislative elections, the secretary of state shall notify all the county auditors to conduct recounts as required by subsection 1 and, when a timely recount demand is received and it is in proper form, as required by subsection 2. The secretary of state shall fix the date or dates of the recounts of legislative contests to be held within seven days after giving notice to the affected auditors that recounts must be conducted. The secretary of state shall fix the date or dates of the recounts of statewide races to be held within fourteen days after giving notice to the auditors that recounts must be conducted. Within four days after the canvass of votes by the county canvassing board or other political subdivision canvassing board, the county auditor or other political subdivision election official shall fix the date for recounts limited to the county, those cities within the county which combined the election with the county, or other political subdivision. The date must be within eight days after the canvass. In all recount proceedings, the county auditor or other election official, as appropriate, shall send notice of the date, place, and time of the recount to all candidates and petitioners involved by certified mail.
5. For recounts conducted by counties of federal, state, district, and county offices, measures, and questions, the county auditor must conduct the recount and may employ up to ten qualified electors of the county to assist in the recount. The county auditor shall review all properly cast ballots and associated records. The county auditor shall check the precinct count and the count of the county canvassing board. If the county auditor is a candidate involved in the recount, the county auditor is disqualified from acting thereon, and the county recorder shall perform the duties required of the county auditor by this section. For recounts conducted by political subdivisions other than counties of local offices, measures, and questions, the election officer in a political subdivision shall administer a recount in the same manner as is required under this subsection for counties with respect to political subdivision offices, ballot measures, questions, or bond issues.
6.
 - a. The individuals entitled to participate at the recount are:
 - (1) Each candidate involved in the recount, either personally or by a representative.
 - (2) A qualified elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.
 - b. The individuals allowed to participate may challenge the acceptance or exclusion of any ballot. The individual challenging a ballot must state the reason for the challenge based upon the law, and the county auditor or other political subdivision election official shall count the challenged ballot as the auditor or election official determines proper and then shall set the ballot aside with a notation that it was challenged and how it was counted.
7. At the conclusion of the recount, the county auditor or other election official shall submit all challenged ballots to the recount board for decision. Except for political subdivision recounts other than counties, the recount board must be

composed of the state's attorney of the county, the chairman of the board of county commissioners, and the county recorder. Unless otherwise specified by law, for a political subdivision other than a county, the governing body of the political subdivision shall appoint the recount board. An individual may not serve on the recount board if the individual has anything of value bet or wagered on the result of the election, is a candidate for the office being recounted, or is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate involved in the recount. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the board of county commissioners or other political subdivision governing body who would be qualified to serve on the board shall appoint disinterested qualified electors of the county or other political subdivision to serve as alternates. The recount board shall review all challenged ballots and on majority vote shall decide how those ballots are counted. The decision of the recount board is final, subject to the right to contest the election as provided in this chapter. If during the recount a recess is called, the county auditor or other political subdivision election official shall take appropriate steps to safeguard the ballots.

8. The county auditor or other election official shall certify the results of the recount immediately after the recount. The recount result is the official result of the election in the county or other political subdivision. The county auditor or other election official shall prepare a corrected abstract of the votes. In a recount limited to the county, city, or other political subdivision, if the corrected abstract shows no change in the outcome of the election, no further action may be taken. If the corrected abstract changes the outcome of the election, the county auditor or other election official shall issue certificates of nomination or election accordingly and shall certify the new result of a question submitted to the qualified electors. In the case of a city election that is combined with a county election, the county auditor shall certify the new results of the election to the city auditor who is responsible for issuing new certificates of election if applicable.
9. In presidential, congressional, statewide, judicial district, multicounty district, or legislative recounts, the county auditor, immediately after the recount, shall submit electronically the corrected abstract to the secretary of state according to the instructions provided by the secretary of state. The secretary of state immediately shall assemble the state canvassing board, who shall canvass the corrected abstracts and certify the election results. The secretary of state shall issue certificates of election or nomination or record the approval or disapproval of a question submitted to the qualified electors accordingly.
10. The expenses incurred in a recount of a county election must be paid by the county on a warrant by the county auditor. The expenses incurred in a recount of a political subdivision other than a county election must be paid by that political subdivision. The expenses incurred in a recount of a city election must be paid by the city on a warrant by the city auditor. The expenses incurred in a recount of a presidential, congressional, state, judicial district, multicounty district, or legislative election must be paid by the state from the general fund upon approval by the secretary of state of a statement of expenses received from the county auditors. The expenses incurred in a recount demanded under subsection 2 of section 16.1-16-01 must be paid by the secretary of state or county auditor from the bond submitted by the individual requesting the recount.

11. This section also applies to city elections that are not combined with the county except the city auditor, to the extent applicable, shall perform the duties of the county auditor.

SECTION 109. AMENDMENT. Section 16.1-16-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-16-02. Who may contest election.

A defeated candidate or ten qualified electors may contest the nomination or election of any person or the approval or rejection of any question or proposition submitted to a vote of the electorate, pursuant to ~~chapters 16.1-04, 16.1-05, 16.1-06, 16.1-07, 16.1-08.1, 16.1-09, 16.1-10, and 16.1-11~~ this title. In a county election to change the county seat or to change the boundaries of the county, the complaint must be filed against the board of county commissioners, ~~where~~ which shall appear and defend the contest action.

SECTION 110. AMENDMENT. Section 16.1-16-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-16-04. Time for commencement of action.

Any

1. Except as provided in subsection 2, an action to contest an election must be commenced and the complaint must be filed in the district court of the contestee's county of residence within five days after final certification of a recount by the appropriate canvassing board or within fourteen days after the final certification by the appropriate canvassing board if no recount is to be conducted. ~~However, if~~
2. If the grounds for the action are the illegal payment of money or other valuable thing subsequent to the filing of any statement of expenses required by this title or if the contestee does not or cannot meet the qualifications to hold the office as required by law, the action may be commenced at any time. If the grounds for the action are the failure of a contestee to satisfy the requirements for having the contestee's name listed on the ballot as a candidate, the action may be commenced within thirty days of the date the contestant knows or should know of the failure.
3. The contestee shall serve and file an answer within fourteen days after service of the contest summons and complaint.

SECTION 111. AMENDMENT. Section 16.1-16-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-16-05. Grounds for election contest.

An election contest may be commenced for any of the following causes:

1. ~~If the~~ The contestee does not or cannot meet the qualifications to hold the office as required by law.
2. ~~Because~~ The existence of illegal votes or erroneous or fraudulent voting, count, canvass, or recount of votes.

3. The contestee was listed as a candidate on the ballot despite failing to meet the requirements to be listed on the ballot.

SECTION 112. AMENDMENT. Section 16.1-16-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-16-07. Contest involving irregularity of ballots - Preservation of ballots.

Either the contestant or the contestee, within the time provided by this title for the preservation of ballots, may give notice by certified mail to the county recorder of any county where the contestant or the contestee desires the ballots preserved, that an election contest is pending in a designated court. ~~Thereupon, it is the duty of~~ After receipt of the notice, the county recorder ~~to shall~~ shall preserve all the paper ballots and ~~electronic voting system ballots and associated records until the contest has been finally determined or the retention period specified in section 16.1-15-13 has ended, whichever is later.~~

SECTION 113. A new section to chapter 54-09 of the North Dakota Century Code is created and enacted as follows:

Criminal history record check.

The secretary of state may require any employee who has access to personally identifying information of residents or businesses of the state, or access to election systems that are critical infrastructure under section 44-04-24, to submit to a statewide and nationwide criminal history record check. The criminal history record check must be conducted as provided by section 12-60-24.

SECTION 114. REPEAL. Sections 16.1-06-10.1, 16.1-07-11, 16.1-07-13, and 16.1-13-24 of the North Dakota Century Code are repealed.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 165

HOUSE BILL NO. 1447

(Representatives Cory, O'Brien, Pyle, Sanford)
(Senators Holmberg, Kreun, Meyer, Sorvaag)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to higher education student voting documents; and to amend and reenact section 16.1-01-04.1 of the North Dakota Century Code, relating to acceptable forms of identification for purposes of voting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Student voting documents.

An institution of higher education under the control of the state board of higher education may issue students enrolled at the institution a printable document containing the institution's letterhead or seal using a self-service process. The document must contain the student's legal name, current residential address in the state, the date the residential address was established, and date of birth. When issuing the document to students, an institution of higher education under the control of the state board of higher education shall provide each student with information regarding voter eligibility requirements.

¹⁰¹ **SECTION 2. AMENDMENT.** Section 16.1-01-04.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-04.1. Identification verifying eligibility as an elector.

1. A qualified elector shall provide a valid form of identification to the proper election official before receiving a ballot for voting.
2. The identification must provide the following information regarding the elector:
 - a. Legal name;
 - b. Current residential street address in North Dakota; and
 - c. Date of birth.
3. a. A valid form of identification is:
 - (1) A driver's license or nondriver's identification card issued by the North Dakota department of transportation; or

¹⁰¹ Section 16.1-01-04.1 was also amended by section 6 of House Bill No. 1253, chapter 164.

- (2) An official form of identification issued by a tribal government to a tribal member residing in this state.
- b. If an individual's valid form of identification does not include all the information required under subsection 2 or the information on the identification is not current, the identification must be supplemented by presenting any of the following issued to the individual which provides the missing or outdated information:
 - (1) A current utility bill;
 - (2) A current bank statement;
 - (3) A check issued by a federal, state, or local government;
 - (4) A paycheck; or
 - (5) A document issued by a federal, state, or local government; or
 - (6) A printed document containing all of the information required by subsection 2 issued by an institution of higher education for an enrolled student residing in the state and containing the institution's letterhead or seal, along with a student photo identification card issued by the institution and containing the student's photograph and legal name.
- 4. The following forms of identification are valid for the specified individuals living under special circumstances who do not possess a valid form of identification under subsection 3.
 - a. For an individual living in a long-term care facility, a long-term care certificate prescribed by the secretary of state and issued by a long-term care facility in this state;
 - b. For a uniformed service member or immediate family member temporarily stationed away from the individual's residence in this state, or a resident of the state temporarily living outside the country, a current military identification card or passport; and
 - c. For an individual living with a disability that prevents the individual from traveling away from the individual's home, the signature on an absentee or mail ballot application from another qualified elector who, by signing, certifies the applicant is a qualified elector.
- 5. If an individual is not able to show a valid form of identification but asserts qualifications as an elector in the precinct in which the individual desires to vote, the individual may mark a ballot that must be securely set aside in a sealed envelope designed by the secretary of state. After the ballot is set aside, the individual may show a valid form of identification to either a polling place election board member if the individual returns to the polling place before the polls close, or to an employee of the office of the election official responsible for the administration of the election before the meeting of the canvassing board occurring on the sixth day after the election. Each ballot set aside under this subsection must be presented to the members of the canvassing board for proper inclusion or exclusion from the tally.

6. The secretary of state shall develop uniform procedures for the requirements of subsection 5 which must be followed by the election official responsible for the administration of the election.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 166

HOUSE BILL NO. 1256

(Representatives Magrum, Christensen, Fegley)
(Senator Heitkamp)

AN ACT to create and enact a new section to chapter 16.1-01 of the North Dakota Century Code, relating to a prohibition on using nonpublic funds for elections operations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰² **SECTION 1.** A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

Use of nonpublic funds prohibited.

The state and political subdivisions may not solicit, accept, or use any grants or donations from private persons for elections operations or administration.

Approved April 16, 2021

Filed April 19, 2021

¹⁰² Section 16.1-01-15.1 was amended by section 16 of House Bill No. 1253, chapter 164.

CHAPTER 167

HOUSE BILL NO. 1078

(Judiciary Committee)

(At the request of the Commission on Uniform State Laws)

AN ACT to create and enact sections 16.1-13-35, 16.1-13-36, 16.1-13-37, 16.1-13-38, 16.1-13-39, 16.1-13-40, 16.1-13-41, 16.1-13-42, 16.1-13-43, and 16.1-13-44 and chapter 16.1-14.1 of the North Dakota Century Code, relating to presidential elections and the adoption of the Uniform Faithful Presidential Electors Act; to amend and reenact subsection 1 of section 16.1-03-14 and sections 16.1-06-06, 16.1-12-02, 16.1-14-01, 16.1-14-03, 16.1-14-08, 16.1-14-09, 16.1-14-10, 16.1-14-11, 16.1-14-12, 16.1-14-13, and 16.1-14-14 of the North Dakota Century Code, relating to nominating presidential electors and alternate electors, and presidential electors' roles and procedures; to repeal sections 16.1-14-05, 16.1-14-18, 16.1-14-19, 16.1-14-20, 16.1-14-21, 16.1-14-22, 16.1-14-23, 16.1-14-24, 16.1-14-25, 16.1-14-26, 16.1-14-27, and 16.1-14-28 of the North Dakota Century Code, relating to the filling of a vacancy of a presidential elector and voting of new and former residents at presidential elections; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 16.1-03-14 of the North Dakota Century Code is amended and reenacted as follows:

1. The party state committee shall set the place and time of the state party convention to be held in each general election year. Subject to party rules and bylaws, the state party convention may:
 - a. Nominate the legal number of qualified elector~~selector~~ nominees and alternate elector nominees for its party for the offices of presidential electors. The nominees must be qualified electors of this state.
 - b. Elect the required number of delegates and alternates to the national party convention.
 - c. Endorse candidates as provided under subsection 2.

SECTION 2. AMENDMENT. Section 16.1-06-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-06. General election ballots for persons authorized to vote for presidential electors only - Prepared separately - General law governs.

In addition to the ballots prepared pursuant to section 16.1-06-05, ballots must be prepared containing only the names of duly certified candidates for presidential electors for use by persons authorized to vote for those offices by law. The provisions of this title regarding the preparation, form, arrangement of names, and delivering of ballots must govern in regard to the general election ballot prepared pursuant to this section. The ballots prepared pursuant to this section must be delivered to electors

who qualify only to vote for presidential electors pursuant to sections ~~16.1-14-18~~~~16.1-13-35~~ and ~~16.1-14-19~~~~16.1-13-36~~.

SECTION 3. AMENDMENT. Section 16.1-12-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-02. Certificates of nomination by petition - Form and contents.

Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. Except for nominees for president of the United States, names of nominees so nominated must appear on the ballot as independent nominations. The names of nominees for president of the United States may appear on the ballot with a designation, not to exceed five words, that names the organization or political party to which the presidential candidate affiliates. The designation may not falsely indicate an affiliation with or the support of any political party organized in accordance with this title or include any substantive word or phrase that is profane or that is already included in or resembles the name of a political party entitled to a separate column under section 16.1-11-30. Except for candidates for the office of president of the United States, each certificate of nomination by petition must meet the specifications for nominating petitions set forth in section 16.1-11-16. A political party or organization desiring to submit to the secretary of state the name of a qualified candidate for the office of the president of the United States may begin gathering the signatures for the certificate of nomination on the first day of January of a presidential election year and shall submit the petition to the secretary of state before four p.m. on the sixty-fourth day before the general election. The signatures on the petition must be in the following number:

1. Except as provided in subsection 3, if the nomination is for an office to be filled by the qualified electors of the entire state, there must be no fewer than one thousand signatures.
2. If the nomination is for an office to be filled by the qualified electors of a district less than the entire state, the number of signatures must be at least two percent of the resident population of the district as determined by the most recent federal decennial census, but in no case may more than three hundred signatures be required.
3. If the nomination is for the office of president, there must be no fewer than four thousand signatures and the petition must contain the names of the presidential and vice presidential candidates along with the names of the elector nominees and alternate elector nominees for the office of the North Dakota presidential electors selected from the qualified electors of North Dakota. The elector nominees and alternate elector nominees must be qualified electors of North Dakota.
4. If the petition is for the office of governor or lieutenant governor, it must contain the names and other required information of candidates for both those offices.

SECTION 4. Section 16.1-13-35 of the North Dakota Century Code is created and enacted as follows:

16.1-13-35. Eligibility of new residents to vote for presidential electors.

A citizen of the United States who, immediately before the citizen's relocation to this state, was a citizen of another state and who has been a resident of the precinct for less than thirty days before a presidential election, is entitled to vote for presidential electors at the election, but for no other offices, if:

1. The citizen otherwise possesses the substantive qualifications to vote in this state, except the required residence; and
2. The citizen complies with the provisions of sections 16.1-13-37, 16.1-13-41, and 16.1-13-44.

SECTION 5. Section 16.1-13-36 of the North Dakota Century Code is created and enacted as follows:

16.1-13-36. Eligibility of former residents to vote for presidential electors.

A citizen of the United States who was a qualified elector in this state immediately before establishing residence in another state and who has not qualified for voting purposes due to the residency requirement of that state may vote in this state for president and vice president only, by applying for a separate ballot under section 16.1-13-37 at least one day before the election. The requirements and procedure for former residents to vote are governed by sections 16.1-13-37, 16.1-13-40, 16.1-13-41, 16.1-13-42, 16.1-13-43, and 16.1-13-44, and the statements relative to new residents contained in those sections must be changed by the county auditor and inspector of elections to comply with this section for this purpose.

SECTION 6. Section 16.1-13-37 of the North Dakota Century Code is created and enacted as follows:

16.1-13-37. Application for presidential elector ballot by new residents.

An individual desiring to qualify to vote for presidential electors is not required to register, but, at least ten days before the election, the individual shall apply in the form of an affidavit executed in duplicate in the presence of the county auditor substantially as follows:

State of North Dakota)
) ss.

County of _____)

I, _____, do solemnly swear that:

1. I am a citizen of the United States.
2. Before becoming a resident of this state, I resided at _____ street, in the (town) (township) (city) of _____, county of _____ in the state of _____.
3. On the day of the next presidential election, I shall be at least eighteen years of age. I have been a resident of this state since _____, _____, now residing at _____ street, in the (town) (township) (city) of _____, county of _____ in the state of North Dakota.

4. I have resided in _____ precinct for less than thirty days. I believe I am entitled under the laws of this state to vote at the presidential election to be held on November _____.
5. I apply for a presidential election ballot. I have not voted and will not vote otherwise than by this ballot at that election.

Signed _____

(Applicant)

(Applicant's telephone number)

Subscribed and sworn to before me this _____ day of _____.

Signed _____

(Title and name of officer

authorized to administer oaths)

SECTION 7. Section 16.1-13-38 of the North Dakota Century Code is created and enacted as follows:

16.1-13-38. Mailing duplicate application for presidential elector ballot.

The county auditor immediately shall mail a duplicate of the application for a presidential elector ballot to the appropriate official of the state in which the applicant last resided.

SECTION 8. Section 16.1-13-39 of the North Dakota Century Code is created and enacted as follows:

16.1-13-39. Filing and indexing applications for presidential elector ballots from other states.

The county auditor shall file each duplicate application for a presidential elector ballot or other official information received by the county auditor from another state indicating a former resident of this state has applied to vote at a presidential election in another state and shall maintain an alphabetical index of the information for four months after the election.

SECTION 9. Section 16.1-13-40 of the North Dakota Century Code is created and enacted as follows:

16.1-13-40. Delivery of presidential elector ballot to applicant.

If the county auditor is satisfied the application is proper and the applicant is qualified to vote at the presidential election, the county auditor shall deliver a ballot for presidential electors to the applicant no sooner than thirty days nor later than one day before the next presidential election.

SECTION 10. Section 16.1-13-41 of the North Dakota Century Code is created and enacted as follows:

16.1-13-41. Voting by new residents for presidential electors.

1. The applicant, upon receiving the ballot for presidential electors, immediately shall mark the ballot in the presence of the county auditor but in a manner the official cannot know how the ballot is marked. The applicant subsequently shall fold the ballot in the county auditor's presence to conceal the markings and deposit and seal the ballot in an envelope furnished by the county auditor.
2. The voter shall enclose the envelope containing the ballot in a carrier envelope which must be sealed securely. There must be imprinted on the outside of the carrier envelope a statement substantially as follows:

CERTIFICATION OF NEW RESIDENT VOTER

I have qualified as a new resident voter in this state to vote for presidential electors. I have not applied nor do I intend to apply for an absent voter's ballot from the state from which I have relocated. I have not voted and I will not vote otherwise than by this ballot.

Dated _____

Witness _____

County Auditor

(Signature of Voter)

3. The voter shall sign the certification upon the carrier envelope and subsequently shall deliver the sealed carrier envelope to the county auditor who shall keep the carrier envelope in the county auditor's office until delivered by the county auditor to the inspector of elections of the county absentee ballot precinct.

SECTION 11. Section 16.1-13-42 of the North Dakota Century Code is created and enacted as follows:

16.1-13-42. List of applicants requesting presidential elector ballots open for public inspection.

The county auditor shall keep open for public inspection a list of all individuals who have applied to vote for presidential electors as new residents with their names, addresses, and application dates for two years.

SECTION 12. Section 16.1-13-43 of the North Dakota Century Code is created and enacted as follows:

16.1-13-43. Delivery and processing of presidential elector ballots of new residents.

1. The county auditor shall deliver the presidential elector ballots for new residents to the inspector of elections in the manner prescribed by law for absentee ballots. The ballots must be processed in accordance with the law for absentee ballots.
2. The inspector of elections shall record the new resident voter's name with a notation designating the individual as a new resident voting for presidential electors only.

SECTION 13. Section 16.1-13-44 of the North Dakota Century Code is created and enacted as follows:

16.1-13-44. Application of other statutes to presidential elector ballots.

Except as provided in sections 16.1-13-35 through 16.1-13-44, the provisions of law relating to absent voters' ballots apply also to the casting and counting of presidential elector ballots of new residents, the furnishing of election supplies, ballots, canvassing of ballots, and making proper returns of the results of the election.

SECTION 14. AMENDMENT. Section 16.1-13-44 of the North Dakota Century Code, as created by section 13 of this Act, is amended and reenacted as follows:

16.1-13-44. Application of other statutes to presidential elector ballots.

Except as provided in section 16.1-14-29 and sections 16.1-13-35 through 16.1-13-44, the provisions of law relating to absent voters' ballots also apply to the casting and counting of presidential elector ballots of new residents, the furnishing of election supplies, ballots, canvassing of ballots, and making proper returns of the results of the election.

SECTION 15. AMENDMENT. Section 16.1-14-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-14-01. Canvassing votes for presidential electors - Tie vote.

The state canvassing board, in examining and making a statement of the votes for, and in determining and certifying the ~~persons~~individuals chosen as; presidential electors, shall proceed in the manner prescribed in this title for the canvass of votes for state officers. The secretary of state ~~likewise~~ shall file and record ~~such~~the statement and determination. In canvassing the returns for presidential electors, the group of electors having the greatest number of votes is to be declared elected. If two or more groups of electors are found to have an equal and the greatest number of votes, the election of one group must be determined by a drawing of names, with the governor drawing the names in the presence of the other members of the state canvassing board.

SECTION 16. AMENDMENT. Section 16.1-14-03 of the North Dakota Century Code is amended and reenacted as follows:

16.1-14-03. Proclamation of result by governor - Publishing - Certificate of election.

Within ten days after the state canvassing board completes the canvass of the votes cast for presidential electors, as certified by the auditors of the respective counties, the governor shall declare by proclamation, to be printed in the official county newspaper printed and published at the seat of government, the names of the ~~persons~~individuals who have received the highest number of votes returned for ~~such~~the office of presidential elector. If the election of ~~such persons~~the individuals has not been contested by notice of contest having been filed with the governor within ten days after the date of ~~such~~the proclamation, ~~then such persons must be~~the individuals are deemed elected, and the governor shall transmit a certificate of election to each ~~person so chosen a certificate of election~~individual.

SECTION 17. AMENDMENT. Section 16.1-14-08 of the North Dakota Century Code is amended and reenacted as follows:

16.1-14-08. Contestant may apply to board.

A group of electors ~~appearing, by the~~ of a presidential candidate not listed in the proclamation of the governor, ~~to have issued according to section 16.1-14-03 and~~ who received not less than at least one-fifth of the votes cast at an election for presidential electors, as certified by the state canvassing board, may apply to the board provided for in section 16.1-14-07 for a declaration of election as presidential electors.

SECTION 18. AMENDMENT. Section 16.1-14-09 of the North Dakota Century Code is amended and reenacted as follows:

16.1-14-09. Application to state grounds of contest.

The application provided for in section 16.1-14-08 must be made by petition in writing ~~to be and~~ filed in the office of the secretary of state within ten days from the date of the proclamation provided for in section 16.1-14-03. The petition, regardless of its mode of delivery, must be in the possession of the secretary of state before four p.m. on the tenth day as provided in this section, and the secretary of state shall convene the board ~~forthwith for the trial of contests of elections for presidential elections.~~ The petition must set forth the names of the ~~persons~~individuals whose election is contested and the ground for such contest. The petitioner, before any proceedings are had upon the petition, except the convening of the board, shall file a bond to this state in a sum and with ~~such~~ surety as the board shall order, conditioned for the payment of all costs incurred in the prosecution of ~~such~~the contest in the case the contestants do not prevail.

SECTION 19. AMENDMENT. Section 16.1-14-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-14-10. Notice to ~~persons~~individuals contested.

Upon the filing of the petition and bond as provided in section 16.1-14-09, the board ~~for the trial of an election contest~~contests of elections for presidential elections shall order written notice of the petition to be given to the governor and to the ~~persons~~individuals whose election is contested. Notice ~~must also~~ must be published in a newspaper as the board shall order. ~~Notices provided for~~A notice required by this section must contain a concise statement of the facts alleged in the petition and a designation of the time and place fixed by the board for the hearing, ~~which.~~ The hearing must be not less than three nor more than fifteen days from the filing of the petition.

SECTION 20. AMENDMENT. Section 16.1-14-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-14-11. Appearance by parties to contest.

At the time fixed for the hearing, the petitioners shall appear and produce their evidence, and the ~~persons~~individuals whose election is contested may appear and produce evidence in ~~their~~the individuals' behalf. Any party to the contest proceedings may appear in person or by attorney, and no other person is entitled to be made a party to the proceedings or to be heard personally or by counsel ~~therein.~~ If more than one petition is pending, the board, in its discretion, may order the contests to be heard together.

SECTION 21. AMENDMENT. Section 16.1-14-12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-14-12. Hearing - How conducted.

The board shall hear the contest and decide all questions of law and fact involved. The burden of proof in each case ~~must be upon~~ is on the petitioners, ~~and the~~. ~~The hearing must be~~ confined to the grounds stated in the petition, but the board ~~in its discretion~~ may allow the petition to be amended. ~~No ex~~Ex parte affidavits ~~shall bear~~ are not competent evidence at the hearing. ~~A person~~An individual may not be excused from testifying or from producing papers or documents at the hearing on the grounds ~~that such~~the testimony will tend to incriminate the ~~person~~individual, but ~~no person~~sean individual testifying may not be subject to any suit or prosecution, civil or criminal, for any matter or cause in respect to which the ~~person~~individual is examined or to which the ~~person's~~individual's testimony relates. The board has the same power to compel the attendance of witnesses as the district courts of this state possess, and nothing contained in this chapter ~~may be held to limit~~limits the power of the board to make such regulations as to the conduct of the proceedings as ~~it may deem~~the board deems proper, not inconsistent with the provisions of this chapter. The board has all powers necessary to the complete performance of the duties and authority conferred upon ~~the board~~ by this chapter.

SECTION 22. AMENDMENT. Section 16.1-14-13 of the North Dakota Century Code is amended and reenacted as follows:

16.1-14-13. Certification of determination of board.

The board shall determine in each case which of the parties to the proceedings are entitled to the office of elector, and shall cause ~~its~~the board's determination to be entered of record in a manner and form as ~~the board~~ shall direct, and shall certify the same to the governor and secretary of state. The certified determination is a final and conclusive ~~that~~determination the ~~persons stated therein~~individuals identified in the determination are duly elected. The governor shall transmit ~~to such persons their~~ certificates of election to the individuals, and every ~~such~~ certificate must recite ~~that the certificate~~ is issued pursuant to a determination under ~~the provisions of this chapter~~.

SECTION 23. AMENDMENT. Section 16.1-14-14 of the North Dakota Century Code is amended and reenacted as follows:

16.1-14-14. Failure of petitioners to appear - Effect.

If any petitioners fail to appear and prosecute their petition against the ~~persons~~individuals who have been made respondents ~~thereto~~, according to the requirements of this chapter and of any rules made by the board, the board shall determine ~~that they~~the petitioners have failed, and shall cause the determination to be entered of record in ~~such~~the manner and form as ~~the board~~ shall direct, and ~~forthwith~~ shall certify the determination to the governor and secretary of state. The determination is a final and conclusive bar to the claim of the petitioners against ~~such~~the respondents as fully and completely as if the claim had been heard and determined on its merits, and the governor shall issue certificates of election as provided in section 16.1-14-13.

SECTION 24. Chapter 16.1-14.1 of the North Dakota Century Code is created and enacted as follows:

16.1-14.1-01. Definitions.

In this chapter:

1. "Cast" means accepted by the secretary of state in accordance with subsection 2 of section 16.1-14.1-06.
2. "Elector" means an individual selected as a presidential elector under chapter 16.1-14 and this chapter.
3. "President" means president of the United States.
4. "Vice president" means vice president of the United States.

16.1-14.1-02. Designation of state's electors.

For each elector position in this state, a political party contesting the position shall submit to the secretary of state the names of two qualified individuals. One of the individuals must be designated as the elector nominee and the other as the alternate elector nominee. Except as otherwise provided in sections 16.1-14.1-04 through 16.1-14.1-07, this state's electors are the winning elector nominees under the laws of this state.

16.1-14.1-03. Pledge.

Each elector nominee and alternate elector nominee of a political party shall execute the following pledge: "If selected for the position of elector, I agree to serve and to mark my ballots for president and vice president for the nominees for those offices of the party that nominated me." The executed pledge must accompany the submission of the corresponding names to the secretary of state.

16.1-14.1-04. Certification of electors.

In submitting this state's certificate of ascertainment as required by 3 U.S.C. 6, the governor shall certify this state's electors and state in the certificate:

1. The electors shall serve as electors unless a vacancy occurs in the office of elector before the end of the meeting at which elector votes are cast, in which case a substitute elector shall fill the vacancy; and
2. If a substitute elector is appointed to fill a vacancy, the governor shall submit documentation of the vacancy, the method by which the vacancy was filled, and the names on the final list of this state's electors.

16.1-14.1-05. Presiding officer - Elector vacancy.

1. The governor shall preside at the meeting of electors described in section 16.1-14.1-06.
2. The position of an elector not present to vote is vacant. The secretary of state shall appoint an individual as a substitute elector to fill a vacancy as follows:
 - a. If the alternate elector is present to vote, by appointing the alternate elector for the vacant position;
 - b. If the alternate elector for the vacant position is not present to vote, by appointing an elector chosen by lot from among the alternate electors present to vote who were nominated by the same political party;
 - c. If the number of alternate electors present to vote is insufficient to fill any vacant position pursuant to subdivisions a and b, by appointing any

which the vacancy was filled, and the names of the final list of electors and transmit the documentation to the governor for the governor's signature.

2. The governor immediately shall deliver the signed documentation to the secretary of state and a signed duplicate original of the documentation to all individuals entitled to receive this state's certificate of ascertainment, indicating that the signed documentation is to be substituted for the certificate of ascertainment previously submitted.
3. The secretary of state shall prepare a certificate of vote. The electors on the final list shall sign the certificate. The secretary of state shall process and transmit the signed certificate with the signed documentation under 3 U.S.C. 9, 10, and 11.

SECTION 25. REPEAL. Sections 16.1-14-05, 16.1-14-18, 16.1-14-19, 16.1-14-20, 16.1-14-21, 16.1-14-22, 16.1-14-23, 16.1-14-24, 16.1-14-25, 16.1-14-26, 16.1-14-27, and 16.1-14-28 of the North Dakota Century Code are repealed.

SECTION 26. CONTINGENT EFFECTIVE DATE. Section 14 of this Act becomes effective at the time provided in Senate Bill No. 2271 if section 16.1-14-29, as created by Senate Bill No. 2271, is approved by the sixty-seventh legislative assembly.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 168

SENATE BILL NO. 2142

(Senators K. Roers, Marcellais, Vedaa)
(Representatives P. Anderson, Louser, Meier)

AN ACT to amend and reenact section 16.1-07-12 of the North Dakota Century Code, relating to processing absentee ballots.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-07-12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-12. Opening ballot - Voting or rejecting - Depositing in ballot box - Preserving.

1. At any time beginning ~~on the day~~three business days before election day and ~~the closing of the polls~~when the polls close on election day, the election clerks and board members of the relevant polling place first shall compare the signature on the application for an absent voter's ballot with the signature on the voter's affidavit provided for in section 16.1-07-08 to ensure the signatures correspond. If the applicant is then a duly qualified elector of the precinct and has not voted at the election, ~~they~~an election clerk or board member shall open the absent voter's envelope in a manner as not to destroy the affidavit ~~thereon~~on the envelope. ~~They~~The election clerk or board member shall take out the secrecy envelope with the ballot ~~or ballots contained therein~~inside without unfolding the ~~same~~ballot, or permitting the ~~same~~ballot to be opened or examined, and indicate in the pollbook of the election ~~that the elector has voted~~. The election board members not participating in the comparing of signatures and entering voters into the pollbook shall remove the ballot ~~or ballots~~ from the secrecy envelope, unfold and initial the ~~same~~ballot, and deposit the ballot in the proper ballot box for tabulation. The votes from ~~these cast~~the ballots may not be tallied and the tabulation reports may not be generated until the polls have closed on election day.
2. If the affidavit on the outer envelope of a returned absentee ballot is found to be insufficient, or ~~that the signatures on the application and affidavit do not correspond, or that the applicant is not then a duly qualified elector of the precinct, the vote may not be allowed,~~ butand without opening the absent voter's envelope, the election inspector or election judge shall mark across the face ~~thereof~~of the ballot "rejected as defective" or "rejected as not an elector", as the case may be. ~~These rejected~~The ballots rejected under this subsection then are ~~then~~ turned over to the county canvassing board for final determination of eligibility. The subsequent death of an absentee voter after ~~having voted~~voting by absentee ballot ~~does not constitute~~is not grounds for rejecting the ballot.

Approved April 12, 2021

Filed April 13, 2021

ENERGY

CHAPTER 169

SENATE BILL NO. 2058

(Agriculture Committee)
(At the request of the Bank of North Dakota)

AN ACT to amend and reenact sections 17-03-01 and 17-03-04 of the North Dakota Century Code, relating to the biodiesel partnership in assisting community expansion.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 17-03-01 of the North Dakota Century Code is amended and reenacted as follows:

17-03-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Biodiesel production facility" means a producer of a fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oil or animal fats that meets American society for testing and materials specification D 6751. The facility must be located in this state.
2. "Biofuel partnership in assisting community expansion fund" or "fund" means a fund established to buy down the interest rate on loans to biodiesel, ethanol, and green diesel production facilities and to livestock value-added operations as provided under this chapter.
3. "Ethanol production facility" means a producer of agriculturally derived denatured ethanol that is suitable for blending with a petroleum product for use in internal combustion engines. The facility must be located in this state.
4. "Green diesel production facility" means a producer of a fuel produced from nonfossil renewable resources, including agricultural or silvicultural plants, animal fats, residue, and waste generated from the production, processing, and marketing of agricultural products, silvicultural products, and other renewable resources, which meets applicable American society for testing and materials specifications. The facility must be located in this state.
5. ~~"Livestock operation" means a livestock feeding, handling, milking, or holding operation located in this state which uses as part of its operation a byproduct produced at a biodiesel or an ethanol production facility.~~ "Value-added operation" includes a producer that engages in dairy and milking or feeding of animals or poultry which enhances the value before sale into the marketplace.

SECTION 2. AMENDMENT. Section 17-03-04 of the North Dakota Century Code is amended and reenacted as follows:

17-03-04. Fund moneys - Eligible uses.

1. a. The fund moneys may be used to participate in an interest rate buydown on a loan to a biodiesel, ethanol, or green diesel production facility or to a livestockvalue-added operation for the following eligible uses:
 - (1) Purchase or construction of real property.
 - (2) Expansion of facilities.
 - (3) Purchase or installation of equipment, including a biodigester system.
- b. The loan funds may not be used to refinance any existing debt or for the relocation within this state of the biodiesel, ethanol, or green diesel production facility or the livestockvalue-added operation.
2. a. The maximum amount from the fund in the interest rate buydown for a biodiesel, ethanol, or green diesel production facility may not exceed five hundred thousand dollars to any single biodiesel, ethanol, or green diesel production facility under this chapter.
- b. Except as provided in subdivision c, the maximum amount from the fund in the interest rate buydown for a livestockvalue-added operation may not exceed two hundred fifty thousand dollars to any single livestockvalue-added operation under this chapter.
- c. If a livestockvalue-added operation has reached the limit provided for in subdivision b as a result of any activity other than the purchase or installation of a biodigester, that operation is entitled to receive from the fund up to two hundred fifty thousand dollars as an additional interest rate buydown on the operation's purchase or installation of a biodigester system.
3. The fund participation is limited to the amount required to buy down the interest to five hundred basis points below the national prime interest rate.
4. The Bank of North Dakota shall adopt rules to implement this chapter.

Approved March 25, 2021

Filed March 26, 2021

FOODS, DRUGS, OILS, AND COMPOUNDS

CHAPTER 170

HOUSE BILL NO. 1033

(Legislative Management)
(Health Care Committee)

AN ACT to amend and reenact section 19-02.1-14.3 of the North Dakota Century Code, relating to prescribing of biosimilar drugs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-02.1-14.3 of the North Dakota Century Code is amended and reenacted as follows:

19-02.1-14.3. Biosimilar biological products.

1. In this section:
 - a. "Biological product", "biosimilar", "interchangeable", "interchangeable biological product", "license", and "reference product" mean the same as these terms mean under section 351 of the federal Public Health Service Act [42 U.S.C. 262].
 - b. "Prescription" means a product that is subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 353(b)].
2. A pharmacy may not substitute a prescription biosimilar product for a prescribed product only if unless each of the following requirements is met:
 - a. The biosimilar product has been determined by the United States food and drug administration to be interchangeable with the prescribed product;.
 - b. The prescribing practitioner does not specifically indicate in the practitioner's own handwriting "brand medically necessary" on a written prescription, does not expressly indicate that an oral prescription is to be dispensed as communicated, or has not taken a specific overt action to include the "brand medically necessary" language with an electronically transmitted prescription;.
 - c. The pharmacist or the pharmacist's designee informs the individual receiving the biological product that the biological product may be substituted with a biosimilar product and that the individual has a right to refuse the biosimilar product selected by the pharmacist and the individual chooses not to refuse;.

- d. The pharmacist notifies the prescribing practitioner orally, in writing, or by electronic transmission within twenty-four hours of the substitution; and Within two business days following the dispensing of the biosimilar product, the pharmacist or the pharmacist's designee notifies the prescribing practitioner of the substitution. Notification under this subdivision must include the name of the substitution product and the name of the manufacturer, and may be made using facsimile, telephone, electronic transmission, an entry into an interoperable electronic medical record accessible by the prescribing practitioner, or other prevailing means accessible by the prescribing practitioner.
- e. The pharmacy and the prescribing practitioner retain a record of the interchangeable biosimilar substitution for a period of no less than five years.
3. Subsection 2 does not apply to a biologic product refill prescription that is not changed from the interchangeable biosimilar substitution dispensed on the previous filling of the prescription.
4. The board of pharmacy shall maintain on ~~its~~the board's public website a current list, or an internet link to a United States food and drug administration-approved list, of biosimilar biological products determined to be interchangeable under subdivision a of subsection 2.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 171

HOUSE BILL NO. 1492

(Representative J. Nelson)

AN ACT to create and enact section 19-02.1-16.5 of the North Dakota Century Code, relating to limitations on pharmacy benefits managers; to amend and reenact section 43-15-25.3 of the North Dakota Century Code, relating to permitting pharmacists to administer SARS-CoV-2 tests; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 19-02.1-16.5 of the North Dakota Century Code is created and enacted as follows:

Pharmacy benefits managers - Prohibition on discrimination - Penalty.

1. As used in this section:
 - a. "Pharmacy" means a pharmacy licensed under the laws of this state.
 - b. "Pharmacy benefits manager" has the same meaning as in section 19-03.6-01.
2. A pharmacy benefits manager may not discriminate against or interfere with a covered entity participating under section 340B of the federal Public Health Service Act [42 U.S.C. 201 et seq.] or a pharmacy under contract with a covered entity under section 340B of the federal Public Health Service Act to provide pharmacy services on behalf of the covered entity. This includes refusing to contract with a pharmacy.
3. A pharmacy benefits manager may not modify, by contract, provider manual, or other means, the definition of pharmacy as defined in this section, reimburse a lower dollar amount for a drug purchased under 340B than if the drug had been purchased outside 340B, or interfere with any section 340B pharmacy service between the covered entity and the contracted pharmacy.
4. A pharmacy benefits manager may not directly or indirectly, on behalf of a pharmacy benefits manager, a carrier, or a health plan, charge or hold a pharmacy responsible for a fee for any step, component, or mechanism related to the claims adjudication processing network.
5. Contract and claim information between the covered entity and contracted pharmacy is confidential.
6. A pharmacy benefits manager that violates this section is guilty of a class B misdemeanor for each violation occurrence.

SECTION 2. AMENDMENT. Section 43-15-25.3 of the North Dakota Century Code is amended and reenacted as follows:

43-15-25.3. Approved laboratory tests.

Approved laboratory tests are the following waived screening tests: glucose monitoring devices (FDA cleared/home use) 9221, cholesterol 1020, HDL cholesterol 2550, triglyceride 6118, ~~and~~ glycosylated hemoglobin (Hgb A1C) 2204, and SARS-CoV-2. Additional tests may be added to this list as jointly determined by the board and the North Dakota board of medicine.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 172

HOUSE BILL NO. 1213

(Representatives Westlind, Dobervich, Hanson, M. Ruby, Skroch)
(Senator K. Roers)

AN ACT to create and enact section 19-24.1-04.1 of the North Dakota Century Code, relating to medical marijuana designated caregivers; to amend and reenact section 19-03.1-01, subsection 5 of section 19-03.1-05, subsection 1 of section 19-03.1-22.2, section 19-03.1-22.3, subsections 1, 7, and 9 of section 19-03.1-23, subsection 12 of section 19-03.4-01, sections 19-03.4-03, 19-03.4-04, and 19-24.1-01, subdivision a of subsection 2 of section 19-24.1-03, subsection 3 of section 19-24.1-04, sections 19-24.1-10 and 19-24.1-13, paragraph 2 of subdivision d of subsection 1 of section 19-24.1-14, subdivision a of subsection 1 of section 19-24.1-15, subdivision a of subsection 2 of section 19-24.1-16, section 19-24.1-17, subsection 4 of section 19-24.1-18, subsection 2 of section 19-24.1-20, subsection 3 of section 19-24.1-26, subsection 2 of section 19-24.1-37, section 19-24.1-39, and subsection 1 of section 39-20-01 of the North Dakota Century Code, relating to the medical marijuana program; to provide for a legislative management report; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰³ **SECTION 1. AMENDMENT.** Section 19-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-01. Definitions.

As used in this chapter and in chapters 19-03.2 and 19-03.4, unless the context otherwise requires:

1. "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:
 - a. A practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or
 - b. The patient or research subject at the direction and in the presence of the practitioner.
2. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

¹⁰³ Section 19-03.1-01 was also amended by section 1 of Senate Bill No. 2059, chapter 173.

3. "Anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids.
4. "Board" means the state board of pharmacy.
5. "Bureau" means the drug enforcement administration in the United States department of justice or its successor agency.
6. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in this chapter.
7. "Controlled substance analog":
 - a. Means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in a schedule I or II and:
 - (1) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system which is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or
 - (2) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.
 - b. Does not include:
 - (1) A controlled substance;
 - (2) Any substance for which there is an approved new drug application; or
 - (3) With respect to a particular individual, any substance, if an exemption is in effect for investigational use, for that individual, under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct with respect to the substance is pursuant to the exemption.
8. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
9. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship.
10. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

11. "Dispenser" means a practitioner who dispenses.
12. "Distribute" means to deliver other than by administering or dispensing a controlled substance.
13. "Distributor" means a person who distributes.
14. "Drug" means:
 - a. Substances recognized as drugs in the official United States pharmacopeia national formulary, or the official homeopathic pharmacopeia of the United States, or any supplement to any of them;
 - b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;
 - c. Substances, other than food, intended to affect the structure or any function of the body of individuals or animals; and
 - d. Substances intended for use as a component of any article specified in subdivision a, b, or c. The term does not include devices or their components, parts, or accessories.
15. ~~"Hashish" means the resin extracted from any part of the plant cannabis with or without its adhering plant parts, whether growing or not, and every compound, manufacture, salt, derivative, mixture, or preparation of the resin.~~
16. "Immediate precursor" means a substance:
 - a. That the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;
 - b. That is an immediate chemical intermediary used or likely to be used in the manufacture of the controlled substance; and
 - c. The control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.
- 47.16. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance:
 - a. By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

- b. By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

48-17. "Marijuana" means all parts of the plant of the genus cannabis sativa L., whether growing or not; the seeds thereof; ~~the resin extracted from any part of the plant;~~ and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, ~~its seeds, or resin.~~ The term does not include the:

- a. The tetrahydrocannabinol extracted or isolated from the plant;
- b. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. ~~The term marijuana does not include hemp as defined in title 4.1-;~~
- c. Hemp as defined in chapter 4.1-18.1; or
- d. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].

49-18. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.
- b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
- c. Opium poppy and poppy straw.
- d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

20-19. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term does not include, unless specifically designated as controlled under section 19-03.1-02, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes its racemic and levorotatory forms.

21-20. "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds.

- 22-21. "Over-the-counter sale" means a retail sale of a drug or product other than a controlled, or imitation controlled, substance.
- 23-22. "Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
- 24-23. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- 25-24. "Practitioner" means:
- a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other person licensed, registered, or otherwise permitted by the jurisdiction in which the individual is practicing to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research.
 - b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.
- 26-25. "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.
- 27-26. "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by a person, whether as principal, proprietor, agent, servant, or employee.
- 28-27. "Scheduled listed chemical product" means a product that contains ephedrine, pseudoephedrine, or phenylpropanolamine, or each of the salts, optical isomers, and salts of optical isomers of each chemical, and that may be marketed or distributed in the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug unless prescribed by a licensed physician.
- 29-28. "State" when applied to a part of the United States includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States.
- 30-29. "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

¹⁰⁴ **SECTION 2. AMENDMENT.** Subsection 5 of section 19-03.1-05 of the North Dakota Century Code is amended and reenacted as follows:

5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers,

¹⁰⁴ Section 19-03.1-05 was also amended by section 2 of Senate Bill No. 2059, chapter 173.

and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers):

- a. Alpha-ethyltryptamine, its optical isomers, salts, and salts of isomers (also known as etryptamine; α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole).
- b. Alpha-methyltryptamine.
- c. 4-methoxyamphetamine (also known as 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine; PMA).
- d. N-hydroxy-3,4-methylenedioxymphetamine (also known as N-hydroxy- α -methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA).
- e. Hashish.
- f. Ibogaine (also known as 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5 H-pyrido [1', 2':1,2] azepino (5,4-b) indole; Tabernanthe iboga).
- g-f. Lysergic acid diethylamide.
- h-g. Marijuana.
- i-h. Parahexyl (also known as 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl-6H-dibenzol[b,d]pyran; Synhexyl).
- j-i. Peyote (all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or its extracts).
- k-j. N-ethyl-3-piperidyl benzilate.
- l-k. N-methyl-3-piperidyl benzilate.
- m-l. Psilocybin.
- n-m. (1) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant; ~~excluding tetrahydrocannabinols found in hemp as defined in title 4.1; such as the following:~~
 - (1)(a) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers.
Other names: Delta-9-tetrahydrocannabinol.
 - (2)(b) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.
Other names: Delta-8-tetrahydrocannabinol.

(3)(c) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(2) Tetrahydrocannabinols do not include:

(a) The allowable amount of total tetrahydrocannabinol found in hemp as defined in chapter 4.1-18.1; or

(b) A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].

e-n. Cannabinoids, synthetic. It includes the chemicals and chemical groups listed below, including their homologues, salts, isomers, and salts of isomers. The term "isomer" includes the optical, position, and geometric isomers.

(1) Indole carboxaldehydes. Any compound structurally derived from 1H-indole-3-carboxaldehyde or 1H-2-carboxaldehyde substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydrogen of the carboxaldehyde by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or

(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group to any extent; or

(c) A nitrogen heterocyclic analog of the indole ring; or

(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

(e) Examples include:

[1] 1-Pentyl-3-(1-naphthoyl)indole - Other names: JWH-018 and AM-678.

[2] 1-Butyl-3-(1-naphthoyl)indole - Other names: JWH-073.

[3] 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole - Other names: JWH-081.

[4] 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole - Other names: JWH-200.

- [5] 1-Propyl-2-methyl-3-(1-naphthoyl)indole - Other names: JWH-015.
- [6] 1-Hexyl-3-(1-naphthoyl)indole - Other names: JWH-019.
- [7] 1-Pentyl-3-(4-methyl-1-naphthoyl)indole - Other names: JWH-122.
- [8] 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole - Other names: JWH-210.
- [9] 1-Pentyl-3-(4-chloro-1-naphthoyl)indole - Other names: JWH-398.
- [10] 1-(5-fluoropentyl)-3-(1-naphthoyl)indole - Other names: AM-2201.
- [11] 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole - Other names: RCS-8.
- [12] 1-Pentyl-3-(2-methoxyphenylacetyl)indole - Other names: JWH-250.
- [13] 1-Pentyl-3-(2-methylphenylacetyl)indole - Other names: JWH-251.
- [14] 1-Pentyl-3-(2-chlorophenylacetyl)indole - Other names: JWH-203.
- [15] 1-Pentyl-3-(4-methoxybenzoyl)indole - Other names: RCS-4.
- [16] (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole) - Other names: AM-694.
- [17] (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone - Other names: WIN 48,098 and Pravadoline.
- [18] (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone -- Other names: UR-144.
- [19] (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: XLR-11.
- [20] (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: A-796,260.
- [21] (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone -- Other names: THJ-2201.
- [22] 1-naphthalenyl(1-pentyl-1H-indazol-3-yl)-methanone -- Other names: THJ-018.
- [23] (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone - Other names: FUBIMINA.

- [24] 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-yl) indole - Other names: AM-1248.
- [25] 1-Pentyl-3-(1-adamantyl)indole - Other names: AB-001 and JWH-018 adamantyl analog.
- (2) Indole carboxamides. Any compound structurally derived from 1H-indole-3-carboxamide or 1H-2-carboxamide substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the nitrogen of the carboxamide by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:
- (a) Substitution to the indole ring to any extent; or
 - (b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent; or
 - (c) A nitrogen heterocyclic analog of the indole ring; or
 - (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
- (e) Examples include:
- [1] N-Adamantyl-1-pentyl-1H-indole-3-carboxamide - Other names: JWH-018 adamantyl carboxamide, APICA, SDB-001, and 2NE1.
 - [2] N-Adamantyl-1-fluoropentylindole-3-carboxamide - Other names: STS-135.
 - [3] N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide - Other names: AKB 48 and APINACA.
 - [4] N-1-naphthalenyl-1-pentyl-1H-indole-3-carboxamide - Other names: NNEI and MN-24.
 - [5] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide - Other names: ADBICA.
 - [6] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: AB-PINACA.
 - [7] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide - Other names: AB-FUBINACA.
 - [8] N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5-Fluoro AB-PINACA and 5F-AB-PINACA.

- [9] N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: ADB-PINACA.
- [10] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: AB-CHMINACA.
- [11] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: ADB-FUBINACA.
- [12] N-((3s,5s,7s)-adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: FUB-AKB48 and AKB48 N-(4-fluorobenzyl) analog.
- [13] 1-(5-fluoropentyl)-N-(quinolin-8-yl)-1H-indazole-3-carboxamide - Other names: 5-fluoro-THJ.
- [14] methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: 5-fluoro AMB and 5F-AMB.
- [15] methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: FUB-AMB, MMB-FUBINACA, and AMB-FUBINACA.
- [16] N-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: MAB-CHMINACA and ADB-CHMINACA.
- [17] Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-ADB and 5F-MDMB-PINACA.
- [18] N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5F-APINACA and 5F-AKB48.
- [19] Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-CHMICA and MMB-CHMINACA.
- [20] Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-FUBINACA.
- [21] 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide - Other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN-BINACA; SGT-78.
- [22] methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate - Other names: MMB-CHMICA, AMB-CHMICA.
- [23] 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide - Other names: 5F-CUMYL-P7AICA.

- (3) Indole carboxylic acids. Any compound structurally derived from 1H-indole-3-carboxylic acid or 1H-2-carboxylic acid substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydroxyl group of the carboxylic acid by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

- (a) Substitution to the indole ring to any extent; or
- (b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
- (e) Examples include:

[1] 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: BB-22 and QUCHIC.

[2] naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FDU-PB-22.

[3] 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: PB-22 and QUPIC.

[4] 1-(5-Fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: 5-Fluoro PB-22 and 5F-PB-22.

[5] quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FUB-PB-22.

[6] naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate - Other names: NM2201 and CBL2201.

- (4) Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:

- (a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane - Other names: JWH-175.

- (b) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane - Other names: JWH-184.
- (5) Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone - Other names: JWH-307.
- (6) Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane - Other names: JWH-176.
- (7) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not substituted in the cyclohexyl ring to any extent. Examples include:
- (a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: CP 47,497.
- (b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: Cannabicyclohexanol and CP 47,497 C8 homologue.
- (c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol - Other names: CP 55,940.
- (8) Others specifically named:
- (a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: HU-210.
- (b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: Dexanabinol and HU-211.
- (c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone - Other names: WIN 55,212-2.

(d) Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone - Other names: CB-13.

p-o. Substituted phenethylamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from phenylethan-2-amine by substitution on the phenyl ring in any of the following ways, that is to say, by substitution with a fused methylenedioxy ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems.

(1) Whether or not the compound is further modified in any of the following ways, that is to say:

- (a) By substitution of phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or alkylthio groups;
- (b) By substitution at the 2-position by any alkyl groups; or
- (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.

(2) Examples include:

- (a) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine).
- (b) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine).
- (c) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine).
- (d) 2-(2,5-Dimethoxyphenyl)ethanamine (also known as 2C-H or 2,5-Dimethoxyphenethylamine).
- (e) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine).
- (f) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine).
- (g) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine).
- (h) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine).
- (i) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine).

- (j) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine).
- (k) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine).
- (l) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine).
- (m) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine).
- (n) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine).
- (o) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-B-NBOMe; 2,5B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine).
- (p) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-I-NBOMe; 2,5I-NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine).
- (q) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine (also known as mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-methoxybenzyl)phenethylamine).
- (r) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-C-NBOMe; 2,5C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine).
- (s) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (also known as 2CB-5-hemiFLY).
- (t) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine (also known as 2C-B-FLY).
- (u) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine (also known as 2C-B-butterFLY).
- (v) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane (also known as 2C-B-FLY-NBOMe).
- (w) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (also known as bromo-benzodifuranyl-isopropylamine or bromo-dragonFLY).
- (x) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine (also known as 2C-I-NBOH or 2,5I-NBOH).
- (y) 5-(2-Aminopropyl)benzofuran (also known as 5-APB).

- (z) 6-(2-Aminopropyl)benzofuran (also known as 6-APB).
 - (aa) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 5-APDB).
 - (bb) 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran (also known as 6-APDB).
 - (cc) 2,5-dimethoxy-amphetamine (also known as 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA).
 - (dd) 2,5-dimethoxy-4-ethylamphetamine (also known as DOET).
 - (ee) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (also known as 2C-T-7).
 - (ff) 5-methoxy-3,4-methylenedioxy-amphetamine.
 - (gg) 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy-a-methylphenethylamine; DOM and STP).
 - (hh) 3,4-methylenedioxy amphetamine (also known as MDA).
 - (ii) 3,4-methylenedioxymethamphetamine (also known as MDMA).
 - (jj) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA).
 - (kk) 3,4,5-trimethoxy amphetamine.
 - (ll) Mescaline (also known as 3,4,5-trimethoxyphenethylamine).
- ¶p. Substituted tryptamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha-position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Examples include:
- (1) 5-methoxy-N,N-diallyltryptamine (also known as 5-MeO-DALT).
 - (2) 4-acetoxy-N,N-dimethyltryptamine (also known as 4-AcO-DMT or O-Acetylpsilocin).
 - (3) 4-hydroxy-N-methyl-N-ethyltryptamine (also known as 4-HO-MET).
 - (4) 4-hydroxy-N,N-diisopropyltryptamine (also known as 4-HO-DIPT).
 - (5) 5-methoxy-N-methyl-N-isopropyltryptamine (also known as 5-MeO-MIPT).
 - (6) 5-methoxy-N,N-dimethyltryptamine (also known as 5-MeO-DMT).

- (7) Bufotenine (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine).
- (8) 5-methoxy-N,N-diisopropyltryptamine (also known as 5-MeO-DiPT).
- (9) Diethyltryptamine (also known as N,N-Diethyltryptamine; DET).
- (10) Dimethyltryptamine (also known as DMT).
- (11) Psilocyn.
- r-q. 1-[3-(trifluoromethylphenyl)]piperazine (also known as TFMPP).
- s-r. 1-[4-(trifluoromethylphenyl)]piperazine.
- t-s. 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (also known as 5,6-Methylenedioxy-2-aminoindane or MDAI).
- u-t. 2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexanone (also known as Methoxetamine or MXE).
- v-u. Ethylamine analog of phencyclidine (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE).
- w-v. Pyrrolidine analog of phencyclidine (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP).
- x-w. Thiophene analog of phencyclidine (also known as (1-[1-(2-thienyl)cyclohexyl] piperidine; 2-Thienylanalog of phencyclidine; TCP, TCP).
- y-x. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).
- z-y. Salvia divinorum, salvinorin A, or any of the active ingredients of salvia divinorum.

SECTION 3. AMENDMENT. Subsection 1 of section 19-03.1-22.2 of the North Dakota Century Code is amended and reenacted as follows:

1. For purposes of this section:

- a. "Chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors or to manufacturing equipment.
- b. "Child" means an individual who is under the age of eighteen years.
- c. "Controlled substance" means the same as that term is defined in section 19-03.1-01, except the term does not include less than one-half ounce [14.175 grams] of marijuana or less than two grams of tetrahydrocannabinol.

- d. "Drug paraphernalia" means the same as that term is defined in section 19-03.4-01.
- e. "Prescription" means the same as that term is described in section 19-03.1-22.
- f. "Vulnerable adult" means a vulnerable adult as the term is defined in section 50-25.2-01.

SECTION 4. AMENDMENT. Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.

- 1. Except as provided in subsection 2, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor. This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana or tetrahydrocannabinol.
- 2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of a class B misdemeanor.
- 3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

¹⁰⁵ **SECTION 5. AMENDMENT.** Subsections 1, 7, and 9 of section 19-03.1-23 of the North Dakota Century Code are amended and reenacted as follows:

- 1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:
 - a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.
 - b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog, except marijuana or tetrahydrocannabinol is guilty of a class B felony.
 - c. AMarijuana, tetrahydrocannabinol, or a substance classified in schedule IV, is guilty of a class C felony.

¹⁰⁵ Section 19-03.1-23 was also amended by section 2 of Senate Bill No. 2246, chapter 110, section 2 of Senate Bill No. 2264, chapter 176, and section 3 of Senate Bill No. 2283, chapter 175.

d. A substance classified in schedule V, is guilty of a class A misdemeanor.

7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.

b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense under this subsection and a class C felony for a second or subsequent offense under this subsection.

c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana or tetrahydrocannabinol.

d. A person who violates this subsection by possessing:

(1) Marijuana in:

(a) In an amount of less than one-half ounce [14.175 grams] is guilty of an infraction.

(2)(b) At least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.

(3)(c) More than 500 grams of marijuana is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol:

(a) In an amount less than two grams is guilty of an infraction.

(b) At least two grams but not more than six grams of tetrahydrocannabinol is guilty of a class B misdemeanor.

(c) More than six grams of tetrahydrocannabinol is guilty of a class A misdemeanor.

e. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.

f. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

- g. Probation under this subsection may include placement in another facility, treatment program, or drug court. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.
 - h. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.
 - i. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.
9. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana or two grams or less of tetrahydrocannabinol and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.

SECTION 6. AMENDMENT. Subsection 12 of section 19-03.4-01 of the North Dakota Century Code is amended and reenacted as follows:

12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, ~~hashish, or hashish oil~~ tetrahydrocannabinol into the human body, including:
- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, ~~hashish heads~~, or punctured metal bowls.
 - b. Water pipes.
 - c. Carburetion tubes and devices.
 - d. Smoking and carburetion masks.
 - e. Objects, sometimes commonly referred to as roach clips, used to hold burning material, for example, a marijuana cigarette, that has become too small or too short to be held in the hand.
 - f. Miniature cocaine spoons and cocaine vials.
 - g. Chamber pipes.
 - h. Carburetor pipes.
 - i. Electric pipes.
 - j. Air-driven pipes.
 - k. Chillums.
 - l. Bongs.

- m. Ice pipes or chillers.

SECTION 7. AMENDMENT. Section 19-03.4-03 of the North Dakota Century Code is amended and reenacted as follows:

19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.

1. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of chapter 19-03.1. A person violating this subsection is guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1.
2. A person may not use or possess with the intent to use drug paraphernalia to inject, ingest, inhale, or otherwise induce into the human body a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. If a person previously has been convicted of an offense under this title, other than an offense related to marijuana or tetrahydrocannabinol, or an equivalent offense from another court in the United States, a violation of this subsection is a class C felony.
3. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, or repack marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor.
4. A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body marijuana or tetrahydrocannabinol or possess with the intent to use drug paraphernalia to store or contain marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of an infraction.
5. A person sentenced to the legal and physical custody of the department of corrections and rehabilitation under this section may be placed in a drug and alcohol treatment program as designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the person from imprisonment to begin any court-ordered period of probation. If the person is not subject to court-ordered probation, the court may order the person to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.
6. Probation under this section may include placement in another facility, treatment program, or drug court. If the person is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

SECTION 8. AMENDMENT. Section 19-03.4-04 of the North Dakota Century Code is amended and reenacted as follows:

19-03.4-04. Unlawful manufacture or delivery of drug paraphernalia - Penalty.

A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of chapter 19-03.1. Any person violating this section is guilty of a class C felony if the drug paraphernalia will be used to manufacture, compound, convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section is a class A misdemeanor.

¹⁰⁶ **SECTION 9. AMENDMENT.** Section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Advanced practice registered nurse" means an advanced practice registered nurse defined under section 43-12.1-02.
2. "Allowable amount of usable marijuana" means the amount of usable marijuana a registered qualifying patient or registered designated caregiver may purchase in a thirty-day period under this chapter.
 - a. Except as provided under subdivision b:
 - (1) During a thirty-day period, a registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than two and one-half ounces [70.87 grams] of dried leaves or flowers of the plant of genus cannabis in a combustible delivery form.
 - (2) At any time a registered qualifying patient, or a registered designated caregiver on behalf of a registered qualifying patient, may not possess more than three ounces [85.05 grams] of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form.
 - b. Notwithstanding subdivision a, if a registered qualifying patient has a registry identification card authorizing an enhanced allowable amount:
 - (1) During a thirty-day period a registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than six ounces [170.01 grams] of dried leaves or flowers of the plant of genus cannabis in a combustible delivery form.
 - (2) At any time a registered qualifying patient, or a registered designated caregiver on behalf of a registered qualifying patient, may not possess more than seven and one-half ounces [212.62 grams] of dried leaves

¹⁰⁶ Section 19-24.1-01 was also amended by section 93 of House Bill No. 1247, chapter 352.

or flowers of the plant of the genus *cannabis* in a combustible delivery form.

- c. A registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than the maximum concentration or amount of tetrahydrocannabinol permitted in a thirty-day period. The maximum concentration or amount of tetrahydrocannabinol permitted in a thirty-day period for a cannabinoid concentrate or medical cannabinoid product, or the cumulative total of both, is four thousand milligrams.
3. "Bona fide provider-patient relationship" means a treatment or counseling relationship between a health care provider and patient in which all the following are present:
 - a. The health care provider has reviewed the patient's relevant medical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient.
 - b. The health care provider has created and maintained records of the patient's condition in accordance with medically accepted standards.
 - c. The patient is under the health care provider's continued care for the debilitating medical condition that qualifies the patient for the medical use of marijuana.
 - d. The health care provider has a reasonable expectation that provider will continue to provide followup care to the patient to monitor the medical use of marijuana as a treatment of the patient's debilitating medical condition.
 - e. The relationship is not for the sole purpose of providing written certification for the medical use of marijuana.
4. "Cannabinoid" means a chemical compound that is one of the active constituents of marijuana.
5. "Cannabinoid capsule" means a small, soluble container, usually made of gelatin, which encloses a dose of a cannabinoid product or a cannabinoid concentrate intended for consumption. The maximum concentration of amount of tetrahydrocannabinol permitted in a serving of a cannabinoid capsule is fifty milligrams.
6. "Cannabinoid concentrate" means a concentrate or extract obtained by separating cannabinoids from marijuana by a mechanical, chemical, or other process.
7. "Cannabinoid edible product" means a food or potable liquid into which a cannabinoid concentrate or the dried leaves or flowers of the plant of the genus *cannabis* is incorporated.
8. "Cannabinoid solution" means a solution consisting of a mixture created from cannabinoid concentrate and other ingredients. A container holding a cannabinoid solution for dispensing may not exceed thirty milliliters.

9. "Cannabinoid topical" means a cannabinoid product intended to be applied to the skin or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in a cannabinoid topical is six percent.
10. "Cannabinoid transdermal patch" means an adhesive substance applied to the skin which contains a cannabinoid product or cannabinoid concentrate for absorption into the bloodstream. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of a cannabinoid transdermal patch is fifty milligrams.
11. "Cardholder" means a qualifying patient, designated caregiver, or compassion center agent who has been issued and possesses a valid registry identification card.
12. "Compassion center" means a manufacturing facility or dispensary.
13. "Compassion center agent" means a principal officer, board member, member, manager, governor, employee, volunteer, or agent of a compassion center. The term does not include a lawyer representing a compassion center in civil or criminal litigation or in an adversarial administrative proceeding.
14. "Contaminated" means made impure or inferior by extraneous substances.
15. "Debilitating medical condition" means one of the following:
 - a. Cancer;
 - b. Positive status for human immunodeficiency virus;
 - c. Acquired immune deficiency syndrome;
 - d. Decompensated cirrhosis caused by hepatitis C;
 - e. Amyotrophic lateral sclerosis;
 - f. Posttraumatic stress disorder;
 - g. Agitation of Alzheimer's disease or related dementia;
 - h. Crohn's disease;
 - i. Fibromyalgia;
 - j. Spinal stenosis or chronic back pain, including neuropathy or damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity;
 - k. Glaucoma;
 - l. Epilepsy;
 - m. Anorexia nervosa;
 - n. Bulimia nervosa;
 - o. Anxiety disorder;

- p. Tourette syndrome;
 - q. Ehlers-Danlos syndrome;
 - r. Endometriosis;
 - s. Interstitial cystitis;
 - t. Neuropathy;
 - u. Migraine;
 - v. Rheumatoid arthritis;
 - w. Autism spectrum disorder;
 - x. A brain injury;
 - y. A terminal illness; or
 - z. A chronic or debilitating disease or medical condition or treatment for such disease or medical condition that produces one or more of the following:
 - (1) Cachexia or wasting syndrome;
 - (2) Severe debilitating pain that has not responded to previously prescribed medication or surgical measures for more than three months or for which other treatment options produced serious side effects;
 - (3) Intractable nausea;
 - (4) Seizures; or
 - (5) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis.
16. "Department" means the state department of health.
17. "Designated caregiver" means an individual who agrees to manage the well-being of a registered qualifying patient with respect to the qualifying patient's medical use of marijuana.
18. "Dispensary" means an entity registered by the department as a compassion center authorized to dispense usable marijuana to a registered qualifying patient and a registered designated caregiver.
19. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access limited to individuals authorized under this chapter or rules adopted under this chapter.
20. "Health care provider" means a physician, a physician assistant, or an advanced practice registered nurse.

21. "Manufacturing facility" means an entity registered by the department as a compassion center authorized to produce and process and to sell usable marijuana to a dispensary.
22. "Marijuana" means all parts of the plant of the genus *cannabis*; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin extracted from any part of the plant. The term marijuana does not include hemp:
 - a. ~~Hemp as defined in~~regulated under section 4.1-18.1-01; or
 - b. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].
23. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid in a medical cannabinoid product or a cannabinoid concentrate.
24. "Medical cannabinoid product" means a product intended for human consumption or use which contains cannabinoids.
 - a. Medical cannabinoid products are limited to the following forms:
 - (1) Cannabinoid solution;
 - (2) Cannabinoid capsule;
 - (3) Cannabinoid transdermal patch; and
 - (4) Cannabinoid topical.
 - b. "Medical cannabinoid product" does not include:
 - (1) A cannabinoid edible product;
 - (2) A cannabinoid concentrate by itself; or
 - (3) The dried leaves or flowers of the plant of the genus *cannabis* by itself.
25. "Medical marijuana product" means a cannabinoid concentrate or a medical cannabinoid product.
26. "Medical marijuana waste" means unused, surplus, returned, or out-of-date usable marijuana; recalled usable marijuana; unused marijuana; or plant debris of the plant of the genus *cannabis*, including dead plants and all unused plant parts and roots.
27. "Medical use of marijuana" means the acquisition, use, and possession of usable marijuana to treat or alleviate a qualifying patient's debilitating medical condition.
28. "Minor" means an individual under the age of nineteen.

29. "North Dakota identification" means a North Dakota driver's license or comparable state of North Dakota or federal issued photo identification card verifying North Dakota residence.
30. "Owner" means an individual or an organization with an ownership interest in a compassion center.
31. "Ownership interest" means an aggregate ownership interest of five percent or more in a compassion center, unless the interest is solely a security, lien, or encumbrance, or an individual who will be participating in the direction, control, or management of the compassion center.
32. "Pediatric medical marijuana" means a medical marijuana product containing cannabidiol which may not contain a maximum concentration or amount of tetrahydrocannabinol of more than six percent.
- 31-33. "Physician" means a physician licensed under chapter 43-17 to practice medicine in the state of North Dakota.
- 32-34. "Physician assistant" means an individual licensed under chapter 43-17 to practice as a physician assistant in the state.
- 33-35. "Posttraumatic stress disorder" means a patient meets the diagnostic criteria for posttraumatic stress disorder under the "Diagnostic and Statistical Manual of Mental Disorders", American psychiatric association, fifth edition, text revision (2013).
- 34-36. "Processing" or "process" means the compounding or conversion of marijuana into a medical marijuana product.
- 35-37. "Producing", "produce", or "production" mean the planting, cultivating, growing, trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves or flowers of the plant of the genus cannabis.
- 36-38. "Qualifying patient" means an individual who has been diagnosed by a health care provider as having a debilitating medical condition.
- 37-39. "Registry identification card" means a document issued by the department which identifies an individual as a registered qualifying patient, registered designated caregiver, or registered compassion center agent.
- 38-40. "Substantial corporate change" means:
- For a corporation, a change of ten percent or more of the officers or directors, or a transfer of ten percent or more of the stock of the corporation, or an existing stockholder obtaining ten percent or more of the stock of the corporation;
 - For a limited liability company, a change of ten percent or more of the managing members of the company, or a transfer of ten percent or more of the ownership interest in the company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in the company; or

- c. For a partnership, a change of ten percent or more of the managing partners of the company, or a transfer of ten percent or more of the ownership interest in the company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in the company.

41. "Terminal illness" means a disease, illness, or condition of a patient:

- a. For which there is not a reasonable medical expectation of recovery;
- b. Which as a medical probability, will result in the death of the patient, regardless of the use or discontinuance of medical treatment implemented for the purpose of sustaining life or the life processes; and
- c. As a result of which, the patient's health care provider would not be surprised if death were to occur within six months.

39-42. "Tetrahydrocannabinol" means tetrahydrocannabinols naturally contained in a plant of the genus Cannabis, and synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of the plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, including:

- a. (1) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.
- (2) Delta-6 or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-8 tetrahydrocannabinol.
- (3) Delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not intentionally standardized, compounds of these structures, regardless of numerical designation or atomic positions covered.)

b. Tetrahydrocannabinol does not include:

- (1) The allowable amount of total tetrahydrocannabinol found in hemp as defined in chapter 4.1-18.1; or
- (2) A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].

43. "Total tetrahydrocannabinol" means the sum of the percentage by weight of tetrahydrocannabinolic acid multiplied by eight hundred seventy-seven thousandths plus the percentage of weight of tetrahydrocannabinol.

44. "Usable marijuana" means a medical marijuana product or the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form. However, the term does not include a cannabinoid edible product. In the case of a registered qualifying patient who is a minor, "usable marijuana" is limited to pediatric medical marijuana.

~~40-45.~~ "Verification system" means the system maintained by the department under section 19-24.1-31 for verification of registry identification cards.

~~41-46.~~ "Written certification" means a form established by the department which is executed, dated, and signed by a health care provider within ninety calendar days of the date of application, stating the patient has a debilitating medical condition. A health care provider may authorize an enhanced amount of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form to treat or alleviate the patient's debilitating medical condition of cancer. A written certification may not be made except in the course of a bona fide provider-patient relationship.

SECTION 10. AMENDMENT. Subdivision a of subsection 2 of section 19-24.1-03 of the North Dakota Century Code is amended and reenacted as follows:

- a. A nonrefundable ~~annual~~ application fee in ~~the an~~ amount ~~of not to exceed~~ fifty dollars.

¹⁰⁷ **SECTION 11. AMENDMENT.** Subsection 3 of section 19-24.1-04 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~A~~Except as provided in section 19-24.1-04.1, a criminal history record check conducted under section 12-60-24 must be performed upon initial application and biennially thereafter and at any other time upon the request of the department. All fees associated with the criminal history record check must be paid by the applicant.

SECTION 12. Section 19-24.1-04.1 of the North Dakota Century Code is created and enacted as follows:

19-24.1-04.1. Designated caregivers - Criminal history record check exemption.

The department may waive the requirement for a registered designated caregiver to obtain a criminal history record check under section 12-60-24 if the registered designated caregiver is solely assisting a registered qualifying patient whose debilitating medical condition is a terminal illness. A registered designated caregiver seeking a waiver under this section shall provide the department with a written statement attesting the caregiver has not been convicted of a drug-related misdemeanor offense within the five years preceding the date of application or a felony offense. If a waiver is issued under this section, the registered designated caregiver's registry identification card is valid for a period not to exceed six months.

SECTION 13. AMENDMENT. Section 19-24.1-10 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-10. Cardholders - Notification of change.

1. Within ten calendar days of the change, in a manner prescribed by the department, a registered qualifying patient or registered designated caregiver shall notify the department of any of the following:

- a. A change in the cardholder's name or address;

¹⁰⁷ Section 19-24.1-04 was also amended by section 1 of House Bill No. 1359, chapter 180.

- b. Knowledge of a change that would render the registered qualifying patient no longer eligible to participate in the medical marijuana program;
 - c. Knowledge of a change that results in the registered qualifying patient's health care provider no longer meeting the definition of the term "health care provider" as defined under section 19-24.1-01; or
 - d. Knowledge of a change that renders the registered qualifying patient's registered designated caregiver no longer eligible to participate in the medical marijuana program.
2. If a registered qualifying patient seeks to change the patient's designated caregiver, the registered qualifying patient shall notify the department in writing of this change.
3. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department in writing within twenty-four hours of becoming aware of the loss.
4. If a registered qualifying patient is unable to make a notification required under this section due to age or medical condition, that patient's registered designated caregiver or the individual responsible for making medical decisions for that patient shall provide the notification.
5. If the department receives notification of an item listed in this section and the nature of the item reported does not affect a cardholder's eligibility, the department ~~shall~~may issue the cardholder a new registry identification card ~~with a new random ten-digit alphanumeric identification number~~ within twenty calendar days of approving the updated information and the cardholder ~~shall~~may pay a fee, not to exceed twenty-five dollars. If a cardholder notifying the department is a registered qualifying patient who has a registered designated caregiver, the department shall issue the patient's registered designated caregiver a new registry identification card within twenty calendar days of approving the updated information.
6. If the department receives notification of an item listed in this section and the nature of the item reported makes the cardholder ineligible, the cardholder's registry identification card becomes void immediately upon notification of the department and the registered cardholder shall dispose of any usable marijuana in the cardholder's possession within fifteen calendar days, in accordance with rules adopted under this chapter.
7. A registered qualifying patient's certifying health care provider may notify the department in writing if the health care provider's registered qualifying patient no longer has a debilitating medical condition. The health care provider may notify the department if a bona fide provider-patient relationship ceases to exist. The~~Except if the bona fide provider-patient relationship is terminating due to the health care provider moving to a location where it is not suitable to continue the bona fide provider-patient relationship, the qualifying patient's registry identification card becomes void immediately upon the health care provider's notification of the department ~~and, if the bona fide provider-patient relationship is terminating due to the health care provider moving to a location where it is not suitable to continue the bona fide provider-patient relationship,~~ the qualifying patient's registry identification card is void if the registered qualifying patient fails to establish a new bona fide provider-patient~~

relationship within sixty days of the department receiving notice from the original health care provider. If the registry identification card is voided under this subsection, the registered qualifying patient shall dispose of any usable marijuana in the cardholder's possession within fifteen calendar days, in accordance with rules adopted under this chapter.

SECTION 14. AMENDMENT. Section 19-24.1-13 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-13. Compassion centers - Authority.

1. The activities of a manufacturing facility are limited to producing and processing and to related activities, including acquiring, possessing, storing, transferring, and transporting marijuana and usable marijuana, for the sole purpose of selling usable marijuana to a dispensary.
2. The activities of a dispensary are limited to purchasing usable marijuana from a manufacturing facility, and related activities, including storing, delivering, transferring, and transporting usable marijuana, for the sole purpose of dispensing usable marijuana to a registered qualifying patient, directly or through the registered qualifying patient's registered designated caregiver. The activities of a dispensary include providing educational material and selling usable marijuana related supplies to a registered qualifying patient or a registered designated caregiver.
3. An individual or organization may not hold an ownership interest in:
 - a. More than one manufacturing facility.
 - b. More than four dispensaries.
 - c. More than one dispensary within a twenty-mile [32.19 kilometer] radius of another dispensary.
4. An agreement may not be entered between a manufacturing facility and dispensary whereby a dispensary agrees to limit purchases or sales of usable marijuana to one manufacturing facility.

¹⁰⁸ **SECTION 15. AMENDMENT.** Paragraph 2 of subdivision d of subsection 1 of section 19-24.1-14 of the North Dakota Century Code is amended and reenacted as follows:

- (2) Evidence the physical address of the proposed compassion center is not located within one thousand feet [604-80304.80 meters] of a property line of a pre-existing public or private school.

¹⁰⁹ **SECTION 16. AMENDMENT.** Subdivision a of subsection 1 of section 19-24.1-15 of the North Dakota Century Code is amended and reenacted as follows:

- a. A certification fee, made payable to the "North Dakota State Department of Health, Medical Marijuana Program", in the an amount of not to exceed

¹⁰⁸ Section 19-24.1-14 was also amended by section 94 of House Bill No. 1247, chapter 352.

¹⁰⁹ Section 19-24.1-15 was also amended by section 95 of House Bill No. 1247, chapter 352.

ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility.

SECTION 17. AMENDMENT. Subdivision a of subsection 2 of section 19-24.1-16 of the North Dakota Century Code is amended and reenacted as follows:

- a. The compassion center submits a renewal fee, in ~~the an~~ amount of ~~not to exceed~~ ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility, which the department shall refund if the department rejects the renewal application;

SECTION 18. AMENDMENT. Section 19-24.1-17 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-17. Compassion centers - Registration certificates nontransferable - Notification of changes.

1. ~~A registration certificate authorizing operation of a compassion center may not be transferred to another person. Unless a compassion center applies for and receives an amended registration certificate authorizing operation of a compassion center, the registration certificate is void if there is a change in ownership of the compassion center, there is a change in the authorized physical location of the compassion center, or if the compassion center discontinues operation. Upon application of a compassion center to the department, a registration certificate of a compassion center may be amended to authorize a change in the authorized physical location of the compassion center, or to amend the ownership or organizational structure of the compassion center with the registration certificate. A compassion center shall provide the department written notice of any change described under this section at least sixty calendar days before the proposed effective date of the change.~~
2. ~~A compassion center shall provide the department a written notice of any change described under this section at least sixty calendar days before the proposed effective date of the change. The department shall authorize the use of additional structures located within five hundred feet [152.40 meters] of the location described in the original application, unless the department makes an affirmative finding the use of additional structures would jeopardize public health or safety or would result in the compassion center being within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school. The department may waive all or part of the required advance notice to address emergent or emergency situations. A registration certificate authorizing the operation of a compassion center is void by a change in ownership, substantial corporate change, change in location, or discontinued operation, without prior approval of the department. The department may adopt rules allowing for certain types of changes in ownership without the need for prior written approval from the department.~~
3. The department shall authorize the use of additional structures located within five hundred feet [152.40 meters] of the location described in the original application, unless the department makes an affirmative finding the use of additional structures would jeopardize public health or safety or would result in the cannabis business being within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school. The department may waive all or part of the required advance notice to address emergent or emergency situations.

SECTION 19. AMENDMENT. Subsection 4 of section 19-24.1-18 of the North Dakota Century Code is amended and reenacted as follows:

4. The department shall notify the compassion center in writing of the purpose for denying a compassion center agent application for a registry identification card. The department shall deny an application if the agent applicant fails to meet the registration requirements or to provide the information required, if the applicant previously had a registry identification card revoked, or if the department determines the information provided is false. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.

SECTION 20. AMENDMENT. Subsection 2 of section 19-24.1-20 of the North Dakota Century Code is amended and reenacted as follows:

2. In addition to any other penalty applicable in law, a manufacturing facility or a manufacturing facility agent is guilty of a class B felony for intentionally selling or otherwise transferring marijuana or usable marijuana in any form, to a person other than a dispensary, or for internationallyintentionally selling or otherwise transferring marijuana in any form other than usable marijuana, to a dispensary. A person convicted under this subsection may not continue to be affiliated with a compassion center and is disqualified from further participation under this chapter.

SECTION 21. AMENDMENT. Subsection 3 of section 19-24.1-26 of the North Dakota Century Code is amended and reenacted as follows:

3. A compassion center shall conduct inventories of marijuana and usable marijuana at the authorized location at the frequency and in the manner provided by rules adopted under this chapter. If an inventory results in the identification of a discrepancy, the compassion center shall notify the department immediately and appropriate law enforcement authorities immediately within seventy-two hours. A compassion center shall document each inventory conducted by the compassion center.

SECTION 22. AMENDMENT. Subsection 2 of section 19-24.1-37 of the North Dakota Century Code is amended and reenacted as follows:

2. Information kept or maintained by the department may be disclosed as necessary for:
 - a. The verification of registration certificates and registry identification cards under this chapter;
 - b. Submission of the annual report required by this chapter;
 - c. Submission to the North Dakota prescription drug monitoring program;
 - d. Notification of state or local law enforcement of apparent criminal violation ~~of this chapter~~;
 - e. Notification of state and local law enforcement about falsified or fraudulent information submitted for purposes of obtaining or renewing a registry identification card; or

- f. Notification of the North Dakota board of medicine or North Dakota board of nursing if there is a reason to believe a health care provider provided a written certification and the department has reason to believe the health care provider otherwise violated this chapter; or
- g. Data for statistical purposes in a manner such that an individual or compassion center is not identified.

SECTION 23. AMENDMENT. Section 19-24.1-39 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-39. Report to legislative management.

Annually, the department shall submit to the legislative management a report that does not disclose any identifying information about registered cardholders, compassion centers, or health care providers, but contains the following information:

1. The number of registry identification card applications and renewals;
2. The number of registered qualifying patients and, registered designated caregivers, and registered compassion center agents;
3. The nature of the debilitating medical conditions of the registered qualifying patients;
4. The number of registry identification cards revoked;
5. The number of health care providers providing written certifications for qualifying patients;
6. The number of ~~compassionate care~~compassion centers; and
7. Any expenses incurred and revenues generated by the department from the medical marijuana program; and
8. Data for statistical purposes in a manner so that an individual person is not identifiable.

¹¹⁰ **SECTION 24. AMENDMENT.** Subsection 1 of section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

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, saliva~~oral fluid~~, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, saliva~~oral fluid~~, 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

¹¹⁰ Section 39-20-01 was also amended by section 34 of House Bill No. 1035, chapter 245.

the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.

SECTION 25. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 173

SENATE BILL NO. 2059

(Judiciary Committee)

(At the request of the State Board of Pharmacy)

AN ACT to amend and reenact subsection 18 of section 19-03.1-01 and sections 19-03.1-05, 19-03.1-07, 19-03.1-11, and 19-03.1-13 of the North Dakota Century Code, relating to the definition of marijuana and the scheduling of controlled substances; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹¹ **SECTION 1. AMENDMENT.** Subsection 18 of section 19-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

18. ~~"Marijuana" means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term marijuana does not include hemp as defined in title 4.1~~means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include:
- a. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination;
 - b. Hemp as defined in chapter 4.1-18.1; or
 - c. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].

¹¹² **SECTION 2. AMENDMENT.** Section 19-03.1-05 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-05. Schedule I.

¹¹¹ Section 19-03.1-01 was also amended by section 1 of House Bill No. 1213, chapter 172.

¹¹² Section 19-03.1-05 was also amended by section 2 of House Bill No. 1213, chapter 172.

1. The controlled substances listed in this section are included in schedule I.
2. Schedule I consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:
 - a. Acetylmethadol.
 - b. Allylprodine.
 - c. Alphacetylmethadol.
 - d. Alphameprodine.
 - e. Alphamethadol.
 - f. Benzethidine.
 - g. Betacetylmethadol.
 - h. Betameprodine.
 - i. Betamethadol.
 - j. Betaprodine.
 - k. Brorphine.
 - l. Clonitazene.
 - ~~l-m~~. Dextromoramide.
 - ~~m-n~~. Diampromide.
 - ~~n-o~~. Diethylthiambutene.
 - ~~o-p~~. Difenoxin.
 - ~~p-q~~. Dimenoxadol.
 - ~~q-r~~. Dimepheptanol.
 - ~~r-s~~. Dimethylthiambutene.
 - ~~s-t~~. Dioxaphetyl butyrate.
 - ~~t-u~~. Dipipanone.
 - ~~u-v~~. Ethylmethylthiambutene.
 - ~~v-w~~. Etonitazene.

w-x. Etoxidine.

x-y. Furethidine.

y-z. Hydroxypethidine.

z-aa. Isotonitazene.

bb. Ketobemidone.

aa-cc. Levomoramide.

bb-dd. Levophenacymorphan.

ee-ee. Morpheridine.

dd-ff. MPPP (also known as 1-methyl-4-phenyl-4-propionoxypiperidine).

ee-gg. Noracymethadol.

ff-hh. Norlevorphanol.

gg-ii. Normethadone.

hh-jj. Norpipanone.

ii-kk. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-acetoxypiperidine).

jj-ll. Phenadoxone.

kk-mm. Phenampromide.

ll-nn. Phenomorphan.

mm-oo. Phenoperidine.

nn-pp. Piritramide.

ee-qq. Proheptazine.

pp-rr. Properidine.

qq-ss. Propiram.

rr-tt. Racemoramide.

ss-uu. Tilidine.

tt-vv. Trimeperidine.

uu-ww. 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide
(also known as U-47700).

vv-xx. 1-cyclohexyl-4-(1,2-diphenylethyl)piperazine (also know as MT-45).

ww.yy. 3,4-dichloro-*N*-{[1-(dimethylamino)cyclohexyl]methyl}benzamide
(also known as AH-7921).

zz. Zipeprol.

xx-aaa. Fentanyl derivatives. Unless specifically excepted or unless listed in another schedule or are not FDA approved drugs, and are derived from *N*-(1-(2-Phenylethyl)-4-piperidinyl)-*N*-phenylpropanamide (Fentanyl) by any substitution on or replacement of the phenethyl group, any substitution on the piperidine ring, any substitution on or replacement of the propanamide group, any substitution on the anilido phenyl group, or any combination of the above. Examples include:

- (1) *N*-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-*N*-phenylacetamide (also known as Acetyl- α -methylfentanyl).
- (2) *N*-[1-(α -methyl- β -phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(*N*-propanilido)piperidine (also known as α -methylfentanyl).
- (3) *N*-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-*N*-phenylpropanamide (also known as α -methylthiofentanyl).
- (4) *N*-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-*N*-phenylpropanamide (also known as β -hydroxyfentanyl).
- (5) *N*-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-*N*-phenylpropanamide (also known as β -hydroxy-3-methylfentanyl).
- (6) *N*-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-*N*-phenylpropanamide (also known as 3-Methylfentanyl).
- (7) *N*-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-*N*-phenylpropanamide (also known as 3-Methylthiofentanyl).
- (8) *N*-(4-fluorophenyl)-*N*-[1-(2-phenethyl)-4-piperidinyl]propanamide (also known as Para-fluorofentanyl).
- (9) *N*-phenyl-*N*-[1-(2-thienyl)ethyl-4-piperidinyl]propanamide (also known as Thiofentanyl).
- (10) *N*-(1-phenylethylpiperidin-4-yl)-*N*-phenylfuran-2-carboxamide (also known as Furanyl Fentanyl).
- (11) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutyramide; *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutanamide (also known as Butyryl Fentanyl).
- (12) *N*-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-*N*-phenylpropionamide; *N*-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-*N*-phenylpropanamide (also known as β -Hydroxythiofentanyl).
- (13) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide (also known as Acetyl Fentanyl).

- (14) N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide (also known as Acryl Fentanyl).
 - (15) N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide (also known as Valeryl Fentanyl).
 - (16) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (also known as 4-Fluoroisobutyryl Fentanyl).
 - (17) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide (also known as Ortho-fluorofentanyl, 2-Fluorofentanyl).
 - (18) N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (also known as Tetrahydrofuranyl Fentanyl).
 - (19) 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (also known as Methoxyacetyl Fentanyl).
 - (20) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (also known as Cyclopropyl Fentanyl).
 - (21) N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide (also known as Ocfentanil).
 - (22) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide (also known as Cyclopentyl Fentanyl).
 - (23) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide (also known as Isobutyryl Fentanyl).
 - (24) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (also known as Para-chloroisobutyryl Fentanyl).
 - (25) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (also known as Para-methoxybutyryl Fentanyl).
 - (26) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (also known as Para-fluorobutyryl Fentanyl).
 - (27) N-(1-(2-fluorophenethyl)piperidin-4-yl)-N-(2-fluorophenyl)propionamide (also known as 2'-fluoro Ortho-fluorofentanyl).
 - (28) N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide (also known as Ortho-methyl Acetylfentanyl).
 - (29) N-(1-phenethylpiperidin-4-yl)-N,3-diphenylpropanamide (also known as Beta'-phenyl Fentanyl and Hydrocinnamoyl Fentanyl).
 - (30) N-(1-phenethylpiperidin-4-yl)-N-phenylthiophene-2-carboxamide (also known as Thiofuranyl Fentanyl).
 - (31) (E)-N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide (also known as Crotonyl Fentanyl).
4. Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts

of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- a. Acetorphine.
 - b. Acetyldihydrocodeine.
 - c. Benzylmorphine.
 - d. Codeine methylbromide.
 - e. Codeine-N-Oxide.
 - f. Cyrenorphine.
 - g. Desomorphine.
 - h. Dihydromorphine.
 - i. Drotebanol.
 - j. Etorphine (except hydrochloride salt).
 - k. Heroin.
 - l. Hydromorphinol.
 - m. Methyldesorphine.
 - n. Methyldihydromorphine.
 - o. Morphine methylbromide.
 - p. Morphine methylsulfonate.
 - q. Morphine-N-Oxide.
 - r. Myorphine.
 - s. Nicocodeine.
 - t. Nicomorphine.
 - u. Normorphine.
 - v. Pholcodine.
 - w. Thebacon.
5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers):

- a. Alpha-ethyltryptamine, its optical isomers, salts, and salts of isomers (also known as etryptamine; α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole).
- b. Alpha-methyltryptamine.
- c. 4-methoxyamphetamine (also known as 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine; PMA).
- d. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy- α -methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA).
- e. Hashish.
- f. Ibogaine (also known as 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5 H-pyrido [1', 2':1,2] azepino (5,4-b) indole; Tabernanthe iboga).
- g. Lysergic acid diethylamide.
- h. Marijuana.
- i. Parahexyl (also known as 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl-6H-dibenzol[b,d]pyran; Synhexyl).
- j. Peyote (all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or its extracts).
- k. N-ethyl-3-piperidyl benzilate.
- l. N-methyl-3-piperidyl benzilate.
- m. Psilocybin.
- n. Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant; excluding tetrahydrocannabinols found in hemp as defined in [title 4.1chapter 4.1-18.1](#); such as the following:
 - (1) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.
 - (2) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.
 - (3) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

- o. Cannabinoids, synthetic. It includes the chemicals and chemical groups listed below, including their homologues, salts, isomers, and salts of isomers. The term "isomer" includes the optical, position, and geometric isomers.

(1) Indole carboxaldehydes. Any compound structurally derived from 1H-indole-3-carboxaldehyde or 1H-2-carboxaldehyde substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydrogen of the carboxaldehyde by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

- (a) Substitution to the indole ring to any extent; or
- (b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
- (e) Examples include:

[1] 1-Pentyl-3-(1-naphthoyl)indole - Other names: JWH-018 and AM-678.

[2] 1-Butyl-3-(1-naphthoyl)indole - Other names: JWH-073.

[3] 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole - Other names: JWH-081.

[4] 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole - Other names: JWH-200.

[5] 1-Propyl-2-methyl-3-(1-naphthoyl)indole - Other names: JWH-015.

[6] 1-Hexyl-3-(1-naphthoyl)indole - Other names: JWH-019.

[7] 1-Pentyl-3-(4-methyl-1-naphthoyl)indole - Other names: JWH-122.

[8] 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole - Other names: JWH-210.

[9] 1-Pentyl-3-(4-chloro-1-naphthoyl)indole - Other names: JWH-398.

- [10] 1-(5-fluoropentyl)-3-(1-naphthoyl)indole - Other names: AM-2201.
- [11] 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole - Other names: RCS-8.
- [12] 1-Pentyl-3-(2-methoxyphenylacetyl)indole - Other names: JWH-250.
- [13] 1-Pentyl-3-(2-methylphenylacetyl)indole - Other names: JWH-251.
- [14] 1-Pentyl-3-(2-chlorophenylacetyl)indole - Other names: JWH-203.
- [15] 1-Pentyl-3-(4-methoxybenzoyl)indole - Other names: RCS-4.
- [16] (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole) - Other names: AM-694.
- [17] (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone - Other names: WIN 48,098 and Pravadoline.
- [18] (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone -- Other names: UR-144.
- [19] (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: XLR-11.
- [20] (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: A-796,260.
- [21] (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone -- Other names: THJ-2201.
- [22] 1-naphthalenyl(1-pentyl-1H-indazol-3-yl)-methanone -- Other names: THJ-018.
- [23] (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone - Other names: FUBIMINA.
- [24] 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-oyl) indole - Other names: AM-1248.
- [25] 1-Pentyl-3-(1-adamantoyl)indole - Other names: AB-001 and JWH-018 adamantyl analog.
- (2) Indole carboxamides. Any compound structurally derived from 1H-indole-3-carboxamide or 1H-2-carboxamide substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the nitrogen of the carboxamide by a phenyl, benzyl, cumyl, naphthyl,

adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

- (a) Substitution to the indole ring to any extent; or
- (b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
- (e) Examples include:

- [1] N-Adamantyl-1-pentyl-1H-indole-3-carboxamide - Other names: JWH-018 adamantyl carboxamide, APICA, SDB-001, and 2NE1.
- [2] N-Adamantyl-1-fluoropentylindole-3-carboxamide - Other names: STS-135.
- [3] N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide - Other names: AKB 48 and APINACA.
- [4] N-1-naphthalenyl-1-pentyl-1H-indole-3-carboxamide - Other names: NNEI and MN-24.
- [5] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide - Other names: ADBICA.
- [6] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: AB-PINACA.
- [7] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide - Other names: AB-FUBINACA.
- [8] N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5-Fluoro AB-PINACA and 5F-AB-PINACA.
- [9] N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: ADB-PINACA.
- [10] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: AB-CHMINACA.
- [11] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: ADB-FUBINACA.
- [12] N-((3s,5s,7s)-adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: FUB-AKB48 and AKB48 N-(4-fluorobenzyl) analog N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H

-indazole-3-carboxamide - Other names: FUB-AKB48, FUB-APINACA, and AKB48 N-(4-FLUOROBENZYL).

- [13] 1-(5-fluoropentyl)-N-(quinolin-8-yl)-1H-indazole-3-carboxamide
- Other names: 5-fluoro-THJ.
- [14] methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: 5-fluoro AMB and 5F-AMB.
- [15] methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: FUB-AMB, MMB-FUBINACA, and AMB-FUBINACA.
- [16] N-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: MAB-CHMINACA and ADB-CHMINACA.
- [17] Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-ADB and 5F-MDMB-PINACA.
- [18] N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5F-APINACA and 5F-AKB48.
- [19] Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-CHMICA and MMB-CHMINACA.
- [20] Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-FUBINACA.
- [21] 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide - Other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN-BINACA; SGT-78.
- [22] methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate - Other names: MMB-CHMICA, AMB-CHMICA.
- [23] 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide - Other names: 5F-CUMYL-P7AICA.
- [24] ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-EDMB-PINACA.
- [25] methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-MDMB-PICA.
- [26] 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide - Other names: 5F-CUMYL-PINACA, SGT-25.
- [27] (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) methanone - Other names: FUB-144.

- (3) Indole carboxylic acids. Any compound structurally derived from 1H-indole-3-carboxylic acid or 1H-2-carboxylic acid substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydroxyl group of the carboxylic acid by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

- (a) Substitution to the indole ring to any extent; or
- (b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

- (e) Examples include:

- [1] 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: BB-22 and QUCHIC.
- [2] naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FDU-PB-22.
- [3] 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: PB-22 and QUPIC.
- [4] 1-(5-Fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: 5-Fluoro PB-22 and 5F-PB-22.
- [5] quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FUB-PB-22.
- [6] naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate - Other names: NM2201 and CBL2201.

- (4) Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:

- (a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane - Other names: JWH-175.

- (b) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane - Other names: JWH-184.
- (5) Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone - Other names: JWH-307.
- (6) Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane - Other names: JWH-176.
- (7) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not substituted in the cyclohexyl ring to any extent. Examples include:
- (a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: CP 47,497.
- (b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: Cannabicyclohexanol and CP 47,497 C8 homologue.
- (c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol - Other names: CP 55,940.
- (8) Others specifically named:
- (a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: HU-210.
- (b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: Dexanabinol and HU-211.
- (c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone - Other names: WIN 55,212-2.

- (d) Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone - Other names: CB-13.
- p. Substituted phenethylamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from phenylethan-2-amine by substitution on the phenyl ring in any of the following ways, that is to say, by substitution with a fused methylenedioxy ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems.
- (1) Whether or not the compound is further modified in any of the following ways, that is to say:
- (a) By substitution of phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or alkylthio groups;
 - (b) By substitution at the 2-position by any alkyl groups; or
 - (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.
- (2) Examples include:
- (a) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine).
 - (b) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine).
 - (c) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine).
 - (d) 2-(2,5-Dimethoxyphenyl)ethanamine (also known as 2C-H or 2,5-Dimethoxyphenethylamine).
 - (e) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine).
 - (f) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine).
 - (g) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine).
 - (h) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine).
 - (i) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine).

- (j) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine).
- (k) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine).
- (l) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine).
- (m) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine).
- (n) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine).
- (o) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-B-NBOMe; 2,5B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine).
- (p) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-I-NBOMe; 2,5I-NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine).
- (q) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine (also known as mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-methoxybenzyl)phenethylamine).
- (r) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-C-NBOMe; 2,5C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine).
- (s) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (also known as 2CB-5-hemiFLY).
- (t) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine (also known as 2C-B-FLY).
- (u) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine (also known as 2C-B-butterFLY).
- (v) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane (also known as 2C-B-FLY-NBOMe).
- (w) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (also known as bromo-benzodifuranyl-isopropylamine or bromo-dragonFLY).
- (x) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine (also known as 2C-I-NBOH or 2,5I-NBOH).
- (y) 5-(2-Aminopropyl)benzofuran (also known as 5-APB).

- (z) 6-(2-Aminopropyl)benzofuran (also known as 6-APB).
 - (aa) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 5-APDB).
 - (bb) 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran (also known as 6-APDB).
 - (cc) 2,5-dimethoxy-amphetamine (also known as 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA).
 - (dd) 2,5-dimethoxy-4-ethylamphetamine (also known as DOET).
 - (ee) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (also known as 2C-T-7).
 - (ff) 5-methoxy-3,4-methylenedioxy-amphetamine.
 - (gg) 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy-a-methylphenethylamine; DOM and STP).
 - (hh) 3,4-methylenedioxy amphetamine (also known as MDA).
 - (ii) 3,4-methylenedioxymethamphetamine (also known as MDMA).
 - (jj) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA).
 - (kk) 3,4,5-trimethoxy amphetamine.
 - (ll) Mescaline (also known as 3,4,5-trimethoxyphenethylamine).
- q. Substituted tryptamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha-position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Examples include:
- (1) 5-methoxy-N,N-diallyltryptamine (also known as 5-MeO-DALT).
 - (2) 4-acetoxy-N,N-dimethyltryptamine (also known as 4-AcO-DMT or O-Acetylpsilocin).
 - (3) 4-hydroxy-N-methyl-N-ethyltryptamine (also known as 4-HO-MET).
 - (4) 4-hydroxy-N,N-diisopropyltryptamine (also known as 4-HO-DIPT).
 - (5) 5-methoxy-N-methyl-N-isopropyltryptamine (also known as 5-MeO-MIPT).
 - (6) 5-methoxy-N,N-dimethyltryptamine (also known as 5-MeO-DMT).

- (7) Bufotenine (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine).
 - (8) 5-methoxy-N,N-diisopropyltryptamine (also known as 5-MeO-DIPT).
 - (9) Diethyltryptamine (also known as N,N-Diethyltryptamine; DET).
 - (10) Dimethyltryptamine (also known as DMT).
 - (11) Psilocyn.
 - r. 1-[3-(trifluoromethylphenyl)]piperazine (also known as TFMPP).
 - s. 1-[4-(trifluoromethylphenyl)]piperazine.
 - t. 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (also known as 5,6-Methylenedioxy-2-aminoindane or MDAI).
 - u. 2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexanone (also known as Methoxetamine or MXE).
 - v. Ethylamine analog of phencyclidine (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE).
 - w. Pyrrolidine analog of phencyclidine (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP).
 - x. Thiophene analog of phencyclidine (also known as (1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienylanalogue of phencyclidine; TPCP, TCP).
 - y. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).
 - z. *Salvia divinorum*, salvinorin A, or any of the active ingredients of *salvia divinorum*.
6. Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. Gamma-hydroxybutyric acid.
 - b. Mecloqualone.
 - c. Methaqualone.
 - d. Clonazepam (also known as Clonitrazepam).
 - e. Etizolam.
 - f. Flualprazolam.
 - g. Flubromazepam.

h. Flubromazolam.

i. Adinazolam.

7. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- a. Aminorex (also known as 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine).
- b. Cathinone.
- c. Substituted cathinones. Any compound, material, mixture, preparation, or other product, unless listed in another schedule or an approved food and drug administration drug (e.g., bupropion, pyrovalerone), structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
 - (1) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
 - (2) By substitution at the 3-position with an acyclic alkyl substituent;
 - (3) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or
 - (4) By inclusion of the 2-amino nitrogen atom in a cyclic structure.

Some trade or other names:

- (a) 3,4-Methylenedioxy- α -pyrrolidinopropiophenone (also known as MDPHP).
- (b) 3,4-Methylenedioxy-N-ethylcathinone (also known as Ethylone, MDEC, or bk-MDEA).
- (c) 3,4-Methylenedioxy-N-methylcathinone (also known as Methylone or bk-MDMA).
- (d) 3,4-Methylenedioxypyrovalerone (also known as MDPV).
- (e) 3,4-Dimethylmethcathinone (also known as 3,4-DMMC).
- (f) 2-(methylamino)-1-phenylpentan-1-one (also known as Pentedrone).
- (g) 2-Fluoromethcathinone (also known as 2-FMC).
- (h) 3-Fluoromethcathinone (also known as 3-FMC).

- (i) 4-Methylethcathinone (also known as 4-MEC and 4-methyl-N-ethylcathinone).
- (j) 4-Fluoromethcathinone (also known as Flephedrone and 4-FMC).
- (k) 4-Methoxy-alpha-pyrrolidinopropiophenone (also known as MOPPP).
- (l) 4-Methoxymethcathinone (also known as Methedrone; bk-PMMA).
- (m) 4'-Methyl-alpha-pyrrolidinobutiophenone (also known as MPBP).
- (n) Alpha-methylamino-butyrophenone (also known as Buphedrone or MABP).
- (o) Alpha-pyrrolidinobutiophenone (also known as alpha-PBP).
- (p) Alpha-pyrrolidinopropiophenone (also known as alpha-PPP).
- (q) Alpha-pyrrolidinopentiophenone (also known as Alpha-pyrrolidinovalerophenone or alpha-PVP).
- (r) Beta-keto-N-methylbenzodioxolylbutanamine (also known as Butylone or bk-MBDB).
- (s) Ethcathinone (also known as N-Ethylcathinone).
- (t) 4-Methylmethcathinone (also known as Mephedrone or 4-MMC).
- (u) Methcathinone.
- (v) N,N-dimethylcathinone (also known as metamfepramone).
- (w) Naphthylpyrovalerone (naphyrone).
- (x) B-Keto-Methylbenzodioxolylpentanamine (also known as Pentylone).
- (y) 4-Methyl-alpha-pyrrolidinopropiophenone (also known as 4-MePPP and MPPP).
- (z) 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one (also known as Ephylone and N-Ethylpentylone).
- (aa) N-ethylhexedrone.
- (bb) alpha-pyrrolidinohexanophenone (also known as alpha-PHP).
- (cc) 4-methyl-alpha-ethylaminopentiophenone (also known as 4-MEAP).
- (dd) 4'-methyl-alpha-pyrrolidinohexiophenone (also known as MPHP).
- (ee) alpha-pyrrolidinoheptaphenone (also known as PV8).

- (ff) 4-chloro-alpha-pyrrolidinovalerophenone (also known 4-chloro-alpha-PVP).
- d. Fenethylamine.
 - e. Fluoroamphetamine.
 - f. Fluoromethamphetamine.
 - g. (\pm)cis-4-methylaminorex (also known as (\pm)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazoline).
 - h. N-Benzylpiperazine (also known as BZP, 1-benzylpiperazine).
 - i. N-ethylamphetamine.
 - j. N, N-dimethylamphetamine (also known as N,N-alpha-trimethylbenzeneethanamine; N,N-alpha-trimethylphenethylamine).
 - k. 1-(4-methoxyphenyl)-N-methylpropan-2-amine (also known as paramethoxymethamphetamine and PMMA).

SECTION 3. AMENDMENT. Section 19-03.1-07 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-07. Schedule II.

1. The controlled substances listed in this section are included in schedule II.
2. Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
 - a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, naldemedine, nalmeferene, naloxegol, naloxone, 6 beta-naltrexol, and naltrexone, and samidorphan and their respective salts, but including the following:
 - (1) Codeine.
 - (2) Dihydroetorphine.
 - (3) Ethylmorphine.
 - (4) Etorphine hydrochloride.
 - (5) Granulated opium.
 - (6) Hydrocodone.

- (7) Hydromorphone.
 - (8) Metopon.
 - (9) Morphine.
 - (10) Noroxymorphone.
 - (11) Opium extracts.
 - ~~(11)~~(12) Opium fluid.
 - ~~(12)~~(13) Oripavine.
 - ~~(13)~~(14) Oxycodone.
 - ~~(14)~~(15) Oxymorphone.
 - ~~(15)~~(16) Powder opium.
 - ~~(16)~~(17) Raw opium.
 - ~~(17)~~(18) Thebaine.
 - ~~(18)~~(19) Tincture of opium.
- b. Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
- c. Opium poppy and poppy straw.
- d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives, and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of these substances, except that the nondosage substances must include decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.
- e. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy).
4. Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:
- a. Alfentanil.
 - b. Alphaprodine.
 - c. Anileridine.

- d. Bezitramide.
- e. Bulk dextropropoxyphene (nondosage forms).
- f. Carfentanil.
- g. Dihydrocodeine.
- h. Diphenoxylate.
- i. Fentanyl.
- j. Isomethadone.
- k. Levo-alphaacetylmethadol (LAAM).
- l. Levomethorphan.
- m. Levorphanol.
- n. Metazocine.
- o. Methadone.
- p. Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
- q. Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
- r. Oliceridine (N-[(3-methoxythiophen-2-yl)methyl] (1-[2-[(9R)-9-(pyridin-2-yl)-6-oxaspiro [4.5]decan-9-yl]ethyl)amine fumarate).
- s. Pethidine (also known as meperidine).
- s-t. Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
- t-u. Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
- u-v. Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
- v-w. Phenazocine.
- w-x. Priminodine.
- x-y. Racemethorphan.
- y-z. Racemorphan.
- z-aa. Remifentanil.
- aa-bb. Sufentanil.
- bb-cc. Tapentadol.
- ee-dd. Thiafentanil.

5. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
 - a. Amphetamine, its salts, optical isomers, and salts of its optical isomers.
 - b. Lisdexamfetamine, its salts, isomers, and salts of isomers.
 - c. Methamphetamine, its salts, isomers, and salts of isomers.
 - d. Phenmetrazine and its salts.
 - e. Methylphenidate.
6. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Amobarbital.
 - b. Glutethimide.
 - c. Pentobarbital.
 - d. Phencyclidine.
 - e. Secobarbital.
7. Hallucinogenic substances.
 - a. Nabilone [another name for nabilone (\pm)-trans-3-(1, 1-dimethylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6, 6-dimethyl-9Hdibenzo [b, d] pyran-9-one].
 - b. Dronabinol [($-$)-delta-9-trans tetrahydrocannabinol] in an oral solution in a drug product approved for marketing by the federal food and drug administration.
8. Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances:
 - a. Immediate precursor to amphetamine and methamphetamine: Phenylacetone. Some trade or other names: phenyl-2-propanone; P2P, benzyl methyl ketone; methyl benzyl ketone.
 - b. Immediate precursors to phencyclidine (PCP):
 - (1) 1-phenylcyclohexylamine.
 - (2) 1-piperidinocyclohexanecarbonitrile (PCC).

- c. Immediate precursors to fentanyl: ~~4-anilino-N-phenethyl-4-piperidine (ANPP)~~

(1) 4-anilino-N-phenethylpiperidine (ANPP).

(2) N-phenyl-N-(piperidin-4-yl)propionamide (norfentanyl).

SECTION 4. AMENDMENT. Section 19-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-11. Schedule IV.

1. The controlled substances listed in this section are included in schedule IV.
2. Schedule IV consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
 - a. Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
 - b. Dextropropoxyphene (also known as alpha-(+)-4-dimethylamino- 1,2-diphenyl-3-methyl-2-propionoxybutane).
 - c. 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers including Tramadol.
4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Alprazolam.
 - b. Alfaxalone.
 - c. Barbital.
 - d. Brexanolone.
 - e. Bromazepam.
 - e-f. Camazepam.
 - f-g. Carisoprodol.
 - g-h. Chloral betaine.
 - h-i. Chloral hydrate.

- i-j. Chlordiazepoxide.
- j-k. Clobazam.
- k-l. Clonazepam.
- l-m. Clorazepate.
- m-n. Clotiazepam.
- n-o. Cloxazolam.
- o-p. Delorazepam.
- p-q. Diazepam.
- q-r. Dichloralphenazone.
- r-s. Estazolam.
- s-t. Ethchlorvynol.
- t-u. Ethinamate.
- u-v. Ethyl loflazepate.
- v-w. Fludiazepam.
- w-x. Flunitrazepam.
- x-y. Flurazepam.
- y-z. Fospropofol.
- z-aa. Halazepam.
- aa-bb. Haloxazolam.
- bb-cc. Indiplon.
- ee-dd. Ketazolam.
- dd-ee. Lemborexant.
- ff. Loprazolam.
- ee-gg. Lorazepam.
- ff-hh. Lorcaserin.
- gg-ii. Lormetazepam.
- hh-jj. Mebutamate.
- ii-kk. Medazepam.

jj-ll. Meprobamate.

kk-mm. Methohexital.

ll-nn. Methylphenobarbital (also known as mephobarbital).

mm-oo. Midazolam.

nn-pp. Nimetazepam.

oo-qq. Nitrazepam.

pp-rr. Nordiazepam.

qq-ss. Oxazepam.

rr-tt. Oxazolam.

ss-uu. Paraldehyde.

tt-vv. Petrichloral.

uu-ww. Phenobarbital.

vv-xx. Pinazepam.

ww-yy. Propofol.

xx-zz. Prazepam.

yy-aaa. Quazepam.

zz-bbb. Remimazolam.

ccc. Suvorexant.

aaa-ddd. Temazepam.

bbb-eee. Tetrazepam.

eee-fff. Triazolam.

ddd-ggg. Zaleplon.

eee-hhh. Zolpidem.

fff-iii. Zopiclone.

5. Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.
6. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity

of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- a. Cathine.
 - b. Diethylpropion.
 - c. Fencamfamin.
 - d. Fenproporex.
 - e. Mazindol.
 - f. Mefenorex.
 - g. Modafinil.
 - h. Pemoline (including organometallic complexes and chelates thereof).
 - i. Phentermine.
 - j. Pipradrol.
 - k. Sibutramine.
 - l. Solriamfetol.
 - m. SPA ((-)-1-dimethylamino-1, 2-diphenylethane).
7. Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of:
- a. Pentazocine, including its salts.
 - b. Butorphanol, including its optical isomers.
 - c. Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1*H*-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers.
8. The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection 2 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 5. AMENDMENT. Section 19-03.1-13 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-13. Schedule V.

1. The controlled substances listed in this section are included in schedule V.
2. Schedule V consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts.
4. Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which includes one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone.
 - a. Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
 - b. Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
 - c. Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
 - d. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
 - e. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
 - f. Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
5. Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible:
 - a. Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (also referred to as BRV; UCB-34714; Briviact) (including its salts).
 - b. Cenobamate [(1R)-1-(2-chlorophenyl)-2-(tetrazol-2-yl)ethyl] carbamate; 2H-tetrazole-2-ethanol, alpha-(2-chlorophenyl)-, carbamate (ester), (alphaR)-; carbamic acid (R)-(+)-1-(2-chlorophenyl)-2-(2H-tetrazol-2-yl)ethyl ester).
 - c. Ezogabine N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester.
 - e.d. Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide].

- ~~d.e.~~ Lasmiditan [2,4,6-trifluoro-N-(6-(1-methylpiperidine-4-carbonyl)pyridine-2-yl)-benzamide].
 - f. Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].
 - ~~e.~~ ~~Approved cannabidiol drugs. A drug product in finished dosage formulation that has been approved by the federal food and drug administration, which contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent weight for weight residual tetrahydrocannabinols.~~
 - f.g. Gabapentin [2-[1-(aminomethyl) cyclohexyl] acetic acid].
6. Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers: Pyrovalerone.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 174

SENATE BILL NO. 2273

(Senators J. Roers, Dwyer, Larson)
(Representatives Ista, Roers Jones)

AN ACT to amend and reenact section 19-03.1-22.1 of the North Dakota Century Code, relating to the inhalation of vapors; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-22.1 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-22.1. Volatile chemicals - Inhalation of vapors prohibited - Definitions - Penalty.

1. An individual is guilty of a class B misdemeanor if that individual intentionally inhales the vapors of a volatile chemical in a manner designed to affect the individual's central nervous system; to create or induce a condition of intoxication, hallucination, or elation; or to distort, disturb, or change the individual's eyesight, thinking processes, balance, or coordination. An individual is guilty of a class A misdemeanor if that individual violates this section for a third or subsequent offense within one year of the first offense. For a third or subsequent offense, the sentence must include an order for an addiction evaluation by, and compliance with recommendations from, an appropriate licensed addiction treatment program.
2. This section does not apply to inhalations specifically prescribed for medical, dental, or optometric treatment purposes or to controlled substances described in this chapter. For the purposes of this section, "volatile chemical" includes the following chemicals or their isomers:
 - 1-a. Acetone.
 - 2-b. Aliphatic hydrocarbons.
 - 3-c. Amyl nitrite.
 - 4-d. Butane.
 - 5-e. Butyl nitrite.
 - 6-f. Carbon tetrachloride.
 - 7-g. Chlorinated hydrocarbons.
 - 8-h. Chlorofluorocarbons.
 - 9-i. Chloroform.
 - 10-j. Cyclohexane.

- 41-k. Diethyl ether.
- 42-l. Ethyl acetate.
- 43-m. Fluorocarbon.
- 44-n. Glycol ether inter solvent.
- 45-o. Glycol ether solvent.
- 46-p. Hexane.
- 47-q. Ketone solvent.
- 48-r. Methanol.
- 49-s. Methyl cellosolve acetate.
- 20-t. Methyl ethyl ketone.
- 21-u. Methyl isobutyl ketone.
- 22-v. Nitrous oxide.
- 23-w. Petroleum distillate.
- 24-x. Toluene.
- 25-y. Trichloroethane.
- 26-z. Trichloroethylene.
- 27-aa. Xylol or xylene.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 175

SENATE BILL NO. 2283

(Senators Meyer, Larson)
(Representative Cory)

AN ACT to create and enact a new subsection to section 12-63-04 of the North Dakota Century Code, relating to duties of the attorney general; and to amend and reenact section 12-60-17, subsection 1 of section 19-03.1-23, subsection 1 of section 19-03.1-23.1, section 29-04-02, subdivision c of subsection 5 of section 53-06.1-06, section 53-12.1-12, and subsection 1 of section 54-12-34 of the North Dakota Century Code, relating to duties of the attorney general and the prosecution of a felony.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-60-17 of the North Dakota Century Code is amended and reenacted as follows:

12-60-17. Superintendent to make rules and regulations.

The superintendent, pursuant to chapter 28-32, shall make and promulgate such rules and regulations, not inconsistent with the provisions of this chapter, as may be necessary and proper for the efficient performance of the bureau's duties. Such rules and regulations must be ~~printed and~~ forwarded to each state's attorney, sheriff, marshal, or other peace officer, and each of said officers shall assist the superintendent in the performance of the superintendent's duties by complying with such rules and regulations.

SECTION 2. A new subsection to section 12-63-04 of the North Dakota Century Code is created and enacted as follows:

The board may issue certifications indicating whether law enforcement agencies comply with requirements for grant funding purposes.

¹¹³ **SECTION 3. AMENDMENT.** Subsection 1 of section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:
 - a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.

¹¹³ Section 19-03.1-23 was also amended by section 5 of House Bill No. 1213, chapter 172, section 2 of Senate Bill No. 2246, chapter 110, and section 2 of Senate Bill No. 2264, chapter 176.

- b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog, except marijuana is guilty of a class B felony.
- c. AMarijuana or a substance classified in schedule IV, is guilty of a class C felony.
- d. A substance classified in schedule V, is guilty of a class A misdemeanor.

¹¹⁴ **SECTION 4. AMENDMENT.** Subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:
 - a. The offense was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of the real property comprising a preschool facility, a public or private elementary or secondary school, or a public career and technical education school, the defendant was at least twenty-one years of age at the time of the offense, and the offense involved the delivery of a controlled substance to a minor;
 - b. The offense involved:
 - (1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;
 - (2) Fifty grams or more of a mixture or substance containing a detectable amount of:
 - (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - (d) Any compound, mixture, or preparation that contains any quantity of any of the substance referred to in subparagraphs a through c;
 - (3) Twenty-eight grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;
 - (4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;

¹¹⁴ Section 19-03.1-23.1 was also amended by section 1 of House Bill No. 1287, chapter 177.

- (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
 - (6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten grams or more of a mixture or substance containing a detectable amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
 - (7) Fifty grams or more of a mixture or substance containing a detectable amount of methamphetamine;
 - (8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of 3,4-methylenedioxy-N-methylamphetamine, C₁₁H₁₅NO₂;
 - (9) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of gamma-hydroxybutyrate or gamma-butyrolactone or 1,4 butanediol or any substance that is an analog of gamma-hydroxybutyrate; or
 - (10) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of flunitrazepam; or
 - (11) ~~Five hundred grams or more of marijuana; or~~
- c. The defendant had a firearm in the defendant's actual possession at the time of the offense.

SECTION 5. AMENDMENT. Section 29-04-02 of the North Dakota Century Code is amended and reenacted as follows:

29-04-02. Prosecution for felony other than murder within three years.

Except as otherwise provided by law, a prosecution for any felony other than murder must be commenced within three years after its commission. Prosecution of felony offenses under chapter 12.1-23 or 50-24.8 must be commenced within the later of three years of commission of the last act that is an element of the offense, three years of discovery of the stolen property, or three years of discovery of the loss of the property or services. Nothing in this section prevents a person prosecuted for murder from being found guilty of any included offense and punished accordingly.

SECTION 6. AMENDMENT. Subdivision c of subsection 5 of section 53-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

- c. Unless an employee is exempt by the gaming rules or attorney general, the attorney general shall conduct a criminal history record check of each employee of a licensed organization or distributor and charge a fee prescribed by section 12-60-16.9. The fee may be waived by the attorney general if a federal agency or local law enforcement agency has done a record check. The attorney general may require advance payment of any additional fee necessary to pay the cost of a record check of a person for whom adequate background information sources are not readily available. The advance payment must be placed in the attorney general's refund fund. The unused funds must be returned to the person within thirty days

of the conclusion of the record check. Unless a federal or local law enforcement agency conducts the record check, the attorney general shall notify the organization or distributor ~~and person~~ of the result. The attorney general shall keep the information confidential except in the proper administration of this chapter or any gaming rule or to provide to an authorized law enforcement agency.

¹¹⁵ **SECTION 7. AMENDMENT.** Section 53-12.1-12 of the North Dakota Century Code is amended and reenacted as follows:

53-12.1-12. Setoff of prize.

1. A claimant agency and the director shall cooperate on the setoff of a winning lottery ticket or promotional cash prize against a delinquent debt. A claimant agency is an agency of the state of North Dakota that an individual owes money to or that collects money on behalf of another party to satisfy a debt. The claimant agency and director shall share necessary information, including the individual's full name, social security number, and amount and type of debt, through a mutually convenient method to timely achieve a setoff of a prize.
2. The director shall establish a debt setoff process in which a lottery prize claim of an amount equal to or greater than six hundred dollars must be used to set off a delinquent debt owed to or collected through a claimant agency. If the lottery prize claim is paid through an annuitized payment option, each prize payment must be used to set off a delinquent debt owed to or collected through a claimant agency.
3. If the director determines that a winning player owes a delinquent debt to or has a delinquent debt collected through a claimant agency, the director shall set off the amount of the debt from the prize payment due and notify the player, in writing, of the setoff. If the setoff accounts for only a portion of the prize payment due, the remainder of the prize payment must be paid to the player. The director shall transfer the setoff amount to the claimant agency unless the player notifies the director, in writing, within thirty days of the date of the notice of the setoff, that the player disputes all or part of the debt owed to or collected through the claimant agency. If the director receives a notification that the player disputes the setoff amount or claim upon which the setoff is based, the director shall grant a hearing to the player to determine whether the setoff is proper or the claim is valid, unless a review by a court is authorized under section 50-09-14. At a hearing, no issue may be reconsidered that the player has or could have previously litigated in a court or administrative proceeding.
4. The lottery is discharged of all further liability for the amount of any debt setoff paid to a claimant agency.
5. If two or more claimant agencies have delinquent accounts for the same player, the director shall apportion the prize payment equally among them. However, a setoff to the department of human services for child support payments has priority over all other setoffs.

¹¹⁵ Section 53-12.1-12 was also amended by section 483 of House Bill No. 1247, chapter 352.

6. If the prize payment is insufficient to satisfy the entire debt, the remainder of the debt may be collected by a claimant agency as provided by law or rule and resubmitted for setoff against any other prize payment awarded.
7. If two or more claimant agencies make adverse claims to all or a part of a prize payment, upon receipt of written notice from the claimant agencies setting forth their claims, the director may deposit, in accordance with section 32-11-02, the contested amount of the prize payment with the clerk of court in the district in which an action pertaining to the contested amount is pending or with a court-authorized depository. If one of the claims is for child support, the director shall transfer the setoff amount to the state disbursement unit before depositing any remaining prize payment or award. Any review of this transfer to the state disbursement unit must be done pursuant to section 50-09-14. Upon making the deposit or transfer, the state and its officials and employees are discharged and relieved from further liability to any individual or claimant agency related to the prize payment.

¹¹⁶ **SECTION 8. AMENDMENT.** Subsection 1 of section 54-12-34 of the North Dakota Century Code is amended and reenacted as follows:

1. The attorney general shall maintain a criminal justice data information sharing system within the bureau of criminal investigation for the exchange of criminal justice data information by judicial, law enforcement, and emergency services agencies, and the department of transportation. Only an authorized individual employed by a criminal justice agency as defined in section 12-60-16.1, the department of transportation, a state court, or the department of emergency services or any other individual approved by the attorney general or the attorney general's designee may access the system. ~~To be eligible for~~For access to the criminal justice data information sharing system, an individual shall undergo a criminal history background check, including a fingerprint check, and meet eligibility access criteria in accordance with the rules adopted under this section.

Approved April 1, 2021

Filed April 1, 2021

¹¹⁶ Section 54-12-34 was also amended by section 42 of House Bill No. 1035, chapter 245.

CHAPTER 176

SENATE BILL NO. 2264

(Senators Wanzek, Myrdal)
(Representatives Klemm, Satrom)

AN ACT to create and enact a new subsection to section 19-03.1-23 of the North Dakota Century Code, relating to penalties for the possession of marijuana by an individual under the age of twenty-one; and to amend and reenact section 5-01-08 of the North Dakota Century Code, relating to prohibiting an individual under the age of twenty-one from using alcoholic beverages; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁷ **SECTION 1. AMENDMENT.** Section 5-01-08 of the North Dakota Century Code is amended and reenacted as follows:

5-01-08. Individuals under twenty-one years of age prohibited from using alcoholic beverages or entering licensed premises - Penalty.

1. Except as permitted in this section and section 5-02-06, an individual under twenty-one years of age may not manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed other than during a religious service, be under the influence of, be in possession of, or furnish money to any individual for the purchase of an alcoholic beverage.
2. An individual under twenty-one years of age may not enter any licensed premises where alcoholic beverages are being sold or displayed, except:
 - a. A restaurant if accompanied by a parent or legal guardian;
 - b. In accordance with section 5-02-06;
 - c. If the individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages;
 - d. If the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or
 - e. If the individual enters the premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority.
3. A violation of this section is a class B misdemeanor. For a violation of subsection 1 or 2, the court also ~~shall~~may sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of human services under section 50-06-44. For a

¹¹⁷ Section 5-01-08 was also amended by section 1 of House Bill No. 1124, chapter 69, section 1 of House Bill No. 1223, chapter 70, and section 2 of House Bill No. 1247, chapter 352.

second or subsequent violation of subsection 1 or 2, the court also shall sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of human services under section 50-06-44.

4. The court, under this section, may refer the individual to an outpatient addiction facility licensed by the department of human services for evaluation and appropriate counseling or treatment.
5. The offense of consumption occurs in the county of consumption or the county where the offender is arrested.
6. An individual under twenty-one years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals that may be immune for any one occurrence is five individuals.

¹¹⁸ **SECTION 2.** A new subsection to section 19-03.1-23 of the North Dakota Century Code is created and enacted as follows:

If an individual under the age of twenty-one pleads guilty or is found guilty of a first offense regarding possession of one-half ounce [14.175 grams] or less of marijuana, the court also may sentence the individual to an evidence-based alcohol and drug education program operated under rules adopted by the department of human services under section 50-06-44. For a second or subsequent offense regarding possession of one-half ounce [14.175 grams] or less of marijuana, the court also shall sentence the individual to an evidence-based alcohol and drug education program operated under rules adopted by the department of human services under section 50-06-44.

Approved March 31, 2021

Filed April 1, 2021

¹¹⁸ Section 19-03.1-23 was also amended by section 5 of House Bill No. 1213, chapter 172, section 2 of Senate Bill No. 2246, chapter 110, and section 3 of Senate Bill No. 2283, chapter 175.

CHAPTER 177

HOUSE BILL NO. 1287

(Representatives K. Koppelman, Jones, Klemin, Satrom)

AN ACT to create and enact subdivision d to subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code, relating to an enhanced penalty for the death of an individual as a result of a drug overdose; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁹ **SECTION 1.** Subdivision d of subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code is created and enacted as follows:

- d. The defendant sells, distributes, delivers, or conspires to deliver a controlled substance to an individual which results in the death of the individual due to the use of that controlled substance and the death of the individual would not have occurred in the absence of the defendant's conduct. This subdivision does not apply to an individual who is immune from prosecution under section 19-03.1-23.4.

Approved March 31, 2021

Filed April 1, 2021

¹¹⁹ Section 19-03.1-23.1 was also amended by section 4 of Senate Bill No. 2283, chapter 175.

CHAPTER 178

HOUSE BILL NO. 1480

(Representatives Satrom, Karls, K. Koppelman)
(Senators Larson, Luick)

AN ACT to amend and reenact section 19-03.1-36.8 of the North Dakota Century Code, relating to seizure and forfeiture reporting requirements and property exempt from seizure and forfeiture.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-36.8 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-36.8. Reporting.

1. As used in this section, "law enforcement agency" means a nonfederal public agency authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law, including the authority to conduct or engage in seizure and forfeiture of property or to collaborate with a federal agency under federal law to conduct or engage in seizure and forfeiture of property. The term includes a multijurisdictional task force.
2. Every civil forfeiture judgment issued by a district court must be made publicly available and include the following information in the findings of fact:
 - a. Case number of the forfeiture proceeding and the district court where the case was filed.
 - b. Location of the seizure, including whether the location was a residence or business or occurred during a traffic stop.
 - c. The crime with which the suspect was charged.
 - d. The disposition of the suspect's criminal case.
 - e. Who filed a claim or counterclaim for the seized property, if ~~any~~ whether there was a default in the litigation of the seized property.
 - e.f. Date the forfeiture order was issued.
 - d.g. Whether a forfeiture settlement agreement was reached.
 - e.h. The date and the final disposition of the property.
 - f.i. Estimated value of the forfeited property.
 - g.j. Estimate of the total costs accrued by the law enforcement agency for storage and disposal of the civilly forfeited property.

- h-k. Amount of any attorney fees awarded to owners of seized and forfeited property.
3. ~~Annually, a prosecutor who litigates the criminal case and forfeiture proceeding any law enforcement agency that seizes property shall provide to the attorney general a copy of the judgment that includes the information required under subsection 2~~completed civil asset forfeiture case report form for every seizure and the total value of the forfeited property held by the agency at the end of the reporting period.
 4. By November first of each year, the attorney general shall submit to the legislative management and the governor a written report summarizing activity in the state for the preceding fiscal year, the type, approximate value, and disposition of any civilly forfeited property, and the amount of proceeds received.
 - a. Summary data and civilly forfeited property must be disaggregated by agency.
 - b. The attorney general shall make the report available on the attorney general's website.
 - c. The report must include the case reports provided by the law enforcement agencies.
 5. The attorney general may recover any costs under this section by withdrawing money from the asset forfeiture fund.
 6. A law enforcement agency may use forfeiture proceeds to pay the costs of compiling and reporting data under this section.
 7. The data and reports compiled under this section are public information and not exempt from disclosure.
 8. The attorney general may require the reporting of additional information not specified in this section. The attorney general shall develop standard forms, processes, and deadlines for annual submission of forfeiture data by law enforcement agencies.
 9. If a law enforcement agency fails to file a report within thirty days after the report is due, the attorney general may compel compliance by any means until the report is filed.
 10. Any property seized with a value of less than fifty dollars is not required to be included in the written report submitted by the attorney general.
 11. A state's attorney may establish a minimum value amount for seizures in the interests of justice and efficient use of governmental resources in the state's attorney's jurisdiction. The minimum value amount may be based on the state's attorney's determination of the:
 - a. Type and number of occurrences of offenses that include the seizure of property; and

- b. Average value of seized property less the costs to seize and forfeit the property.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 179

SENATE BILL NO. 2294

(Senator Anderson)
(Representative Dockter)

AN ACT to amend and reenact subsection 1 of section 19-03.4-08 of the North Dakota Century Code, relating to the sale of scheduled listed chemical products.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 19-03.4-08 of the North Dakota Century Code is amended and reenacted as follows:

1. The retail sale of scheduled listed chemical products is limited to:
 - a. Sales in packages containing not more than a total of two and four-tenths grams of one or more scheduled listed chemical products, calculated in terms of ephedrine base, pseudoephedrine base, and phenylpropanolamine base; and
 - b. Sales in blister packs, each blister containing not more than two dosage units, or when the use of blister packs is technically infeasible, sales in unit dose packets or pouches.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 180

HOUSE BILL NO. 1359

(Representatives M. Ruby, Christensen, Cory, Dobervich, B. Koppelman, M. Nelson, O'Brien, Vetter)
(Senators Hogan, O. Larsen, Meyer, K. Roers)

AN ACT to create and enact a new subsection to section 19-24.1-05 of the North Dakota Century Code, relating to medical marijuana designated caregivers; to amend and reenact subsection 2 of section 19-24.1-04 and section 19-24.1-38 of the North Dakota Century Code, relating to medical marijuana designated caregivers and the medical marijuana advisory board; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁰ **SECTION 1. AMENDMENT.** Subsection 2 of section 19-24.1-04 of the North Dakota Century Code is amended and reenacted as follows:

2. A designated caregiver application is complete and eligible for review if an applicant submits to the department all of the following:
 - a. ~~A nonrefundable annual application fee in the amount of fifty dollars.~~
 - b. An original designated caregiver application for a registry identification card form established by the department which must include all of the following:
 - (1) A photographic copy of the applicant's North Dakota identification. The North Dakota identification must be available for inspection and verification upon request of the department.
 - (2) The name, address, telephone number, and date of birth of the qualifying patient.
 - (3) The name, address, and telephone number of the applicant.
 - (4) The applicant's signature and the date.
 - (5) A disclosure that possession of a firearm by a person who possesses marijuana may be a violation of federal law.
 - e-b. An original designated caregiver authorization form established by the department which must be executed by a registered qualifying patient providing the designated caregiver applicant with the responsibility of managing the well-being of the registered qualifying patient with respect to the registered qualifying patient's medical use of marijuana. The form must include:

¹²⁰ Section 19-24.1-04 was also amended by section 11 of House Bill No. 1213, chapter 172.

- (1) The name and date of birth of the designated caregiver applicant; and
 - (2) The registered qualifying patient's signature and the date.
- d-c. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the applicant.
- e-d. Any other information or material required by the department by rule.

SECTION 2. A new subsection to section 19-24.1-05 of the North Dakota Century Code is created and enacted as follows:

A registered qualifying patient may have no more than five registered designated caregivers.

SECTION 3. AMENDMENT. Section 19-24.1-38 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-38. Advisory board.

1. The governor shall appoint six members to serve on an advisory board ~~that as follows:~~
 - a. One health care provider;
 - b. One representative of the department;
 - c. One representative of the manufacturing facilities;
 - d. One representative of the dispensaries;
 - e. One registered qualifying patient; and
 - f. One licensed pharmacist.
2. The chairman of the legislative management shall appoint two members of the legislative assembly to serve on the advisory board, one member from each chamber. The legislative council shall pay the compensation and expense reimbursement for the legislative members. The terms of members of the appointed advisory board are for two years and members may be reappointed by the appointing entity. The state health officer shall serve as an ex officio voting member and as chairman of the advisory board.
3. The advisory board:
 - a. Shall advise the department in implementation of the medical marijuana program.
 - b. May receive reports from the department on the status and activities of the medical marijuana program.
 - c. May provide recommendations to the department and the legislative management on the medical marijuana program.
2. ~~The state health officer shall serve as an ex officio voting member and as chairman of the advisory board.~~

SECTION 4. APPLICATION. The governor shall implement the membership of the medical marijuana advisory board on the effective date of this Act.

Approved April 1, 2021

Filed April 1, 2021

GAME, FISH, PREDATORS, AND BOATING

CHAPTER 181

HOUSE BILL NO. 1411

(Representatives Tveit, Beltz, Fegley)
(Senators Patten, Bell)

AN ACT to amend and reenact section 20.1-01-08 of the North Dakota Century Code, relating to hunting at night; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-01-08 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-08. Hunting with artificial light prohibited - Exception.

It is unlawful for an individual to pursue, shoot, kill, take, or attempt to take any wildlife between sunset of one day and sunrise of the next, with the aid of a spotlight or any other artificial light except:

1. ~~An~~At any time throughout the year, an individual or the individual's agent may use a lantern, spotlight, night vision, thermal vision, infrared light, or other artificial light to assist the individual in pursuing and shooting on the individual's premises any coyote, fox, skunk, mink, raccoon, beaver, weasel, rabbit, or other predatory animal ~~attacking~~ and attempting to destroy the individual's poultry, livestock, or other property; and
2. An individual may use an artificial light, night vision, thermal vision, or infrared light with a power source of not more than six volts while hunting afoot for coyote, fox, raccoon, or beaver during the open season on the animal. The artificial light must produce a red, green, or amber color when used in the hunting of coyote, fox, raccoon, or beaver, except when taking a raccoon treed or at bay.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 182

SENATE BILL NO. 2144

(Senators Erbele, Patten, Bell)
(Representatives Damschen, Dobervich, Tveit)

AN ACT to amend and reenact sections 12.1-22-03 and 20.1-01-17 of the North Dakota Century Code, relating to criminal trespass and electronic posting; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-22-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-22-03. Criminal trespass - Noncriminal offense on posted property.

1. An individual is guilty of a class C felony if, knowing ~~that that the~~ individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
2. An individual is guilty of a class A misdemeanor if, knowing ~~that that the~~ individual is not licensed or privileged to do so, the individual:
 - a. Enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; or
 - b. Enters or remains in any place so enclosed by a fence or otherwise enclosed as manifestly to exclude intruders, unless the individual is a licensed hunter or angler who is lawfully hunting or fishing. For purposes of this subdivision, "fence" means a permanent structure on nonurban, private property which is maintained and capable of containing livestock.
3.
 - a. An individual is guilty of a class B misdemeanor if, knowing ~~that that the~~ individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the ~~individual in charge of the premises or other authorized individual~~ owner or an individual authorized by the owner or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.
 - b. Even if the conduct of the owner, ~~tenant,~~ or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, ~~tenant,~~ or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.
 - c. An individual who violates subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.

4. a. ~~An~~A peace officer may cite an individual who, knowing the individual is not licensed or privileged to do so, may not enter or remain entered or remained in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders. A violation of this subdivision is or a place enclosed by a fence as defined in subsection 2, with a noncriminal offense. An individual cited under this subsection may not be prosecuted under subsection 2 or 3 for the same offense.
 - b. ~~A peace officer shall cite an individual who violates subdivision a with a~~The fine for a citation under subdivision a is two hundred fifty dollars for each violation.
 - c. The peace officer citing the individual shall:
 - (1) Take the name and address of the individual; and
 - (2) Notify the individual of the right to request a hearing if posting bond by mail.
 - d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.
 - e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
 - f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
 - g. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the individual is deemed to have admitted to the violation and to have waived the right to a hearing on the issue of commission of the violation. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.
 - h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond.
 - i. A citing peace officer may not receive the statutory fine or bond.
 - j. The bond required to secure appearance before the judge must be identical to the statutory fine established in subdivision b.
5. An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by a duly authorized individual. An individual who violates this subsection is guilty of a

class A misdemeanor for the second or subsequent offense within a two-year period.

6. This section does not apply to a peace officer in the course of discharging the peace officer's official duties.

SECTION 2. AMENDMENT. Section 20.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs defaced.

1. Only the owner ~~or tenant~~ or an individual authorized by the owner of land may post the land ~~by placing. To post the land, an individual shall:~~
 - a. ~~Place~~ signs alongside the public highway or the land giving notice that hunting is not permitted on the land. The name of the person posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land; or
 - b. Designate the land as posted or closed to hunting in an online database or other electronic application maintained or authorized by the state and available to the public which identifies whether land is available to hunters. The name of the person posting the land electronically must be visible to users of the online database or electronic application.
2. A person may not deface, take down, destroy posting signs, or post property without the permission of the owner ~~or tenant~~ or an individual authorized by the owner.
3. Even if the conduct of the owner, ~~tenant~~, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, ~~tenant~~, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances.

Approved April 28, 2021

Filed April 28, 2021

CHAPTER 183

HOUSE BILL NO. 1113

(Representatives Thomas, Brandenburg, J. Nelson)
(Senator Klein)

AN ACT to create and enact a new section to chapter 20.1-01 of the North Dakota Century Code, relating to obtaining a landowner's permission before baiting; to amend and reenact subsection 3 of section 12.1-31-14 of the North Dakota Century Code, relating to trail cameras; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 12.1-31-14 of the North Dakota Century Code is amended and reenacted as follows:

3. An individual is guilty of an infraction if the individual enters upon another's property and installs any device for observing, recording, or photographing wildlife while the owner of the device is absent unless:
 - a. ~~Without~~The individual has written permission from the owner or occupant an individual authorized by the owner of the property; ~~or~~and
 - b. ~~If the~~The device does not have has a permanently affixed metal or plastic tag with a registration number issued by the game and fish department, or the individual's name, address, and telephone number.

SECTION 2. A new section to chapter 20.1-01 of the North Dakota Century Code is created and enacted as follows:

Permission required for baiting - Penalty.

Without permission from the owner or an individual authorized by the owner of the property, an individual may not enter upon another person's property and intentionally place bait to attract or manipulate the behavior of wildlife. An individual's first violation of this section is a class 1 noncriminal offense. An individual's second or subsequent violation of this section is an infraction for which a fine of two hundred fifty dollars must be imposed.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 184

HOUSE BILL NO. 1074

(Energy and Natural Resources Committee)
(At the request of the Game and Fish Department)

AN ACT to amend and reenact section 20.1-02-09 of the North Dakota Century Code, relating to records kept and reports made by the chief game warden.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-02-09 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-09. Supervision of chief game warden by director - Records - Reports.

The chief game warden is under the direct control and supervision of the director and shall make monthly and annual reports to the director in a manner required by the director. The chief game warden shall keep a complete and correct record, in a ~~book provided for that purpose~~format authorized by the director, of all ~~that person's~~the chief game warden's transactions and of the name of each person violating the game and fish laws; ~~the date of that person's arrest, if applicable;~~ the amount of the fine and costs imposed upon and paid by each person; and the name of the judge before whom that person appeared. The record ~~book~~, when requested, must be open to inspection by the public. The chief game warden shall make a full report to the director within thirty days after the end of each ~~fiscal~~calendar year.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 185

HOUSE BILL NO. 1242

(Representatives Nehring, Porter)

AN ACT to amend and reenact section 20.1-03-01.5 of the North Dakota Century Code, relating to apprentice hunter validation; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-03-01.5 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-01.5. Apprentice hunter validation.

1. An individual born after December 31, 1961, who is twelve years of age or older, and who does not possess a hunter safety education course certificate of completion may be issued an apprentice hunter validation. An Except as provided in subsection 2, an apprentice hunter validation is valid for only one license year in a lifetime. An individual in possession of an apprentice hunter validation may hunt small game and deer only when accompanied by an adult licensed to hunt in this state whose license was not obtained using an apprentice hunter validation. An apprentice hunter validation holder must obtain all required licenses and stamps. For purposes of this section, "accompanied" means to stay within a distance of another individual that permits uninterrupted visual contact in unaided verbal communication.
2. An individual who was issued an apprentice hunter validation for the 2020-21 license year may receive another apprentice hunter validation for one additional license year in the individual's lifetime.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 186

HOUSE BILL NO. 1218

(Representatives Porter, D. Anderson, Damschen, Lefor, M. Ruby)
(Senators Patten, Bell)

AN ACT to amend and reenact section 20.1-08-04.9 of the North Dakota Century Code, relating to hunting by nonresidents who own land in North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-08-04.9 of the North Dakota Century Code is amended and reenacted as follows:

20.1-08-04.9. Small game proclamation - Pheasants.

The

1. Except as provided in subsection 2, the governor, in the governor's proclamation, shall prohibit a nonresident from hunting for the first seven days of the pheasant season on land owned or private land enrolled by the department for the purposes of hunting or on land for which the department pays in lieu of tax payments.
2. A nonresident with a valid hunting license may hunt during the first seven days of the pheasant season if:
 - a. The nonresident is a participating landowner whose property is enrolled in this state's private land open to sportsmen program; and
 - b. The nonresident hunts on the nonresident's property enrolled in the private land open to sportsmen program.

Approved March 23, 2021

Filed March 24, 2021

GOVERNMENTAL FINANCE

CHAPTER 187

HOUSE BILL NO. 1116

(Representatives Klemin, Heinert)
(Senators Bekkedahl, Patten)

AN ACT to amend and reenact subsection 6 of section 21-03-07 and sections 57-15-06.6 and 57-47-02 of the North Dakota Century Code, relating to the issuance of general obligation bonds and the authorized uses of the county capital projects levy; to provide an effective date; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 21-03-07 of the North Dakota Century Code is amended and reenacted as follows:

6. The governing body of any county may also by resolution adopted by a two-thirds vote dedicate the tax levies authorized by section 57-15-06.6 and subsection 5 of section 57-15-06.7 and may authorize and issue general obligation bonds to be paid by the dedicated levy for the purpose of providing funds for the purchase, construction, reconstruction, or repair of regional or county correction centers, or parks and recreational facilities purposes identified under section 57-15-06.6 and subsection 5 of section 57-15-06.7; provided, that the initial resolution authorizing the tax levy dedication and general obligation bonds must be published in the official newspaper, and any owner of taxable property within the county may, within sixty days after publication, file with the county auditor a protest against the adoption of the resolution. Protests must be in writing and must describe the property which is the subject of the protest. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the county, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

SECTION 2. AMENDMENT. Section 57-15-06.6 of the North Dakota Century Code is amended and reenacted as follows:

57-15-06.6. County capital projects levy.

1. The board of county commissioners of each county may levy an annual tax not exceeding ten mills plus any voter-approved additional levy as provided in subsection 8 of section 57-15-06.7 for the purpose of the following capital projects:
 4. a. Constructing and, equipping, and maintaining structural and mechanical components of regional or county corrections centers or for the purpose of

contracting for corrections center space capacity from another public or private entity.

2. b. Acquiring real estate as a site for public parks and construction and equipping, and maintaining structural and mechanical components of recreational facilities under section 11-28-06.
3. c. Acquiring real estate as a site for county buildings and operations and constructing and equipping, and maintaining structural and mechanical components of county buildings and property.
4. d. Acquiring real estate as a site for county fair buildings and operations and constructing and equipping, and maintaining structural and mechanical components of county fair buildings and property as provided in section 4-02-26.
5. e. Acquiring and developing real estate, capital improvements, buildings, pavement, equipment, and debt service associated with financing for county supported airports or airport authorities.
6. f. Expenditures for the cost of leasing as an alternative means of financing for any of the purposes for which expenditures are authorized under ~~subsections 1~~subdivisions a through 5e.
- g. Improvement of the county road system, including the acquisition of land; construction of new paved and unpaved roads, bridges, or public places; replacement of existing paved and unpaved roads, bridges, or public places; and maintenance and repair of existing paved and unpaved roads, bridges, or public places.
2. Any voter-approved levy for the purposes specified in this section approved by the electors before January 1, 2015, remains effective through 2024 or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved. After January 1, 2015, approval or reauthorization by electors of increased levy authority under this section may not be effective for more than ten taxable years.

¹²¹ **SECTION 3. AMENDMENT.** Section 57-47-02 of the North Dakota Century Code is amended and reenacted as follows:

57-47-02. County authorized to borrow - Term - Interest rate.

Whenever in the judgment of the board of county commissioners all taxes authorized to be levied in any one year for general or special county purposes are insufficient to carry on the primary governmental functions, or to pay the mandatory obligations imposed by law upon a county, then such a county may borrow money in such an amount as the board ~~shall determine to be~~determines necessary to meet the deficiencies existing in its general or special funds, or to carry on primary governmental functions, and to pay mandatory obligations. For the purpose of borrowing, a county may issue evidences of indebtedness, which must consist of an agreement by the county to pay a stated sum on a specified date, or on or before a specified date, not more than five years in the future, or twenty years for loans issued

¹²¹ Section 57-47-02 was also amended by section 4 of House Bill No. 1116, chapter 187.

under section 6-09-49, together with interest thereon at a rate or rates resulting in an average annual net interest cost not to exceed twelve percent per annum if sold privately, or with no interest rate ceiling if sold at a public sale or to the state of North Dakota or any of its agencies or instrumentalities. A public sale must comply with the procedures set out in chapter 21-03. There is no requirement for an advertisement for bids if an evidence of indebtedness is sold privately or to the state of North Dakota or any of its agencies or instrumentalities.

¹²² **SECTION 4. AMENDMENT.** Section 57-47-02 of the North Dakota Century Code is amended and reenacted as follows:

57-47-02. County authorized to borrow - Term - Interest rate.

Whenever in the judgment of the board of county commissioners all taxes authorized to be levied in any one year for general or special county purposes are insufficient to carry on the primary governmental functions, or to pay the mandatory obligations imposed by law upon a county, then such a county may borrow money in an amount the board determines necessary to meet the deficiencies existing in its general or special funds, or to carry on primary governmental functions, and to pay mandatory obligations. For the purpose of borrowing, a county may issue evidences of indebtedness, which must consist of an agreement by the county to pay a stated sum on a specified date, or on or before a specified date, not more than five years in the future, or twenty years for loans issued under section 6-09-49 or 6-09-49.1, together with interest at a rate or rates resulting in an average annual net interest cost not to exceed twelve percent per annum if sold privately, or with no interest rate ceiling if sold at a public sale or to the state of North Dakota or any of its agencies or instrumentalities. A public sale must comply with the procedures set out in chapter 21-03. There is no requirement for an advertisement for bids if an evidence of indebtedness is sold privately or to the state of North Dakota or any of its agencies or instrumentalities.

SECTION 5. EFFECTIVE DATE. Sections 2 and 3 of this Act are effective for taxable years beginning after December 31, 2020.

SECTION 6. CONTINGENT EFFECTIVE DATE. Section 4 of this Act is effective at the time provided in Section 5 of this Act if section 6-09-49.1, as created by House Bill No. 1425, is approved by the sixty-seventh legislative assembly.

Approved April 22, 2021

Filed April 23, 2021

¹²² Section 57-47-02 was also amended by section 3 of House Bill No. 1116, chapter 187.

CHAPTER 188

HOUSE BILL NO. 1380

(Representatives Lefor, Bosch, Dockter, Headland, Howe, Nathe, Porter, M. Ruby, Steiner)

(Senators Patten, Sorvaag, Wardner)

AN ACT to create and enact a new section to chapter 6-09.4 and a new section to chapter 21-10 of the North Dakota Century Code, relating to a legacy sinking and interest fund and a legacy earnings fund; to amend and reenact subsection 1 of section 21-10-06 and section 21-10-12 of the North Dakota Century Code, relating to funds invested by the state investment board and legacy fund definitions; to repeal House Bill No. 1038, as approved by the sixty-seventh legislative assembly, relating to a legislative management legacy fund earnings committee; to provide for a transfer; to create a legislative management legacy fund earnings committee; to provide a statement of legislative intent; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-09.4 of the North Dakota Century Code is created and enacted as follows:

Legacy sinking and interest fund - Debt service requirements - Public finance authority.

There is created in the state treasury the legacy sinking and interest fund. The fund consists of all moneys deposited in the fund under section 3 of this Act. Moneys in the fund may be spent by the public finance authority pursuant to legislative appropriations to meet the debt service requirements for evidences of indebtedness issued by the authority for transfer to the Bank of North Dakota for allocations to infrastructure projects and programs. Any moneys in the fund in excess of the amounts appropriated from the fund to meet the debt service requirements for a biennium must be transferred by the state treasurer to the public employees retirement system main system plan under chapter 54-52, but only if the public employees retirement system main system plan's actuarial funded ratio as reported for the most recently completed even-numbered fiscal year is less than ninety percent. If the public employees retirement system main system plan's actuarial funded ratio is ninety percent or more and then subsequently decreases below ninety percent, the state treasurer may not resume the transfers under this subdivision, unless the main system plan's actuarial funded ratio is less than seventy percent.

SECTION 2. AMENDMENT. Subsection 1 of section 21-10-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Subject to the provisions of section 21-10-02, the board shall invest the following funds:
 - a. State bonding fund.
 - b. Teachers' fund for retirement.

- c. State fire and tornado fund.
- d. Workforce safety and insurance fund.
- e. Public employees retirement system.
- f. Insurance regulatory trust fund.
- g. State risk management fund.
- h. Budget stabilization fund.
- i. Health care trust fund.
- j. Cultural endowment fund.
- k. Petroleum tank release compensation fund.
- l. Legacy fund.
- m. Legacy earnings fund.
- n. A fund under contract with the board pursuant to subsection 3.

SECTION 3. AMENDMENT. Section 21-10-12 of the North Dakota Century Code is amended and reenacted as follows:

21-10-12. Legacy fund –~~Earnings defined~~definitions.

For the purposes of section 26 of article X of the Constitution of North Dakota, ~~the term "earnings":~~

1. "Earnings" means net income in accordance with generally accepted accounting principles, excluding any unrealized gains or losses.
2. "Principal" means all moneys in the legacy fund not included in earnings as defined under subsection 1.

SECTION 4. A new section to chapter 21-10 of the North Dakota Century Code is created and enacted as follows:

Legacy earnings fund - State treasurer - Transfers.

1. There is created in the state treasury the legacy earnings fund. The fund consists of all moneys transferred to the fund under subsection 2 and all interest and earnings upon moneys in the fund.
2. Any legacy fund earnings transferred to the general fund at the end of each biennium in accordance with section 26 of article X of the Constitution of North Dakota must be immediately transferred by the state treasurer to the legacy earnings fund.
3. For each biennium subsequent to the biennium in which the legacy fund earnings are transferred under subsection 2, the amount available for appropriation from the legacy earnings fund is seven percent of the five-year average value of the legacy fund assets as reported by the state investment

board. The average value of the legacy fund assets must be calculated using the value of the assets at the end of each fiscal year for the five-year period ending with the most recently completed even-numbered fiscal year.

4. On July first of each odd-numbered year, from the amount available for appropriation or transfer from the legacy earnings fund for the biennium, the state treasurer shall transfer funding in the following order:
 - a. The first one hundred fifty million dollars to the legacy sinking and interest fund under section 1 of this Act.
 - b. The next sixty million dollars to the highway tax distribution fund for allocations under section 54-27-19.
 - c. Any remaining funds for other purposes as designated by the legislative assembly, including:
 - (1) Up to fifty million dollars for tax relief pursuant to appropriations or transfers authorized by the legislative assembly;
 - (2) Up to thirty million dollars to the clean sustainable energy fund pursuant to appropriations or transfers authorized by the legislative assembly; and
 - (3) Up to thirty million dollars for university research programs, the innovation loan fund to support technology advancement, and workforce enrichment initiatives pursuant to appropriations or transfers authorized by the legislative assembly.
5. If the amounts transferred under subsection 2 exceed the amount available for appropriation under subsection 3, an amount equal to any appropriations from the legacy sinking and interest fund for bond payments under section 2 of this Act must be retained in the legacy earnings fund through June 30, 2025, after which an amount equal to twice any appropriations from the legacy sinking and interest fund under section 2 of this Act for bond payments, but not more than one hundred fifty million dollars, must be retained in the legacy earnings fund. After deducting any amounts to be retained in the legacy earnings fund, the state treasurer shall transfer, within thirty days, any remaining amounts under this subsection in the following order:
 - a. The first one hundred million dollars to the legacy fund to become part of the principal.
 - b. Any remaining amount to the strategic investment and improvements fund to be used in accordance with the provisions of section 15-08.1-08.

SECTION 5. REPEAL. House Bill No. 1038, as approved by the sixty-seventh legislative assembly, is repealed.

SECTION 6. LEGACY FUND EARNINGS - LEGISLATIVE MANAGEMENT COMMITTEE.

1. During the 2021-22 interim, the legacy fund earnings committee is created and is composed of the following members:

- a. The majority and minority leaders of the house of representatives and the senate, or their legislative designees;
 - b. The chairmen of the finance and taxation standing committees of the house of representatives and the senate, or their legislative designees;
 - c. The chairmen of the appropriations committees of the house of representatives and the senate, or their legislative designees;
 - d. The chairmen of the industry, business and labor standing committees of the house of representatives and the senate, or their legislative designees;
 - e. One member of the legacy and budget stabilization fund advisory board from the house of representatives and one member of the legacy and budget stabilization fund advisory board from the senate, appointed by the respective majority leaders; and
 - f. The chairman of the legislative management, or the chairman's legislative designee.
2. The legislative management shall designate the chairman of the committee.
 3. The committee shall study potential uses of legacy fund earnings, including the use of earnings to provide tax relief, research and technological advancements, innovation, economic growth and diversification, and workforce development. The committee may consider input from representatives of economic development entities, agricultural organizations, research entities, the innovation loan fund to support technology advancement committee, workforce development entities, higher education institutions, and the parks and recreation department. As part of the study, the committee shall:
 - a. Consider the establishment of a statutory committee to award grants for university research programs and workforce enrichment initiatives;
 - b. Define the use of university research, innovation, and workforce enrichment funding that may include efforts to stimulate economic activity across the state through innovation of new technology, concepts, and products; to promote job creation and career and wage growth; to enhance health care outcomes; and to provide experiential learning opportunities for students; and
 - c. Develop reporting requirements for entities receiving funds from the clean sustainable energy fund and from grants awarded for university research, innovation, and workforce enrichment initiatives.
 4. The legislative management shall report its findings and recommendations, together with any legislation required to implement those recommendations, to the sixty-eighth legislative assembly.

SECTION 7. LEGISLATIVE INTENT. It is the intent of the sixty-seventh legislative assembly that the sixty-eighth legislative assembly consider additional allocations from the legacy earnings fund, including allocations to value-added agricultural programs, the innovation loan fund to support technology advancement, state building maintenance and improvements, and for other one-time initiatives and projects, including initiatives and projects to diversify the state's economy, to improve the

efficiency and effectiveness of state government, and to reduce ongoing general fund appropriations of state agencies.

SECTION 8. EFFECTIVE DATE. This Act becomes effective on August 1, 2021.

Approved May 10, 2021

Filed May 10, 2021

CHAPTER 189

SENATE BILL NO. 2291

(Senator Bell)

AN ACT to create and enact a new section to chapter 21-10 of the North Dakota Century Code, relating to social investments made by the state investment board; to provide for a department of commerce study of the implications of complete divestment of companies that boycott energy or commodities; to provide for reports to legislative management; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 21-10 of the North Dakota Century Code is created and enacted as follows:

Social investment - Prohibition.

1. As used in this section, "social investment" means the consideration of socially responsible criteria in the investment or commitment of public funds for the purpose of obtaining an effect other than a maximized return to the state.
2. Except as otherwise provided in a state investment policy relating to the investment of the legacy fund and unless the state investment board can demonstrate a social investment would provide an equivalent or superior rate of return compared to a similar investment that is not a social investment and has a similar time horizon and risk, the state investment board may not invest state funds for the purpose of social investment.

SECTION 2. DEPARTMENT OF COMMERCE STUDY OF DIVESTMENT OF COMPANIES THAT BOYCOTT ENERGY OR COMMODITIES - REPORT TO LEGISLATIVE MANAGEMENT. During the 2021-22 interim, the department of commerce shall study environmental social governance as it pertains to a set of nonspecific, quantifiable, and nonquantifiable criteria with attributing factors used for making determinations, decisions, or investments as it pertains to government and private industry in the state. The study must include an evaluation of investment policy as it relates to environmental social governance and the level of involvement the state has with companies that use environmental social governance in their ranking when making business or investment decisions. The study must also include the potential implications for the state as it relates to the boycott of energy or production agriculture commodities by companies that intend to penalize, inflict economic harm on, or limit commercial relations. All aspects of boycotts, including the transport, sale, utilization, production, or manufacturing of natural gas, oil, coal, petrochemicals, or production agricultural commodities must be evaluated. The department of commerce shall report its findings and recommendations to the legislative management by June 1, 2022.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 23, 2021

Filed March 24, 2021

HEALTH AND SAFETY

CHAPTER 190

HOUSE BILL NO. 1418

(Representatives Devlin, Weisz)
(Senator Lee)

AN ACT to amend and reenact section 23-01-05 of the North Dakota Century Code, relating to qualifications of the state health officer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²³ **SECTION 1. AMENDMENT.** Section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05. Health officer - Qualifications, salary, term, duties --~~Advisory committee.~~

The governor shall appoint the state health officer who at the time of appointment must have had~~be a physician with~~ substantive private or public administrative experience and ~~demonstrated experience in the management of people~~public health experience. The state health officer is entitled to receive a salary commensurate with that ~~person's~~individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years beginning January 1, 1993. The state health officer is the administrative officer of the state department of health. ~~If the governor does not appoint as state health officer a physician licensed in this state~~When the office of the state health officer is temporarily filled, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor. The duties of the state health officer are as follows:

1. Enforce all rules and regulations as promulgated by the health council.
2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.

¹²³ Section 23-01-05 was also amended by section 1 of House Bill No. 1118, chapter 191, section 107 of House Bill No. 1247, chapter 352, section 3 of House Bill No. 1410, chapter 92, and section 1 of Senate Bill No. 2181, chapter 192.

3. Establish and enforce minimum standards of performance of the work of the local department of health.
4. Study health problems and plan for their solution as may be necessary.
5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
6. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
7. Collect and distribute health education material.
8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.
9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.
10. Comply with the state merit system policies of personnel administration.
11. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.
12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
13. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
14. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
15. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
16. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.

17. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
18. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.
19. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and
 - (3) If there are no known environmental causes identified, a statement that no known causes exist.
- b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 191

HOUSE BILL NO. 1118

(Representatives Devlin, Becker, Bellew, Delzer, Pollert, M. Ruby, Vigesaa, Weisz)
(Senator Heckaman)

AN ACT to create and enact a new subsection to section 37-17.1-05 and a new section to chapter 54-03 of the North Dakota Century Code, relating to the governor's authority to issue executive orders and permitting a virtual meeting of the legislative management and a virtual session of the legislative assembly during a declared disaster or emergency; to amend and reenact subsection 12 of section 23-01-05 and subsection 3 of section 37-17.1-05 of the North Dakota Century Code, relating to the authority of the state health officer and the gubernatorial declaration of disaster or emergency; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁴ **SECTION 1. AMENDMENT.** Subsection 12 of section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

12. Issue any ~~orders~~ a written order relating to a disease control ~~measures~~ deemed measure necessary to prevent the spread of a communicable disease. ~~Disease~~ A disease control ~~measures~~ measure may include a special immunization ~~activities~~ activity and decontamination ~~measures~~ measure. ~~Written orders~~
- a. The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.
- b. A written order issued under this section ~~shall have~~ has the same effect as a physician's standing medical order.
- c. The state health officer ~~may~~ shall apply to the district court in a judicial district ~~wherein which~~ wherein a communicable disease is present for an injunction canceling a public event ~~event~~ or closing ~~places~~ a place of business. On application of the state health officer showing the necessity of ~~such~~ the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

¹²⁵ **SECTION 2. AMENDMENT.** Subsection 3 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

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- ¹²⁴ Section 23-01-05 was also amended by section 107 of House Bill No. 1247, chapter 352, section 3 of House Bill No. 1410, chapter 92, section 1 of House Bill No. 1418, chapter 190, and section 1 of Senate Bill No. 2181, chapter 192.

3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The
- a. Except as provided in subdivision b, the state of disaster or emergency shall continuecontinues until the governor determines that the threat of an emergency has passed or the governor determines the disaster has been dealt with to the extent that emergency conditions no longer exist, whichever occurs first.
 - b. If a state of disaster or emergency relating to public health is declared and in effect and the legislative assembly is not in session, the legislative management may meet to vote on whether the legislative management should request the governor call a special session of the legislative assembly. If the governor does not call a special session within seven days after the legislative management sends a request to the governor, the declared state of disaster or emergency relating to public health terminates thirty days after the request from the legislative management was sent to the governor. If the governor calls a special session within seven days after the request from the legislative management was sent, the special session must be held within fifteen days of the governor's call for a special session. If the legislative assembly meets to address a declared state of disaster or emergency, the legislative assembly by concurrent resolution may terminate, extend, or modify the state of disaster or emergency.
 - c. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time.
 - d. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions ~~which~~that have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be ~~promptly~~ promptly filed with the department of emergency services, the legislative council, the secretary of state, and the county or city auditor of the jurisdictions affected.

¹²⁶ **SECTION 3.** A new subsection to section 37-17.1-05 of the North Dakota Century Code is created and enacted as follows:

Notwithstanding subsection 3, if a state of disaster or emergency relating to public health is declared and in effect, the governor may not issue an executive order under this section unless the executive order specifically

¹²⁵ Section 37-17.1-05 was also amended by section 3 of House Bill No. 1118, chapter 191, section 1 of House Bill No. 1180, chapter 272, section 5 of House Bill No. 1410, chapter 92, and section 2 of Senate Bill No. 2181, chapter 192.

¹²⁶ Section 37-17.1-05 was also amended by section 2 of House Bill No. 1118, chapter 191, section 1 of House Bill No. 1180, chapter 272, section 5 of House Bill No. 1410, chapter 92, and section 2 of Senate Bill No. 2181, chapter 192.

addresses the mitigation of the declared state of disaster or emergency relating to public health.

SECTION 4. A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

Virtual session of the legislative management and legislative assembly during emergency or disaster.

1. If the legislative management meets to vote on whether the legislative management should request the governor call a special session of the legislative assembly, the legislative management may use any technology or electronic means available to conduct meetings and transact legislative business.
2. If the governor calls a special session of the legislative assembly to address a state of emergency or disaster or if the legislative assembly reconvenes to address a state of emergency or disaster, the legislative assembly may use any technology or electronic means available to conduct meetings and transact legislative business.
3. For purposes of section 7 of article IV of the Constitution of North Dakota, a meeting of the legislative assembly which occurs under this section is deemed to have occurred at the seat of the government, and all actions taken during the meeting have the same legal effect as if the members of the legislative assembly were physically present at the seat of government.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 192

SENATE BILL NO. 2181

(Senators Clemens, Heitkamp, Larson)
(Representatives Paur, Satrom, Schauer)

AN ACT to amend and reenact subsection 12 of section 23-01-05 and section 37-17.1-05 of the North Dakota Century Code, relating to the state health officer's authority and the governor's authority during a declared disaster or emergency; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁷ **SECTION 1. AMENDMENT.** Subsection 12 of section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
 - a. Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (1) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (2) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - (3) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
 - b. A person claiming to be aggrieved by a violation of subdivision a may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

¹²⁷ Section 23-01-05 was also amended by section 1 of House Bill No. 1118, chapter 191, section 107 of House Bill No. 1247, chapter 352, section 3 of House Bill No. 1410, chapter 92, and section 1 of House Bill No. 1418, chapter 190.

¹²⁸ **SECTION 2. AMENDMENT.** Section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-05. The governor and disasters or emergencies - Penalty.

1. The governor is responsible to minimize or avert the adverse effects of a disaster or emergency.
2. Under this chapter, the governor may issue executive orders and proclamations, and amend or rescind them. Executive orders, proclamations, and regulations have the force of law.
3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The state of disaster or emergency shall continue until the governor determines that the threat of an emergency has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions which have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be promptly filed with the department of emergency services, the secretary of state, and the county or city auditor of the jurisdictions affected.
4. An executive order or proclamation of a state of disaster or emergency shall activate the state and local operational plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to a disaster or emergency.
5. During the continuance of any state of disaster or emergency declared by the governor, the governor is commander in chief of the emergency management organization and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or emergency operational plans, but nothing herein restricts the governor's authority to do so by orders issued at the time of the disaster or emergency.
6. In addition to any other powers conferred upon the governor by law, the governor may:
 - a. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of

¹²⁸ Section 37-17.1-05 was also amended by section 2 of House Bill No. 1118, chapter 191, section 3 of House Bill No. 1118, chapter 191, section 1 of House Bill No. 1180, chapter 272, and section 5 of House Bill No. 1410, chapter 92.

- any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in managing a disaster or emergency.
- b. Utilize all available resources of the state government as reasonably necessary to manage the disaster or emergency and of each political subdivision of the state.
 - c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.
 - d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if the governor finds this necessary to manage the disaster or emergency.
 - e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary for the preservation of life or other disaster or emergency mitigation, response, or recovery.
 - f. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.
 - g. Control ingress and egress in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.
 - h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not including ammunition.
 - i. Make provision for the availability and use of temporary emergency housing.
 - j. Make provisions for the control, allocation, and the use of quotas for critical shortages of fuel or other life and property sustaining commodities.
 - k. Designate members of the highway patrol, North Dakota national guard, or others trained in law enforcement, as peace officers.
7. Any person who willfully violates any provision of an executive order or proclamation issued by the governor pursuant to this chapter is guilty of an infraction.
 8. Authorize the adjutant general to recall to state active duty, on a volunteer basis, former members of the North Dakota national guard. Those recalled must possess the qualifications required by the disaster or emergency. Recall under this subsection is effective only for the duration of the disaster or emergency and recalled personnel will be released from state active duty upon competent authority that the requirement of their service under this subsection has passed. Compensation for personnel recalled under this subsection will be based upon section 37-07-05.
 9. Notwithstanding any other provision of law, an order, proclamation, rule, or regulation issued pursuant to this section may not:

- a. Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - c. Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
10. A person claiming to be aggrieved by a violation of subsection 9 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 193

SENATE BILL NO. 2248

(Senators Bell, K. Roers)
(Representative Rohr)

AN ACT to amend and reenact section 23-01-05.2 of the North Dakota Century Code, relating to epinephrine prescription, distribution, possession, or use and immunity from liability; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁹ **SECTION 1. AMENDMENT.** Section 23-01-05.2 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.2. Administration of epinephrine - Liability
Epinephrine
prescription, distribution, possession, or use - Immunity from liability.

1. ~~The state health officer shall adopt rules to authorize a layperson to administer epinephrine to an individual who has a severe allergic reaction.~~
2. ~~An individual authorized to administer epinephrine by the state health officer may obtain premeasured doses of epinephrine and the necessary paraphernalia for epinephrine administration from any licensed physician or pharmacist.~~
3. ~~An individual authorized to administer epinephrine by the state health officer, and the employer of such an individual, is not civilly or criminally liable for any act or omission of that individual when acting in good faith while rendering emergency treatment to an individual who has a severe adverse reaction, except when the conduct amounts to gross negligence. As used in this section:~~
 - a. "Epinephrine" means a single-use disposable device that automatically injects a premeasured dose of epinephrine.
 - b. "Health care professional" means a licensed or certified health care professional who is working within the scope of practice for that profession. The term may include a physician, physician assistant, advanced practice registered nurse, and pharmacist acting in the professional's scope of practice.
2. A health care professional acting in good faith may directly or by standing order prescribe, distribute, or dispense epinephrine, if the health care professional provides training to:
 - a. An individual at risk of experiencing a severe allergic reaction; or
 - b. A family member, friend, or other person in a position to assist an individual at risk of experiencing a severe allergic reaction.

¹²⁹ Section 23-01-05.2 was also amended by section 109 of House Bill No. 1247, chapter 352.

3. A person acting in good faith may receive or possess epinephrine if that person is:
 - a. An individual at risk of experiencing a severe allergic reaction; or
 - b. A family member, friend, or other person in a position to assist an individual at risk of experiencing a severe allergic reaction.
4. An individual acting in good faith may self-administer epinephrine or administer epinephrine to another individual who the administering individual suspects is at risk of experiencing a severe allergic reaction.
5. A person may receive, possess, or administer epinephrine under subsection 3 or 4, regardless of whether the person is the individual for or the person to which the epinephrine is prescribed, distributed, or dispensed. A person in possession of epinephrine which is acting in good faith may provide training on how to use epinephrine.
6. A health care professional who prescribes, distributes, trains on the use of, or dispenses epinephrine as authorized under this section is not subject to professional discipline for such action. This section does not expand the scope of practice of a health care professional.
7. A person that prescribes, distributes, dispenses, receives, possesses, trains in the use of, or administers epinephrine as authorized under this section is immune from civil and criminal liability for such action. This subsection provides immunity to the person responsible for the site on which the epinephrine is located. Immunity from liability or discipline under this subsection does not apply if the person's actions constitute recklessness, gross negligence, or intentional misconduct.

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

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 194

SENATE BILL NO. 2241

(Senators J. Roers, Lee, K. Roers)
(Representative Weisz)

AN ACT to amend and reenact section 23-01-37 of the North Dakota Century Code, relating to review of health facility construction and renovation projects; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁰ **SECTION 1. AMENDMENT.** Section 23-01-37 of the North Dakota Century Code is amended and reenacted as follows:

23-01-37. Survey program - Health facilities construction or renovation projects - Innovation waivers - Continuing appropriation.

1. The state department of health shall conduct a life safety survey process for all health facilities licensed by the division of health facilities of the state department of health during and at the conclusion of a construction, renovation, or construction and renovation project.
 - a. In conducting a survey under this section, if the department uses a third party to review construction and renovation plans, the licensed provider shall negotiate and approve the price of the review services, the department shall contract with the third party, and the licensed provider shall pay the department for the review services.
 - b. The department shall deposit in the department's operating account any payments received from a licensed provider under subdivision a. There is appropriated to the department on a continuing basis any funds deposited under subdivision a for the purpose of paying a third-party reviewer.
2. The department may charge a reasonable fee for the review of plans for construction, renovation, or construction and renovation projects performed under this section based on the size of the project. Revenues derived from the fees collected under this subsection must be deposited in the department's operating fund in the state treasury.
3. The state department of health shall make an initial determination on a construction, renovation, or construction and renovation project of ~~no~~:
 - a. No more than one million dollars within ~~sixty~~ twenty-eight days of receipt of a complete application;
 - b. More than one million dollars but no more than four million dollars within ~~forty-two~~ days of receipt of a complete application; and

¹³⁰ Section 23-01-37 was also amended by section 130 of House Bill No. 1247, chapter 352.

- c. More than four million dollars within fifty-six days of receipt of a complete application.
- 4. Following an initial determination under subsection 3, the state department of health shall make any followup determination on a construction, renovation, or construction and renovation project within fourteen days of receipt of the licensed provider's response to the initial determination.
- 5. The state department of health may approve a request for a waiver of a state law or rule relating to an innovative construction, renovation, or construction and renovation project if the lack of compliance does not adversely affect health or safety.
- 5-6. The department shall design and operate the program in a manner that will provide that the surveyor that performs a life safety survey under this section does not violate the federal requirements associated with Medicare-certified life safety surveys.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 195

HOUSE BILL NO. 1163

(Representatives Roers Jones, Dobervich, Guggisberg, O'Brien, Weisz)
(Senators Lee, Oban, K. Roers)

AN ACT to amend and reenact section 23-01-44 of the North Dakota Century Code, relating to the needle exchange program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³¹ **SECTION 1. AMENDMENT.** Section 23-01-44 of the North Dakota Century Code is amended and reenacted as follows:

23-01-44. Syringe or needle exchange program - Authorization.

1. As used in this section:
 - a. "Program" means a syringe exchange program established and operated under this section.
 - b. "Qualified entity" means:
 - (1) A local health department;
 - (2) A city that operates a program within the boundaries of the city; or
 - (3) An organization that has been authorized to operate a program by the state department of health, the board of county commissioners, or the governing body for the operation of a program within the boundaries of the city.
 - c. "Supplies" include needles, syringes, sterile disposal preparation spoons, cotton, sterile filters, alcohol wipes, sterile water, saline, tourniquets, disposal containers, wound care, testing strips, naloxone, and other items recognized as supporting safe drug use.
2. The state department of health, in collaboration with the department of human services behavioral health division, shall design a syringe exchange program. The state department of health shall administer the program.
3. The state department of health may authorize a qualified entity to operate a program in a county if:
 - a. The area to be served is at risk of an increase or potential increase in prevalence of viral hepatitis or human immunodeficiency virus;
 - b. A syringe exchange program is medically appropriate as part of a comprehensive public health response; and

¹³¹ Section 23-01-44 was also amended by section 135 of House Bill No. 1247, chapter 352.

- c. The qualified entity conducted a public hearing and submitted a report of the findings and an administration plan for the program to the state health officer.
4. A qualified entity operating a program under this chapter shall:
 - a. Register the program annually in the manner prescribed by the state department of health;
 - b. Have a pharmacist, physician, or advanced practice registered nurse who is licensed in the state to provide oversight for the program;
 - c. Store and dispose of all syringes ~~and~~, needles, and supplies collected in a safe and legal manner;
 - d. Provide education and training on drug overdose response and treatment, including the administration of an overdose reversal medication;
 - e. Provide education, referral, and linkage to human immunodeficiency virus, viral hepatitis, and sexually transmitted disease prevention, treatment, and care services;
 - f. Provide addiction treatment information and referrals to drug treatment programs, including programs in the local area and programs that offer medication-assisted treatment that includes a federal food and drug administration approved long-acting, non-addictive medication for the treatment of opioid or alcohol use disorder;
 - g. Provide syringe, needle, supply, and injection supply distribution and collection without collecting or recording personally identifiable information;
 - h. Operate in a manner consistent with public health and safety; and
 - i. Ensure the program is medically appropriate and part of a comprehensive public health response.
5. The state department of health may terminate a program for failure to comply with any of the provisions in this section.
6. A state agency may not provide general fund moneys to a program to purchase or otherwise acquire hypodermic syringes, needles, or injection supplies for a program under this section.
7. A law enforcement officer may not stop, search, or seize an individual based on the individual's participation in a program under this section. Syringes ~~and~~, needles, and supplies appropriately collected under this section are not considered drug paraphernalia as provided in chapter 19-03.4 or possession of a controlled substance under section 19-03.1-23.
8. Each program shall file a semiannual report with the state department of health containing the following information listed on a daily basis and by location, identified by the postal zip code, where the program distributed and collected syringes ~~and~~, needles, and supplies:
 - a. The number of individuals served;

- b. The number of syringes ~~and~~, needles, and supplies collected;
- c. The number of syringes and needles distributed; and
- d. Any additional information requested by the state department of health.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 196

SENATE BILL NO. 2123

(Senators Bekkedahl, Anderson, Lee)
(Representatives Keiser, Porter, Pyle)

AN ACT to amend and reenact subsection 2 of section 23-02.1-27 of the North Dakota Century Code, relating to access to death records; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³² **SECTION 1. AMENDMENT.** Subsection 2 of section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

2. A certified copy of a complete death record may be issued to a relative, an authorized representative, the child fatality review board, a licensed physician, or a genetic sibling for the purposes of researching family medical history, a funeral director reporting the facts of death, or a person with personal or real property interests that depend upon information contained in the complete death record or by the order of a court of competent jurisdiction and may include the cause of death and the social security number. A certified copy of the facts of death record that includes the facts of death and the social security number may be issued to any person that may obtain a certified copy of a complete death record or to any licensed attorney who requires the copy for a bona fide legal determination. A certified copy of an informational death record may be issued to the general public, but the copy may not contain the cause of death or the social security number.

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

Approved April 16, 2021

Filed April 16, 2021

¹³² Section 23-02.1-27 was also amended by section 157 of House Bill No. 1247, chapter 352, section 158 of House Bill No. 1247, chapter 352, and section 4 of Senate Bill No. 2035, chapter 56.

CHAPTER 197

HOUSE BILL NO. 1219

(Representatives Porter, Nathe, Rohr)
(Senators Anderson, Bekkedahl, Lee)

AN ACT to amend and reenact sections 23-07-02.3 and 23-07-15 of the North Dakota Century Code, relating to reportable conditions and post-mortem communicable diseases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³³ **SECTION 1. AMENDMENT.** Section 23-07-02.3 of the North Dakota Century Code is amended and reenacted as follows:

23-07-02.3. Emergency reporting.

1. The state health officer may issue a temporary order for emergency reporting of disease conditions or information if the state health officer finds probable cause to believe there is a threat caused by an imminent or emerging condition affecting the public health, including actual or threatened terrorism.
2. The state health officer may designate who must report, what conditions or information must be reported, what information must be contained in the report, the methods and frequency of reporting, and may make any other pertinent requirement.
3. The temporary order may be issued and is effective without regard to chapter 28-32 for a period of ninety days, unless earlier revoked by the state health officer. Emergency rulemaking must be initiated under chapter 28-32 within ninety days of the order or the order expires. The temporary order and any emergency rulemaking under this section are effective without the necessity of approval from the health council.
4. If the governor declares an emergency or a disaster based on an epidemic under chapter 37-17.1, the state health officer shall consider whether to issue a temporary order or the health council shall consider whether to adopt rules or emergency rules to include this infectious disease as a reportable disease or condition or as a post-mortem communicable disease.

¹³⁴ **SECTION 2. AMENDMENT.** Section 23-07-15 of the North Dakota Century Code is amended and reenacted as follows:

23-07-15. Removal of ~~person afflicted individual~~ with contagious or infectious disease reportable disease or condition - Removal of ~~person~~ body of

¹³³ Section 23-07-02.3 was also amended by section 177 of House Bill No. 1247, chapter 352.

¹³⁴ Section 23-07-15 was also amended by section 182 of House Bill No. 1247, chapter 352.

**individual who died of such disease~~reportable disease or condition~~ - Prohibited
- Declaration of emergency or disaster - Rulemaking authority.**

No person, unless

1. Unless the person has a permit from the local board of health or state department of health, a person may not remove or cause to be removed from without this state into this state, or from one building to another within this state, or from or to any railroad car or motor vehicle, any person afflicted an individual with a contagious or infectious~~reportable~~ disease or condition, or the body of any person an individual who died of any such a~~reportable~~ disease or condition.
2. If the governor declares an emergency or a disaster based on an epidemic under chapter 37-17.1, the health council shall consider whether to adopt rules or emergency rules directing the state department of health to notify emergency medical services personnel of the presence of a reportable disease or condition and any person taking possession of a dead body of a post-mortem communicable disease. Notwithstanding state laws to the contrary, rules adopted under this section may provide for the disclosure of personally identifiable information.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 198

HOUSE BILL NO. 1323

(Representatives Hoverson, Magrum)
(Senator O. Larsen)

AN ACT to create and enact a new section to chapter 23-07 of the North Dakota Century Code, relating to limitations on mask wearing requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-07 of the North Dakota Century Code is created and enacted as follows:

Limitations on requirements to wear a mask.

A statewide elected official or the state health officer may not mandate an individual in this state use a face mask, face shield, or other face covering. This section applies, notwithstanding authority granted under other provisions of law, including section 23-01-05 and chapter 37-17.1.

Disapproved April 21, 2021

Filed April 27, 2021

NOTE: The Governor's veto of House Bill No. 1323 was not sustained. For the text of the Governor's veto message, see chapter 508.

CHAPTER 199

SENATE BILL NO. 2226

(Senators Dever, Clemens, Poolman)
(Representatives Porter, Rohr, Weisz)

AN ACT to create and enact chapter 23-17.7 of the North Dakota Century Code, relating to regulation of residential end-of-life facilities; to amend and reenact subsection 1 of section 23-09-01, subsection 1 of section 50-32-01, and subdivision a of subsection 24 of section 57-39.2-04 of the North Dakota Century Code, relating to the definition of assisted living facility and to a sales tax exemption for sales made to an eligible facility; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁵ **SECTION 1. AMENDMENT.** Subsection 1 of section 23-09-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Assisted living facility" means a building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible. An assisted living facility in this chapter includes a facility that is defined as an assisted living facility in any other part of the code. An assisted living facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under chapter 23-16 or, chapter 25-16, chapter 23-17.7, or section 50-11-01.4.

SECTION 2. Chapter 23-17.7 of the North Dakota Century Code is created and enacted as follows:

23-17.7-01. Definitions.

As used in this section, unless the context and subject matter otherwise require:

1. "Department" means the state department of health.
2. "Hospice patient" has the same meaning as provided under section 23-17.4-01.
3. "Hospice program" has the same meaning as provided under section 23-17.4-01.
4. "Hospice services" has the same meaning as provided under section 23-17.4-01.

¹³⁵ Section 23-09-01 was also amended by section 195 of House Bill No. 1247, chapter 352.

5. "Residential end-of-life facility" means a freestanding facility that provides twenty-four hour residential and support services in a home-like setting for no more than twelve hospice patients receiving hospice services from a third-party hospice program.

23-17.7-02. License required.

A person may not conduct, maintain, or operate a residential end-of-life facility in this state without a license issued by the department under this chapter. A licensed residential end-of-life facility is not a hospital, skilled nursing home, intermediate care facility, nursing facility, assisted living facility, home health agency, or hospice program.

23-17.7-03. License issuance and renewal - Evaluation and inspection - Rules.

1. Upon receipt of an initial or renewal license application on forms established by the department, the department or the department's authorized representative shall evaluate and inspect the residential end-of-life facility. The department shall issue or renew a license for an applicant that submits a complete application, submits the appropriate fee, and meets the minimum requirements of this chapter.
2. In consultation with stakeholders, the state health council shall adopt rules:
 - a. For the application, issuance, and renewal of a license under this chapter;
 - b. Establishing minimum standards for licensure of a residential end-of-life facility; and
 - c. Establishing the fee for issuance of a license and renewal of a license of a residential end-of-life facility.

23-17.7-04. Denial, suspension, or revocation of license.

The department may deny, suspend, or revoke the license of a residential end-of-life facility for noncompliance with this chapter or rules adopted under this chapter in accordance with the administrative hearings provisions of chapter 28-32.

¹³⁶ **SECTION 3. AMENDMENT.** Subsection 1 of section 50-32-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Assisted living facility" means a building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible. An assisted living facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under chapter 23-16 or, chapter 25-16, chapter 23-17.7, or section 50-11-01.4.

¹³⁶ Section 50-32-01 was also amended by section 478 of House Bill No. 1247, chapter 352.

¹³⁷ **SECTION 4. AMENDMENT.** Subdivision a of subsection 24 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

- a. "Eligible facility" means any hospital, skilled nursing facility, intermediate care facility, residential end-of-life facility, or basic care facility licensed by the state department of health, or any assisted living facility licensed by the department of human services; and

SECTION 5. EFFECTIVE DATE. Section 4 of this Act is effective for taxable events occurring after June 30, 2021.

Approved March 29, 2021

Filed March 30, 2021

¹³⁷ Section 57-39.2-04 was also amended by section 503 of House Bill No. 1247, chapter 352, section 1 of House Bill No. 1351, chapter 472, and section 1 of Senate Bill No. 2152, chapter 471.

CHAPTER 200

SENATE BILL NO. 2119

(Human Services Committee)
(At the request of the State Department of Health)

AN ACT to create and enact section 23-09-16.1 of the North Dakota Century Code, relating to food and lodging establishment license renewals; and to amend and reenact sections 23-09-16 and 23-09-18 of the North Dakota Century Code, relating to food and lodging establishment licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-09-16 of the North Dakota Century Code is amended and reenacted as follows:

23-09-16. License - Application.

Before any food establishment, lodging establishment, pushcart, mobile food unit, or assisted living facility may be operated in this state, it must be licensed by the department. The department shall waive the license requirement for any food establishment, lodging establishment, or assisted living facility licensed by a city or district health unit if the local health unit's sanitation, safety, and inspection rules are approved by the department. ~~Application for license must be made to the department during December of every year, or before the operating of the food establishment, lodging establishment, pushcart, mobile food unit, or assisted living facility, as the case may be.~~ The application must be in writing on forms furnished by the department and must be accompanied by the required fee. ~~An additional amount of fifty percent of the license fee must be imposed upon renewal if the license was not renewed before February first following the expiration date. A reduced license fee in the amount of one-half the applicable license fee must be charged for a new food establishment, lodging establishment, pushcart, mobile food unit, or assisted living facility beginning operations after July first of each year and for changes in ownership and location of such existing establishments after July first of each year.~~ The department shall issue a license to an applicant that meets all of the requirements of this chapter and any rules established by the department. The department may adopt rules establishing the amount and the procedures for the collection of annual license fees. The fees must be based on the cost of reviewing construction plans, conducting routine and complaint inspections, reinspection, and necessary enforcement action. License fees collected pursuant to this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 2. Section 23-09-16.1 of the North Dakota Century Code is created and enacted as follows:

23-09-16.1. License renewal.

1. A license issued under this chapter expires on December thirty-first of each year.

2. A license may be renewed by December thirty-first by submitting a renewal application and a renewal fee established by the department by rule, provided the licensee is in compliance with this chapter and any rules established by the department.
3. If the renewal application and renewal fee are not received by December thirty-first, the license expires and the licensee may not operate.
4. Within sixty days after December thirty-first, an expired license may be renewed by submitting the renewal application, renewal fee, and a late fee established by the department by rule. The late fee is equal to fifty-percent of the license fee.
5. If the renewal application, renewal fee, and late fee are not received within sixty days after December thirty-first, the license may not be renewed, and the applicant shall apply and meet the requirements for licensure to be granted a license.
6. The department may extend the renewal deadlines for an application providing proof of hardship rendering the applicant unable to meet the deadline.

SECTION 3. AMENDMENT. Section 23-09-18 of the North Dakota Century Code is amended and reenacted as follows:

23-09-18. Failure to comply with chapter - Notice - How served.

Whenever the proprietor of any food establishment, lodging establishment, or assisted living facility fails to comply with this chapter, the proprietor must be given notice of the time within which the proprietor must meet the requirements. The department may deny an application or take disciplinary action against the license of an applicant or a licensee upon the failure of the applicant or licensee to comply with this chapter or with any of the rules adopted by the department. Before the department takes disciplinary action against a license for failure of a license, the department shall notify the licensee in writing of the reason disciplinary action is being considered and shall provide a reasonable amount of time for correction to be made. The notice must be in writing and delivered personally by an inspector of the department or sent by registered or certified mail. Action taken under the authority granted in this section must comply with chapter 28-32.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 201

HOUSE BILL NO. 1332

(Representatives Kreidt, Bellew)
(Senator Lee)

AN ACT to amend and reenact subsection 1 of section 23-09.3-01.1 and subsection 1 of section 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on basic care and nursing facility bed capacity.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁸ **SECTION 1. AMENDMENT.** Subsection 1 of section 23-09.3-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Basic care beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2019~~2021, and July 31, ~~2024~~2023, except if:
 - a. A nursing facility converts nursing facility beds to basic care;
 - b. An entity licenses bed capacity transferred as basic care bed capacity under section 23-16-01.1;
 - c. An entity demonstrates to the state department of health and the department of human services that basic care services are not readily available within a designated area of the state or that existing basic care beds within a fifty-mile [80.47-kilometer] radius have been occupied at ninety percent or more for the previous twelve months. In determining whether basic care services will be readily available if an additional license is issued, preference may be given to an entity that agrees to any participation program established by the department of human services for individuals eligible for services under the medical assistance program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or
 - d. The state department of health and the department of human services grant approval of new basic care beds to an entity. The approved entity shall license the beds within forty-eight months from the date of approval.

¹³⁹ **SECTION 2. AMENDMENT.** Subsection 1 of section 23-16-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic care beds to nursing facility beds or relicenses nursing facility beds delicensed after July 31, 2011, nursing facility beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2019~~2021, and July 31, ~~2024~~2023. A nursing facility may not delicense

¹³⁸ Section 23-09.3-01.1 was also amended by section 201 of House Bill No. 1247, chapter 352.

¹³⁹ Section 23-16-01.1 was also amended by section 1 of House Bill No. 1065, chapter 205, and section 212 of House Bill No. 1247, chapter 352.

nursing facility bed capacity, relicense nursing facility bed capacity, convert licensed nursing bed capacity to basic care bed capacity, revert licensed basic care bed capacity back to nursing facility bed capacity, or otherwise reconfigure licensed nursing facility bed capacity more than ~~one time~~twice in a twelve-month period.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 202

HOUSE BILL NO. 1103

(Human Services Committee)
(At the request of the State Department of Health)

AN ACT to create and enact sections 23-10-06.1 and 23-10-06.2 of the North Dakota Century Code, relating to mobile home park, recreational vehicle park, and campground license renewals and transfers; to amend and reenact sections 23-10-01, 23-10-02, 23-10-02.1, 23-10-03, 23-10-04, 23-10-06, 23-10-07, 23-10-07.1, 23-10-09, 23-10-10, 23-10-10.1, 23-10-11, and 23-10-12 of the North Dakota Century Code, relating to mobile home parks, recreational vehicle parks, and campgrounds; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁰ **SECTION 1. AMENDMENT.** Section 23-10-01 of the North Dakota Century Code is amended and reenacted as follows:

23-10-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Campground" means any parcel of land containing three or more lots intended for occupancy by ~~travel trailers~~ recreational vehicles or tents.
2. "Department" means the state department of health.
3. "Lot" means any piece of land of required size intended for occupancy by a mobile home, ~~travel trailer~~ recreational vehicle, or tent.
4. "Mobile home" means any relocatable manufactured, modular, or prefabricated structure or unit ~~which that~~ is designed to be used as residential living quarters. The term does not include a recreational vehicle.
5. "Mobile home park" means any parcel of land containing three or more lots intended for occupancy by mobile homes.
6. "Person" means any individual, firm, trust, partnership, public or private association, corporation, or limited liability company.
7. ~~"Trailer park" means any parcel of land containing three or more lots intended for occupancy by travel trailers.~~
8. ~~"Travel trailer"~~ "Recreational vehicle" means ~~any portable unit~~ any vehicular-type unit primarily designed to be used as a temporary dwelling living quarters for travel or recreational purposes, camping, or travel use, which either has its own mode of power or is mounted on or towed by another vehicle. The term ~~travel trailer~~ includes the following:

¹⁴⁰ Section 23-10-01 was also amended by section 205 of House Bill No. 1247, chapter 352.

- a. An independent ~~travel trailer~~recreational vehicle, ~~which is a travel trailer~~ containing toilet and lavatory facilities.
 - b. A dependent ~~travel trailer~~recreational vehicle, ~~which is a travel trailer~~ ~~containing~~contains either toilet or lavatory facilities or having neither facility.
8. "Recreational vehicle park" means a parcel or tract of land under the control of a person, organization, or government entity where three or more lots are offered for use by members of the public or an organization for rent or lease, including park-owned recreational vehicles held out for rent or lease. A recreational vehicle park is primarily designed to accommodate recreational vehicles.

SECTION 2. AMENDMENT. Section 23-10-02 of the North Dakota Century Code is amended and reenacted as follows:

23-10-02. Department to make regulations - Compliance.

The department shall have general supervision over the health, safety, sanitary condition, and legal compliance as outlined in this chapter of all mobile home parks, ~~trailer~~recreational vehicle parks, and campgrounds in this state and may promulgate and enforce appropriate rules and regulations in accordance with chapter 28-32. All mobile home parks, ~~trailer~~recreational vehicle parks, and campgrounds constructed after July 1, 1977, must be constructed in accordance with the requirements of this chapter and the rules and regulations promulgated at the time of construction. All mobile home parks, ~~trailer~~recreational vehicle parks, and campgrounds constructed before July 1, 1977, shall meet the requirements of this chapter by July 1, 1985. All mobile home parks, ~~trailer~~recreational vehicle parks, and campgrounds shall meet rules and regulations duly promulgated after construction of the park or campground within eight years after the effective date of the rule or regulation.

SECTION 3. AMENDMENT. Section 23-10-02.1 of the North Dakota Century Code is amended and reenacted as follows:

23-10-02.1. Department authorized to accept local enforcement and inspection.

The department shall accept state, federal, city, or county enforcement of local sanitation, safety, zoning, and inspection requirements in lieu of the enforcement of sanitation, safety, and inspection requirements of the department under this chapter if the department determines that the state, federal, city, or county requirements meet or exceed the requirements of this chapter and any rules and regulations promulgated under this chapter. ~~Prior to~~Before accepting state, federal, city, or county enforcement of local requirements, the department shall determine that the state, federal, city, or county requirements meet or exceed the requirements of this chapter and any rules and regulations promulgated under this chapter.

SECTION 4. AMENDMENT. Section 23-10-03 of the North Dakota Century Code is amended and reenacted as follows:

23-10-03. License required - Application.

1. A person may not establish, maintain, change use, mix use, or enlarge a mobile home park, ~~trailer~~recreational vehicle park, or campground in this state without first obtaining a license from the department.

2. The application for the license must be made in writing to the department and must state the location and type of the mobile home park, trailerrecreational vehicle park, or campground, the proposed water supply, the proposed method of sewerage and garbage disposal, and such other information as may be required by the department. Application forms must be prepared by the department and distributed upon request.
3. The department may not issue a license under this section if the proposed mobile home park, recreational vehicle park, or campground would prevent, interfere, or restrict proposed private development that is actively being pursued.
4. The department shall waive the license fee for any mobile home park, trailerrecreational vehicle park, or campground owned by the state, a municipality, or a nonprofit organization. The department shall waive all or a portion of the license fee for any mobile home park, trailerrecreational vehicle park, or campground that is subject to local sanitation, safety, and inspection requirements accepted by the department under section 23-10-02.1. A prorated annual license fee may be charged for new mobile home parks, trailerrecreational vehicle parks, and campgrounds. The departmenthealth council may adopt rules establishing the amount and the procedures for the collection of annual license fees. The fees must be based on the cost of reviewing construction plans, conducting routine and complaint inspections, reinspection, and necessary enforcement action. License fees collected pursuant to this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 5. AMENDMENT. Section 23-10-04 of the North Dakota Century Code is amended and reenacted as follows:

23-10-04. Inspection.

The department shall inspect the premises as soon as practical after receiving an application for a mobile home park, trailerrecreational vehicle park, or campground license. If the department is satisfied from the application and inspection that the mobile home park, trailerrecreational vehicle park, or campground will not be a source of danger to the health and safety of the occupants or the general public, itthe department shall notify the applicant of its approval of the application and of the amount of the license fee. The department ~~shall~~must have access to and may inspect mobile home parks, trailerrecreational vehicle parks, and campgrounds at reasonable times. The department ~~shall~~may inspect each mobile home park, trailerrecreational vehicle park, and campground ~~at least once every two years in response to a complaint, violation of state law, or on a routine schedule determined by the department.~~

SECTION 6. AMENDMENT. Section 23-10-06 of the North Dakota Century Code is amended and reenacted as follows:

23-10-06. License issuance - TransferabilityFee.

An applicant seeking licensure shall apply to the department on forms prescribed by the department. The applicant shall enclose with the application an application fee as determined by rule. The department shall issue a license to thean applicant upon approving the application and receiving the license fee. The license must be upon a form prescribed by the department, must be for a term of one year from January first

~~to December thirty-first, and must be renewable upon the same basis as that upon which it was originally issued. A penalty of twenty-five percent of the license fee must be imposed if the license is not renewed on or before January thirty-first following the expiration date. The license must be transferred without charge if the proposed new owner applies in writing for a transfer of the license and certifies that the mobile home park, trailer park, or campground will be operated in accordance with this chapter who meets all of the requirements of this chapter and any rules adopted by the health council.~~

SECTION 7. Section 23-10-06.1 of the North Dakota Century Code is created and enacted as follows:

23-10-06.1. License renewal.

1. A license issued under this chapter expires on December thirty-first of each year.
2. A license may be renewed by December thirty-first by submitting a renewal application, a renewal fee established rule, provided the licensee is in compliance with this chapter and any rules established by the health council.
3. If the renewal application and renewal fee are not received by December thirty-first, the license expires and the licensee may not operate.
4. Within sixty days after December thirty-first, an expired license may be renewed by submitting the renewal application, renewal fee, and a late fee. The late fee is equal to fifty percent of the license fee.
5. If the renewal application, renewal fee, and late fee are not received within sixty days after December thirty-first, the department may not renew the license, and the applicant shall apply and meet the requirements for licensure to be granted a license.
6. The department may extend the renewal deadline for applications providing proof of hardship rendering the applicant unable to meet the deadline.
7. The department may not renew a license if the mobile home park, recreational vehicle park, or campground is not actively conducting business at the site, and the applicant shall apply and meet the requirements for licensure to be granted a license.

SECTION 8. Section 23-10-06.2 of the North Dakota Century Code is created and enacted as follows:

23-10-06.2. License transferability.

The department shall transfer a license without charge if the proposed new owner applies in writing for a transfer of the license and certifies that the mobile home park, recreational vehicle park, or campground will be operated in accordance with this chapter.

SECTION 9. AMENDMENT. Section 23-10-07 of the North Dakota Century Code is amended and reenacted as follows:

23-10-07. Sanitation and safety.

Every mobile home park, ~~trailer~~recreational vehicle park, and campground must be operated with strict regard for the health, safety, and comfort of its occupants. The following sanitary and safety regulations must be followed:

1. Location: Every mobile home park must be established and maintained upon dry, well-drained ground. Any natural sinkholes or collection or pool of water must be artificially drained and filled. ~~Trailer~~Recreational vehicle park and campground lots must be established and maintained upon dry, well-drained spaces.
2. Drinking water supply: An adequate supply of potable and safe drinking water must be provided. ~~Water from other than a municipal supply may not be used until inspected, tested, and certified by the department.~~The operator of a mobile home park, recreational vehicle park, or campground shall supply drinking water at the mobile home park, recreational vehicle park, or campground which is obtained from an approved source that is a public water system or a nonpublic water system that is constructed, maintained, and operated according to law.
3. Towels: The placing of roller cloth towels for public use in any washroom or place within a mobile home park, ~~trailer~~recreational vehicle park, or campground is prohibited. Individual cloth towels, cloth towels provided in mechanical dispensers, individual paper towels, or roller paper towels must be placed for use.
4. Toilets: Modern sanitary flush toilets must be provided where a sewer connection is available. If a sewer connection is not available, sanitary flyproof privies must be maintained. All toilets and privies must be kept in a clean, sanitary condition. Separate toilets and privies must be provided for each sex. No privy or cesspool may be located less than one hundred feet [30.48 meters] from any well, kitchen, or sleeping quarters.
5. Garbage: All garbage and refuse must be stored in ~~metal flyproof durable, cleanable, insect- and rodent-resistant~~ containers, and the contents removed and disposed of ~~on a regular basis at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.~~ All buildings within the mobile home park, ~~trailer~~recreational vehicle park, or campground must be screened against flies and kept in a clean and sanitary condition.
6. Plumbing installations: All plumbing installations in a mobile home park, ~~trailer~~recreational vehicle park, or campground must be made in accordance with the state plumbing code and state laws.
7. Electrical installations: All electrical installations in a mobile home park, ~~trailer~~recreational vehicle park, or campground must be made in accordance with the state electrical code.
8. Streets and roadways: Each mobile home park, ~~trailer~~recreational vehicle park, and campground ~~shall~~must have roadways or streets wide enough to facilitate the movement of traffic within the park or campground.
9. Lighting: Each mobile home park ~~must be well-lighted,~~ recreational vehicle park, and campground must have adequate lighting as set forth in rule.

10. Fire protection: Each mobile home park shall, recreational vehicle park, and campground must have adequate fire protection in accordance with the state fire code.
11. Playgrounds: Each mobile home park containing twenty-five or more lots shall provide playground space equivalent to one lot for every twenty-five lots in the park.
12. Multiple-story parks: A multiple-story mobile home park or trailer park may not be constructed in this state.

SECTION 10. AMENDMENT. Section 23-10-07.1 of the North Dakota Century Code is amended and reenacted as follows:

23-10-07.1. Service fees.

Service fees that reasonably reflect the cost of the service provided in a mobile home park, ~~trailer~~recreational vehicle park, or campground may be charged. Fees may not be charged unless a service is actually provided.

SECTION 11. AMENDMENT. Section 23-10-09 of the North Dakota Century Code is amended and reenacted as follows:

23-10-09. Occupancy record.

The owner or manager of a mobile home park, ~~trailer~~recreational vehicle park, or campground shall maintain a current record of the names of the occupants of the park or campground.

SECTION 12. AMENDMENT. Section 23-10-10 of the North Dakota Century Code is amended and reenacted as follows:

23-10-10. Posting rules and regulations.

The owner or manager of a licensed mobile home park, recreational vehicle park, or campground conspicuously shall post or distribute a digital or hard copy of this chapter and the relevant rules and regulations to each tenant in the park. ~~The owner or manager of a trailer park or campground shall conspicuously post a copy of this chapter and the relevant rules and regulations in the trailer park or campground.~~ Material required to be distributed or posted under this section must be provided by the department free of charge.

SECTION 13. AMENDMENT. Section 23-10-10.1 of the North Dakota Century Code is amended and reenacted as follows:

23-10-10.1. Requirement of emergency response procedures in certain mobile home parks.

The owner of a mobile home park ~~that contains at least ten mobile homes,~~ recreational vehicle park, or campground shall establish a procedure for responding to emergencies and complaints ~~by tenants with respect to the mobile home park.~~ The procedure must include the ability to reach a person who has the authority to perform, or direct the performance of, duties imposed on the owner under this chapter. The procedure must be posted conspicuously in the mobile home park, recreational vehicle park, and campground or a copy must be provided to the tenants in writing and a copy must be provided to the tenants.

SECTION 14. AMENDMENT. Section 23-10-11 of the North Dakota Century Code is amended and reenacted as follows:

23-10-11. Ejection from premises.

The owner or manager of a mobile home park, ~~trailer~~recreational vehicle park, or campground may eject any person from the premises for nonpayment of charges or fees for accommodations, for a violation of law, for disorderly conduct, for a violation of any regulation of the department, or for a violation of any reasonable rule of the mobile home park, ~~trailer~~recreational vehicle park, or campground which is publicly posted within the park or campground.

SECTION 15. AMENDMENT. Section 23-10-12 of the North Dakota Century Code is amended and reenacted as follows:

23-10-12. Revocation of license - Penalty for operating without license.

The department may ~~revoke any license issued under this chapter~~deny an application or take disciplinary action, up to and including revocation, against any applicant or licensee upon the failure of the applicant or licensee to comply with this chapter or with any of the rules adopted by the health council and regulations promulgated by the department. ~~Before any license may be revoked, the department takes disciplinary action against a license, the department~~ shall notify the licensee in writing of the reason ~~revocation~~disciplinary action is being considered and shall provide a reasonable amount of time for correction to be made. Action taken under the authority granted in this section must comply with chapter 28-32. Any person who maintains or operates a mobile home park, ~~trailer~~recreational vehicle park, or campground without first obtaining a license, or who operates the same after revocation of the license, is guilty of an infraction.

Approved April 22, 2021

Filed April 23, 2021

CHAPTER 203

HOUSE BILL NO. 1105

(Representatives Dobervich, P. Anderson, Buffalo, Hanson, Pyle)
(Senators Bakke, Heckaman, Hogan, Mathern, Oban)

AN ACT to amend and reenact sections 12.1-20-12.1 and 23-12-16 of the North Dakota Century Code, relating to breastfeeding; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-20-12.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-20-12.1. Indecent exposure.

1. ~~A person~~An individual, with intent to arouse, appeal to, or gratify that ~~person's~~individual's lust, passions, or sexual desires, is guilty of a class A misdemeanor if that ~~person~~individual:
 - a. Masturbates in a public place or in the presence of a minor;
 - b. Exposes ~~one's~~the individual's penis, vulva, or anus in a public place or to a minor in a public or private place;
 - c. Exposes ~~one's~~the individual's penis, vulva, or anus by unsolicited electronic means; or
 - d. Exposes ~~one's~~the individual's penis, vulva, or anus by any electronic means to a minor.
2. ~~A person~~An individual is guilty of a class C felony if the ~~person~~individual violates subsection 1 after a previous conviction for violating subsection 1, after a previous conviction for violating section 12.1-20-12.2, or after being required to register under section 12.1-32-15.
3. ~~A person~~An individual who commits a violation of subdivision a or b of subsection 1 within fifty feet [15.24 meters] of or on the real property comprising a public or nonpublic elementary, middle, or high school is guilty of a class C felony. ~~A person~~An individual who commits a violation of subsection 2 within fifty feet [15.24 meters] of or on the real property comprising a public or nonpublic elementary, middle, or high school is guilty of a class B felony.
4. ~~The act of a woman discreetly breastfeeding her child is not a violation of this section.~~
5. As used in this section, "electronic means" includes images and pictures transmitted via electronic mail, electronic messaging, or from an electronic communications device.

SECTION 2. AMENDMENT. Section 23-12-16 of the North Dakota Century Code is amended and reenacted as follows:

23-12-16. Right to breastfeed.

~~If the woman acts in a discreet and modest manner, a~~ woman may breastfeed her child in any location, public or private, where the woman and child are otherwise authorized to be.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 204

HOUSE BILL NO. 1465

(Representatives Westlind, Tveit, Weisz)

AN ACT to create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to vaccine information; to amend and reenact section 26.1-36-09.15 of the North Dakota Century Code, relating to coverage of telehealth services; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Vaccine and infection information.

1. Except as provided under sections 15.1-23-02, 23-01-05.3, and 23-07-17.1, neither a state government entity nor any of its subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to state property, funds, or services:
 - (1) An individual's vaccination status;
 - (2) The presence of pathogens, antigens, or antibodies; or
 - (3) An individual's post-transmission recovery status;
 - b. Otherwise publish or share an individual's vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's vaccination status;
 - (2) The presence of pathogens, antigens, or antibodies; or
 - (3) An individual's post-transmission recovery status.
2. A private business located in this state may not require a patron or customer to provide any documentation certifying vaccination or post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a health care provider including a long-term care provider.

3. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
4. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
5. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
6. This section is limited in application to a vaccination authorized by the federal food and drug administration pursuant to an emergency use authorization.

SECTION 2. AMENDMENT. Section 26.1-36-09.15 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36-09.15. Coverage of telehealth services.

1. As used in this section:
 - a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
 - b. "E-visit" means a face-to-face digital communication initiated by a patient to a provider through the provider's online patient portal.
 - c. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.
 - e-d. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
 - d-e. "Nonpublic facing product" means a remote communication product that, as a default, allows only the intended parties to participate in the communication.
 - f. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.
 - e-g. "Policy" means an accident and health insurance policy, contract, or evidence of coverage on a group, individual, blanket, franchise, or association basis.
 - f-h. "Secure connection" means a connection made using a nonpublic facing remote communication product that employs end-to-end encryption, and

which allows only an individual and the person with whom the individual is communicating to see what is transmitted.

- i. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.

g-j. "Telehealth":

- (1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site and that is delivered over a secure connection that complies with the requirements of state and federal laws.
- (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.
- (3) Does not include the use of audio-only telephone, electronic mail, or facsimile transmissions, or audio-only telephone unless for the purpose of e-visits or a virtual check-in.

k. "Virtual check-in" means a brief communication via telephone or other telecommunications device to decide whether an office visit or other service is needed.

2. An insurer may not deliver, issue, execute, or renew a policy that provides health benefits coverage unless that policy provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the insurer with the health services providers in the same manner as ~~the insurer with the health services providers in the same manner as~~ the insurer establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
5. This section does not require:
 - a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
 - b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;

- c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or
- d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - HEALTH INSURANCE NETWORKS.

1. During the 2021-22 interim, the legislative management shall consider studying health insurance networks, including narrow networks. The study must include:
 - a. Consideration of the use and regulation of broad and narrow networks in the state by individuals and employers, the sales and marketing of broad and narrow networks, opportunities for consumer choice-of-provider, and premium differentials among states with choice-of-provider laws;
 - b. A review of legislative and court history regarding the impact of choice-of-provider laws on exclusive provider organizations and preferred provider organizations and how choice-of-provider laws apply to risk-pooled health plans regulated by the federal Employee Retirement Income Security Act of 1974;
 - c. The impact of the consolidation of the health care market on consumer cash prices, insurance plan deductibles and premiums prices, and consumer options;
 - d. A comparison of health maintenance organizations provider network designs and other health insurer provider network designs;
 - e. A review of how vertical integrated networks utilize HMO plans; and
 - f. A comparison of premiums of health benefit plans offered in the individual and small group markets in relation to the provider network design associated with those plans along with the growth of value-based purchasing.
2. The legislative management shall report its finding and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

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

Approved May 7, 2021

Filed May 10, 2021

CHAPTER 205

HOUSE BILL NO. 1065

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact section 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on the expansion of long-term care bed capacity.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴¹ **SECTION 1. AMENDMENT.** Section 23-16-01.1 of the North Dakota Century Code is amended and reenacted as follows:

23-16-01.1. Moratorium on expansion of long-term care bed capacity.

1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic care beds to nursing facility beds or relicenses nursing facility beds delicensed after July 31, 2011, nursing facility beds may not be added to the state's licensed bed capacity during the period between August 1, 2019, and July 31, 2021. A nursing facility may not delicense nursing facility bed capacity, relicense nursing facility bed capacity, convert licensed nursing bed capacity to basic care bed capacity, revert licensed basic care bed capacity back to nursing facility bed capacity, or otherwise reconfigure licensed nursing facility bed capacity more than ~~one time~~two times in a twelve-month period.
2. Transfer of licensed nursing facility bed capacity from a nursing facility to another entity is permitted. The nursing facility may transfer the bed capacity either as nursing facility bed capacity or basic care bed capacity. Transferred bed capacity must become licensed by an entity within seventy-two months of transfer. Bed capacity transferred as basic care bed capacity may not be reverted to nursing facility bed capacity at any time. A receiving entity may transfer the received bed capacity to another entity within the seventy-two-month period originally established at the time the nursing facility first transferred the licensed nursing facility bed capacity. The subsequent receiving entity must license the received bed capacity within the seventy-two-month period originally established at the time of the first transfer.
3. A nursing facility may convert licensed nursing facility bed capacity to basic care. If the converted beds remain in the same facility and are not transferred, the beds may revert to nursing facility status after one year of licensure as basic care beds.
4. Nursing facility beds that are converted to basic care may be transferred as basic care beds. However, upon the transfer, the basic care beds may not be relicensed as nursing facility beds.
5. ~~If an Indian tribe~~a federally recognized tribal nation acquires nursing facility beds, the tribal facility must meet state licensing requirements for those beds

¹⁴¹ Section 23-16-01.1 was also amended by section 212 of House Bill No. 1247, chapter 352, and section 2 of House Bill No. 1332, chapter 201.

within seventy-two months of acquisition. A tribal facility may seek to participate in the medical assistance programs. Medical assistance payments may only be made to a Medicaid certified tribal facility that agrees to participate and adhere to all federal and state requirements of the medical assistance program, including participation, screening, ratesetting, and licensing requirements.

6. A nursing facility, upon prior written notice to the state department of health, may delicense a maximum of ~~twenty-five~~^{thirty} percent of its licensed nursing facility bed capacity and have the delicensed nursing facility held for a period of forty-eight months. The total delicensed nursing facility bed capacity that may be held for a nursing facility at no time may be greater than fifty percent of the number of currently licensed beds in the nursing facility. Delicensed nursing facility bed capacity in excess of fifty percent of the nursing facility's licensed capacity may not be held and is not eligible for the provisions of subsection 7. Delicensed bed capacity not sold or relicensed at the conclusion of the forty-eight-month holding period ceases to exist.
7. During the forty-eight-month holding period established at the time of delicensure, delicensed nursing facility bed capacity that is being held for the nursing facility may be:
 - a. Relicensed by the nursing facility. Relicensing of nursing facility bed capacity may not occur for ~~twelve~~^{six} months from the time of delicensure.
 - b. Transferred to another entity as nursing facility bed capacity or basic care bed capacity. The receiving entity must license the transferred bed capacity as the type of bed capacity transferred within a seventy-two-month period established at the time of transfer. Bed capacity transferred as basic care bed capacity may not be reverted to nursing facility bed capacity at any time. A receiving entity may transfer the received bed capacity to another entity within the seventy-two-month period established at the time of transfer. The subsequent receiving entity must license the received bed capacity within the seventy-two-month period established at the time of transfer.
 - c. Licensed as basic care beds by the same facility. If the licensed basic care beds remain in the same facility and are not transferred, the beds may be reverted to licensed nursing facility bed capacity after twelve months.
8. Notwithstanding any other provision of this section, a nursing facility bed transferred before July 1, 2019, must be relicensed by the receiving entity within a seventy-two-month period established at the time of transfer.
9. Notwithstanding any other provision of this section, a nursing facility bed in the layaway program before July 1, 2019, may remain in the program for forty-eight months from the time the bed was first laid away.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 206

SENATE BILL NO. 2334

(Senators Myrdal, Klein, Kreun)
(Representatives Dockter, Porter, Richter)

AN ACT to create and enact chapter 23-17.6 of the North Dakota Century Code, relating to the registration of extended stay centers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 23-17.6 of the North Dakota Century Code is created and enacted as follows:

23-17.6-01. Definitions.

In this chapter, unless the context and subject matter otherwise require:

1. "Department" means the state department of health.
2. "Extended stay center" means a facility that provides extended stay services.
3. "Extended stay services" means postsurgical and postdiagnostic medical and nursing services provided to a patient recovering from a surgical procedure performed in an ambulatory surgical center.
4. "Operating room" has the meaning given that term in rules adopted by the health council.

23-17.6-02. Registration required - Rules.

A person may not conduct, maintain, or operate an extended stay center without a certificate of registration issued by the department. The health council shall adopt rules for the application, issuance, and renewal of a certificate of registration.

23-17.6-03. Issuance and renewal of certificate of registration - Evaluation.

Upon receipt of an initial or renewal certificate application, the department or the department's authorized agent shall evaluate the extended stay center. If minimum standards described in section 23-17.6-04 are met, the department shall issue the certificate.

23-17.6-04. Standards of registration.

1. An extended stay center shall meet the following minimum standards for registration:
 - a. Must be affiliated with one or more facilities certified by the centers for Medicare and Medicaid services as an ambulatory surgical center;
 - b. Must have no more than two recovery beds for each operating room in the affiliated ambulatory surgical center, not to exceed a total of sixteen recovery beds;

- c. Shall discharge patients within forty-eight hours from the time of admission to the extended stay center;
- d. Shall conform to all patient safety and facility requirements adopted by the health council by rule;
- e. Shall use admission criteria based only on the extended stay center's:
 - (1) Medical screening criteria;
 - (2) Evidence-based surgery guidelines; or
 - (3) Patient safety standards;
- f. Orally and in writing, shall clearly notify patients with Medicare coverage of the services provided by the extended stay center which are not covered by Medicare; and
- g. Shall report data and metrics to the department as prescribed by rule, including the:
 - (1) Types of procedures performed at the affiliated ambulatory surgical center for which patients are transferred to the extended stay center for recovery;
 - (2) Average duration of patient stays at the extended stay center;
 - (3) Medical acuity of the patients served by the extended stay center; and
 - (4) Frequency and cause of patient transfers from the extended stay center to a hospital.
- 2. An extended stay center only may accept a patient from an ambulatory surgical center. Each ambulatory surgical center must:
 - a. Be separated physically from the extended stay center operations;
 - b. Have demonstrated safe operating procedures in an outpatient surgery setting for no less than twenty-four consecutive months; and
 - c. Be certified by the centers for Medicare and Medicaid services as participating in the ambulatory surgical center quality reporting program administered by the centers for Medicare and Medicaid services.

23-17.6-05. Denial, suspension, or revocation of certificate of registration.

The department may deny, suspend, or revoke the certificate of registration of an extended stay center for noncompliance with this chapter in accordance with the administrative hearing provisions of chapter 28-32.

23-17.6-06. Rulemaking.

The health council shall adopt necessary rules relating to the extended stay centers, including rules governing:

1. Licensure qualifications of professional and ancillary personnel;

2. Standards for the organization and quality of patient care performed at the extended stay center;
3. Procedures for maintaining records;
4. Procedures for application, issuance, and renewal of certificate of registration;
5. Procedures for denial, suspension, or revocation of certificate of registration; and
6. Reviews of registered extended stay centers.

23-17.6-07. Application and renewal fees.

The department shall adopt by rule the fee for registering an extended stay center, not to exceed an application fee of fifteen thousand dollars and an annual renewal fee of fifteen thousand dollars.

23-17.6-08. Reviews of extended stay center.

Before the issuance or renewal of an extended stay center certificate of registration, the department shall inspect the extended stay center for compliance with the standards established under this chapter. To the maximum extent possible, the department shall coordinate reviews made under this chapter with those made for the purposes of determining compliance with other licensing or registration requirements.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 207

SENATE BILL NO. 2133

(Senators Lee, K. Roers)
(Representatives Keiser, Porter, Westlind)

AN ACT to amend and reenact subsection 2 of section 23-27-02, subsection 2 of section 23-27-04, and sections 23-27-04.3, 23-27-04.9, and 50-24.1-38 of the North Dakota Century Code, relating to services provided by emergency medical services operations and emergency medical services personnel; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴² **SECTION 1. AMENDMENT.** Subsection 2 of section 23-27-02 of the North Dakota Century Code is amended and reenacted as follows:

2. "Emergency medical services" means the prehospital medical stabilization or transportation, including interfacility transportation, of an individual who is sick, injured, wounded, or otherwise incapacitated or helpless, or in a real or perceived acute medical condition, by a person that holds oneself out to the public as being in that service or that regularly provides that service. The term includes:
 - a. Assessing, stabilizing, and treating life-threatening and non-life-threatening medical conditions; or
 - b. Transporting a patient who is in a real or perceived acute medical condition to a hospital emergency room or other appropriate medical destination.

¹⁴³ **SECTION 2. AMENDMENT.** Subsection 2 of section 23-27-04 of the North Dakota Century Code is amended and reenacted as follows:

2. An officer, employee, or agent of any prehospital emergency medical services operation may refuse to transport an individual for which transport is not medically necessary and may recommend an alternative course of action to that individual if the prehospital emergency medical service has developed protocols ~~that include direct medical control~~ to refuse transport of an individual.

¹⁴⁴ **SECTION 3. AMENDMENT.** Section 23-27-04.3 of the North Dakota Century Code is amended and reenacted as follows:

¹⁴² Section 23-27-02 was also amended by section 232 of House Bill No. 1247, chapter 352.

¹⁴³ Section 23-27-04 was also amended by section 234 of House Bill No. 1247, chapter 352.

¹⁴⁴ Section 23-27-04.3 was also amended by section 236 of House Bill No. 1247, chapter 352.

23-27-04.3. Emergency medical services personnel training, testing, certification, licensure, and quality review - Penalty.

The state health council shall adopt rules prescribing minimum training, testing, certification, licensure, and quality review standards for emergency medical services personnel, including community emergency medical services personnel, instructors, and training institutions. Rules adopted must include a definition of minimum applicable standards, a definition of emergency medical services personnel, provide for a mechanism for certifying or licensing persons who have met the required standards, provide a mechanism to review and improve the quality of care rendered by emergency medical services personnel, and define minimum standards for emergency medical services training institutions. Licensing as an emergency medical services training institution is optional. It is a class B misdemeanor for an individual to willfully misrepresent that individual's certification or licensing status as emergency medical services personnel. Quality review and improvement information, data, records, and proceedings are not subject to subpoena or discovery or introduction into evidence in any civil action.

SECTION 4. AMENDMENT. Section 23-27-04.9 of the North Dakota Century Code is amended and reenacted as follows:

23-27-04.9. Administration of influenza vaccinationvaccinations - Laboratory testing.

1. A licensed or certified emergency medical technician-paramedicservices personnel working for a hospital or an emergency medical services operation may administer the influenza vaccine to an individual who is at least eighteen years of age if:
 - a. The physician providing oversight for the emergency medical services operation or the hospital medical director has established protocols that meet department standards that may be based on the advisory committee on immunization practices of the federal centers for disease control and prevention; and
 - b. The emergency medical technician-paramedicservices personnel has satisfactorily completed a department-approved course on administering vaccines.
2. If a hospital or emergency medical services operation allows the administration of vaccines under this section, the hospital or emergency medical services operation shall maintain records documenting the emergency medical technician-paramedicservices personnel's completion of the training required under subsection 1. These records are subject to review by the department.
3. Licensed or certified emergency medical services personnel may perform laboratory testing authorized by rule adopted by the health council.

¹⁴⁵ **SECTION 5. AMENDMENT.** Section 50-24.1-38 of the North Dakota Century Code is amended and reenacted as follows:

¹⁴⁵ Section 50-24.1-38 was also amended by section 453 of House Bill No. 1247, chapter 352.

50-24.1-38. Health-related services - Licensed community paramedic emergency medical services personnel.

1. Medical assistance must cover services provided by community emergency medical services personnel, and other similarly licensed personnel who are licensed or certified under section 23-27-04.3, if the services are provided to an eligible recipient as defined by rule. Community emergency medical services personnel services may include health assessment, chronic disease monitoring and education, immunizations and vaccinations, laboratory specimen collection, followup care, comprehensive health and safety assessment, wound management, assess and report compliance with established care plan, medication management, and other interventions within the scope of practice for each licensure level as approved by a supervising physician, physician assistant, or advanced practice registered nurse.
2. The department of human services shall adopt rules governing payments to licensed community paramedic emergency medical services personnel, advanced emergency medical technicians, and emergency medical technicians for health-related services provided to recipients of medical assistance, subject to necessary limitations and exclusions. A physician, a physician assistant, or an advanced practice registered nurse must supervise any care provided by a licensed community paramedic emergency medical services personnel, an advanced emergency medical technician, or an emergency medical technician.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 208

HOUSE BILL NO. 1183

(Representatives Louser, Headland, Magrum, Mock, Roers Jones, Weisz)
(Senators Burckhard, Klein, Luick, Myrdal, Vedaa)

AN ACT to create and enact two new sections to chapter 23-35 of the North Dakota Century Code, relating to requiring public health units to adopt the technical guide for onsite wastewater recycling treatment and establishing the onsite wastewater recycling technical committee; to provide for a legislative management report; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-35 of the North Dakota Century Code is created and enacted as follows:

Public health units to adopt onsite wastewater recycling treatment guide.

Each public health unit shall adopt the statewide technical guide for onsite wastewater recycling treatment technologies and sewage distribution technologies established by the onsite wastewater recycling technical committee.

SECTION 2. A new section to chapter 23-35 of the North Dakota Century Code is created and enacted as follows:

Onsite wastewater recycling technical committee - Appointment - Duties.

1. The onsite wastewater recycling technical committee consists of:
 - a. Three representatives from local public health units appointed by the governor from a list of names forwarded by local public health units;
 - b. Four individuals who must be installers appointed by the governor. The governor shall appoint the individuals from a list of names forwarded by a professional onsite wastewater recycling association. For purposes of this section, an installer means an individual licensed by a local public health unit to install onsite wastewater sewage treatment systems; and
 - c. One individual who must be a licensed environmental health practitioner appointed by the governor from a list of names forwarded by a professional onsite wastewater recycling association.
2. The director of the department of environmental quality or the director's designee shall provide input at the request of the committee.
3. The terms of the committee members are for four years, and members may be reappointed.
4. The committee shall:
 - a. Meet at the call of at least three of the members.

- b. Create a statewide technical guide for onsite wastewater recycling treatment technologies and sewage distribution technologies.
- c. Recommend standards and procedures for issuing an installer license.
- d. Recommend continuing education requirements for installer license renewal.
- e. Recommend reasonable fees for issuing or renewing an installer license.

SECTION 3. REPORT TO LEGISLATIVE MANAGEMENT - ONSITE WASTEWATER RECYCLING TECHNICAL COMMITTEE. Before November 1, 2022, the onsite wastewater recycling technical committee shall submit a report to the legislative management on the status of the statewide technical guide and the committee's recommendations.

SECTION 4. APPLICATION. The governor shall appoint individuals to fill the committee positions in accordance with this Act, and the terms of those appointees must be staggered so not more than two positions expire in any year. To accomplish the staggering, the initial term of those appointees may be for less than four years.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 209

HOUSE BILL NO. 1205

(Representatives Steiner, Lefor, Meier, Rohr, Skroch, Strinden)
(Senators Myrdal, Wardner)

AN ACT to create and enact chapter 23-51 of the North Dakota Century Code, relating to establishing the maternal mortality review committee; to provide for a continuing appropriation; and to provide for a report to the legislative management and other agencies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 23-51 of the North Dakota Century Code is created and enacted as follows:

23-51-01. Definitions.

As used in this chapter:

1. "Committee" means the maternal mortality review committee.
2. "Department" means the obstetrics and gynecology department of the university of North Dakota school of medicine and health sciences.
3. "Health care provider" means:
 - a. An individual licensed, certified, or otherwise authorized to provide health care services in the ordinary course of business in the state; or
 - b. A health facility licensed by the state department of health.
4. "Maternal mortality" means the death of a pregnant woman or a woman within one year postpartum.
5. "School" means the university of North Dakota school of medicine and health sciences.
6. "Severe maternal morbidity" means a condition occurring in a woman during pregnancy or within one year of the end of pregnancy which results in:
 - a. Admission to the intensive care unit of a health facility; or
 - b. Transfusion of four or more units of blood products.

23-51-02. Maternal mortality review committee.

The department shall appoint individuals to serve as members on the maternal mortality review committee. Committee membership must include representatives of multiple specialties and disciplines, including forensic pathology. In appointing members, the department shall endeavor to appoint individuals working in and

representing communities affected by pregnancy-related deaths, severe maternal morbidity, and a lack of access to relevant perinatal and intrapartum care services.

23-51-03. Powers and duties of committee.

1. The committee shall:
 - a. Identify maternal mortality cases in the state;
 - b. Obtain and conduct comprehensive reviews of medical records and other relevant data using best practices for case reviews to identify factors associated with the deaths;
 - c. Consult, as appropriate, with relevant experts to evaluate and interpret the records and data;
 - d. Consult, as appropriate, with family members and other affected or involved persons to collect additional relevant information;
 - e. Make determinations regarding the preventability of maternal deaths;
 - f. Develop policy recommendations to improve health care services for women and reduce the incidence of maternal mortality in the state;
 - g. Convene annually and provide committee members with the available information necessary to fully review each case; and
 - h. Compile annually a state report of fatalities reviewed.
2. The committee may review cases and trends in severe maternal morbidity.

23-51-04. Powers and duties of school - Continuing appropriation.

1. The school shall provide or arrange for administrative services to assist the committee in performing official duties, including collection and management of case review files, maintenance of records, collection and analysis of data, and the issuance of an annual state report on maternal mortality. The school is responsible for the confidentiality and security of data on the sharing site on which the documents are stored.
2. The school may accept gifts and grants from any source to fund the duties of the department and the committee under this chapter. The school shall apply for and use available federal money to fund the duties of the committee under this chapter. All moneys received by the school under this section are appropriated on a continuing basis to the school for the purpose of funding the duties of the committee and the department under this chapter.

23-51-05. Confidentiality.

1. Notwithstanding section 44-04-19, all portions of a meeting of the committee during which the committee reviews maternal mortality and severe maternal morbidity are closed to the public. Notwithstanding section 44-04-18, all documentation and reports of the committee which are related to committee review of maternal deaths are confidential, except for the annual state report, which may not disclose personally identifiable information of decedents.

Records deemed confidential under this section are not discoverable as evidence.

2. All proceedings and activities of the committee under this chapter; committee members' opinions formed as a result of the proceedings and activities; and records obtained, created, or maintained under this chapter, including records of interviews, written reports, and statements procured by the department, the committee, or any other person acting jointly or under contract with the department or committee in connection with requirements of this chapter, are confidential and not subject to section 44-04-18, or subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding. This section may not be construed to limit or restrict the right to discover or use information or records available from another source and independent of the proceedings of the committee in any civil or criminal proceeding.

23-51-06. Access to records.

1. The presiding officer of the committee may request from a health care provider all patient records of the provider from the most recent thirty-six-month period which pertain to an identified maternal mortality. Upon receipt of a written request for the information, a health care provider shall disclose the records. The presiding officer also may acquire the information from health care facilities, maternal mortality review programs, and other sources in other states to ensure the committee's records of North Dakota maternal mortality cases are accurate and complete.
2. The state department of health shall provide a certified copy of a complete death record to the committee upon request.

23-51-07. Immunity.

A member of the committee or person employed by or acting in an advisory capacity to the committee and which provides information, counsel, or services to the committee is not liable for damages for an action taken within the scope of the functions of the committee. Members of the committee may not be questioned in any civil or criminal proceeding regarding the information presented in or opinions formed as a result of a meeting or communication of the committee. A committee member or health care provider providing access to medical records pursuant to this chapter may not be held liable for civil damages or be subject to any criminal or disciplinary action for a good faith effort in providing the records.

23-51-08. Annual state report.

1. The committee's annual state report must include the identification of patterns, trends, and policy issues related to maternal mortality, but may not disclose personally identifiable information.
2. The committee shall provide the annual state report to the legislative management, the state department of health, the North Dakota society of obstetricians and gynecologists, and other entities as determined necessary by the committee to facilitate the objectives of the committee. The committee's findings and recommendations must be made available to health care providers and the public.

Filed April 20, 2021

ENVIRONMENTAL QUALITY

CHAPTER 210

SENATE BILL NO. 2237

(Senator Bell)

AN ACT to amend and reenact section 23.1-06-07 of the North Dakota Century Code, relating to limitations on regulation of coal-fueled electric generating units; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23.1-06-07 of the North Dakota Century Code is amended and reenacted as follows:

23.1-06-07. Requirements for adoption of air quality rules more strict than federal standards.

1. Notwithstanding any other provisions of this title, the department may not adopt air quality rules or standards affecting coal conversion and associated facilities, coal-fueled electric generating units, petroleum refineries, or oil and gas production and processing facilities which are more strict than federal rules or standards under the federal Clean Air Act [42 U.S.C. 7401 et seq.], nor may the department adopt air quality rules or standards affecting such facilities when there are no corresponding federal rules or standards, unless the more strict or additional rules or standards are based on a risk assessment that demonstrates a substantial probability of significant impacts to public health or property, a cost-benefit analysis that affirmatively demonstrates that the benefits of the more stringent or additional state rules and standards will exceed the anticipated costs, and the independent peer reviews required by this section.
2. The department shall hold a hearing on any rules or standards proposed for adoption under this section on not less than ninety days' notice. The notice of hearing must specify all studies, opinions, and data that have been relied upon by the department and must state that the studies, risk assessment, and cost-benefit analysis that support the proposed rules or standards are available at the department for inspection and copying. If the department intends to rely upon any studies, opinions, risk assessments, cost-benefit analyses, or other information not available from the department when it gave its notice of hearing, the department shall give a new notice of hearing not less than ninety days before the hearing which clearly identifies the additional or amended studies, analyses, opinions, data, or information upon which the department intends to rely and conduct an additional hearing if the first hearing has already been held.
3. In this section:

- a. "Cost-benefit analysis" means both the analysis and the written document that contains:
- (1) A description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule. The analysis must include a quantification or numerical estimate of the quantifiable benefits and costs. The quantification or numerical estimate must use comparable assumptions, including time periods, specify the ranges of predictions, and explain the margins of error involved in the quantification methods and estimates being used. The costs that must be considered include the social, environmental, and economic costs that are expected to result directly or indirectly from implementation or compliance with the proposed rule.
 - (2) A reasonable determination whether as a whole the benefits of the rule justify the costs of the rule and that the rule will achieve the rulemaking objectives in a more cost-effective manner than other reasonable alternatives, including the alternative of no government action. In evaluating and comparing the costs and benefits, the department may not rely on cost, benefit, or risk assessment information that is not accompanied by data, analysis, or supporting materials that would enable the department and other persons interested in the rulemaking to assess the accuracy, reliability, and uncertainty factors applicable to the information.
- b. "Risk assessment" means both the process used by the department to identify and quantify the degree of toxicity, exposure, or other risk posed for the exposed individuals, populations, or resources, and the written document containing an explanation of how the assessment process has been applied to an individual substance, activity, or condition. The risk assessment must include a discussion that characterizes the risks being assessed. The risk characterization must include the following elements:
- (1) A description of the exposure scenarios used, the natural resources or subpopulations being exposed, and the likelihood of these exposure scenarios expressed in terms of probability.
 - (2) A hazard identification that demonstrates whether exposure to the substance, activity, or condition identified is causally linked to an adverse effect.
 - (3) The major sources of uncertainties in the hazard identification, dose-response, and exposure assessment portions of the risk assessment.
 - (4) When a risk assessment involves a choice of any significant assumption, inference, or model, the department, in preparing the risk assessment, shall:
 - (a) Rely only upon environmental protection agency-approved air dispersion models.
 - (b) Identify the assumptions, inferences, and models that materially affect the outcome.

- (c) Explain the basis for any choices.
 - (d) Identify any policy decisions or assumptions.
 - (e) Indicate the extent to which any model has been validated by, or conflicts with, empirical data.
 - (f) Describe the impact of alternative choices of assumptions, inferences, or mathematical models.
- (5) The range and distribution of exposures and risks derived from the risk assessment.
- c. The risk assessment and cost-benefit analysis performed by the department must be independently peer reviewed by qualified experts selected by the environmental review advisory council.
4. This section applies to any petition submitted to the department under section 23.1-01-04 which identifies air quality rules or standards affecting coal conversion facilities, coal-fueled electric generating units, or petroleum refineries that are more strict than federal rules or standards under the federal Clean Air Act [42 U.S.C. 7401 et seq.] or for which there are no corresponding federal rules or standards, regardless of whether the department has previously adopted the more strict or additional rules or standards pursuant to section 23.1-01-04. This section also applies to any petitions filed under section 23.1-01-04 affecting coal conversion facilities, coal-fueled electric generating units, or petroleum refineries that are pending on the effective date of this section for which new rules or standards have not been adopted, and the department shall have a reasonable amount of additional time to comply with the more stringent requirements of this section. To the extent section 23.1-01-04.1 conflicts with this section, the provisions of this section govern. This section does not apply to existing rules that set air quality standards for odor, hydrogen sulfide, visible and fugitive emissions, or emission standards for particulate matter and sulfur dioxide, but does apply to new rules governing those standards.

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

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 211

SENATE BILL NO. 2238

(Senator Bell)

AN ACT to create and enact section 23.1-06-16 of the North Dakota Century Code, relating to the state regional haze plan; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 23.1-06-16 of the North Dakota Century Code is created and enacted as follows:

23.1-06-16. Implementation of federal regional haze program requirements.

1. Consistent with the federal Clean Air Act [42 U.S.C. 7401 et seq.] and the regulations adopted under the Clean Air Act, the department shall develop and implement a state regional haze plan in accordance with this section.
2. The state regional haze plan must include an analysis of the natural and international causes of visibility impairment.
3. In developing a periodic comprehensive revision of the state implementation plan, the department shall consider whether additional measures are necessary to make reasonable progress toward meeting the national goal of visibility improvement, as required by the federal Clean Air Act [42 U.S.C. 7401 et seq.] and further defined by the United States environmental protection agency to be natural visibility conditions by 2064. The department may not require controls the department has determined serve only to increase total costs with little corresponding visibility benefit.
4. If the environmental protection agency disapproves the state regional haze plan, the department may develop and submit as expeditiously as possible a revised plan to address the reasons for the disapproval in accordance with the requirements of this section.
5. Any new control measures mandated by the state regional haze plan are effective only upon final approval by the environmental protection agency.
6. If federal laws, a federal court, or a final federal agency action renders any control measures included in the state plan unenforceable by the environmental protection agency, the requirement to implement the measures may not be enforced under state law to the same extent the measures are unenforceable under federal law.

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

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 212

SENATE BILL NO. 2070

(Energy and Natural Resources Committee)
(At the request of the Department of Environmental Quality)

AN ACT to create and enact sections 23.1-10-04, 23.1-10-05, 23.1-10-06, 23.1-10-07, 23.1-10-08, 23.1-10-09, 23.1-10-10, 23.1-10-11, 23.1-10-12, 23.1-10-13, 23.1-10-14, 23.1-10-15, 23.1-10-16, and 23.1-10-17 of the North Dakota Century Code, relating to the regulated substance response; to amend and reenact sections 11-33-01, 23.1-10-02, 40-47-01, and 58-03-11 of the North Dakota Century Code, relating to the regulated substance response; to repeal sections 23.1-04-04 and 23.1-10-01 of the North Dakota Century Code, relating to contaminated properties; to provide a continuing appropriation; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-33-01 of the North Dakota Century Code is amended and reenacted as follows:

11-33-01. County power to regulate property.

For the purpose of promoting health, safety, morals, public convenience, general prosperity, and public welfare, the board of county commissioners of any county may regulate and restrict within the county, subject to chapter 54-21.3, the location and the use of buildings and structures and the use, condition of use, or occupancy of lands for residence, recreation, and other purposes. The board of county commissioners and a county zoning commission shall state the grounds upon which any request for a zoning amendment or variance is approved or disapproved, and written findings upon which the decision is based must be included within the records of the board or commission. The board of county commissioners shall establish zoning requirements for solid waste disposal and incineration facilities before July 1, 1994. The board of county commissioners may impose tipping or other fees on solid waste management and incineration facilities. The board of county commissioners may not impose any fee under this section on an energy conversion facility or coal mining operation that disposes of its waste onsite. The board of county commissioners may establish institutional controls that address environmental concerns with the department of environmental quality as provided in section ~~23.1-04-04~~23.1-10-16.

SECTION 2. AMENDMENT. Section 23.1-10-02 of the North Dakota Century Code is amended and reenacted as follows:

23.1-10-02. Environmental quality restoration fund - Continuing appropriation.

There is established an environmental quality restoration fund into which the funds recovered in this chapter may be deposited. The fund is to be administered by the department of environmental quality and may be used by the department for costs of environmental assessment, removal, corrective action, or monitoring as determined on a case-by-case basis. All moneys placed in the fund under this section and section 23.1-10-05 are appropriated to the department on a continuing basis.

SECTION 3. Section 23.1-10-04 of the North Dakota Century Code is created and enacted as follows:

23.1-10-04. Definitions.

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

1. "Containment unit" means any one or a combination of containers, vessels, and enclosures, including structures and appurtenances connected to them, which or has been used to contain or dispense a regulated substance and is either stationary or attached to a motor vehicle. The definition includes pipeline facilities that transport and store regulated substances.
2. "Corrective action" means an action taken to investigate, minimize, contain, eliminate, remediate, mitigate, monitor, or clean up a release including any necessary emergency remedial effort.
3. "Corrective action cost" means any cost incurred by the department in conducting or overseeing corrective actions performed on a release; or the performance of reasonable measures undertaken to prevent or mitigate damage to the public health, public safety, public welfare, or environment of the state.
4. "Department" means the department of environmental quality.
5. "Emergency remedial effort" means an action taken to protect the public health, public safety, or environment from imminent danger resulting from a release, and an action taken to contain a release that, if not contained, will pose in time a greater threat to the public health, public safety, or environment than if the action is not taken immediately.
6. "Environment" means land, including public and private property, surface and underground waters, fish, wildlife, biota, air, and other similar resources within the state.
7. "Fund" means the environmental quality restoration fund.
8. "Institutional controls" and "activity and use limitations" are restrictions on the use and management of real property, including buildings or fixtures, containing or preventing migration of regulated substances or other pollution or contamination, or protecting receptors from exposure or the threat of exposure to regulated substances or other pollution or contamination. Institutional controls may apply:
 - a. During environmental remediation activities; or
 - b. To residual regulated substances, pollutants, or other pollution or contamination or the byproducts of residual regulated substances, pollutants, or other pollution or contamination which may remain on property after active environmental remediation activities are concluded or while natural attenuation of regulated substances or other pollution or contamination is occurring.
9. "Potentially responsible party" means a person identified as a possible cause of, or contributor to, contamination or pollution on a site or property.

10. "Regulated substance" means a compound designated by the department, including pesticides and fertilizers regulated by the department of agriculture; the hazardous substances designated by the Federal Water Pollution Control Act [Pub. L. 80-845; 62 Stat. 1155; 33 U.S.C. 1251 et seq.]; the toxic pollutants designated by the Federal Water Pollution Control Act and the Toxic Substances Control Act [Pub. L. 94-469; 90 Stat. 2003; 15 U.S.C. 2601 et seq.]; the hazardous substances designated by the federal Comprehensive Environmental Response, Compensation, and Liability Act [Pub. L. 96-510; 94 Stat. 2767; 42 U.S.C. 9601 et seq.]; petroleum, petroleum substances, oil, gasoline, kerosene, fuel oil, oil sludge, oil refuse, production water, oil mixed with other wastes, crude oils, substances, or additives to be utilized in refining or blending crude petroleum or petroleum stock; any other oil or petroleum substance; solid waste regulated under chapter 23.1-08; and technologically enhanced naturally occurring radioactive material regulated under chapter 23.1-03. Radioactive material other than technologically enhanced naturally occurring radioactive material is not a regulated substance under this chapter.
11. "Release" means an intentional or unintentional act or omission that results in the discharge, spill, leak, emission, escape, or disposal of a regulated substance into the environment and harms or threatens harm to public health or public safety or the environment.
12. "Responsible party" means a person that causes or contributes to an onsite or offsite release or threatened release, or that is responsible for an illegal or unpermitted storage, of a regulated substance that results in the contamination or pollution of a property or site.

SECTION 4. Section 23.1-10-05 of the North Dakota Century Code is created and enacted as follows:

23.1-10-05. Revenue to the fund.

Revenue from the following sources must be deposited in the state treasury and credited to the fund:

1. If the balance of the fund is less than five million dollars, moneys recovered by the department in an action or administrative proceeding based on violation of the state's environmental statutes, including actions for administrative expense recoveries, civil penalties, compensatory damages; and money paid pursuant to any agreement, stipulation, or settlement. This section does not limit the department's ability to agree to a supplemental environmental project as part of a settlement.
2. Moneys donated to the department for the purposes of this chapter.
3. Transfers from the abandoned oil and gas well plugging and site reclamation fund under subdivision f of subsection 2 of section 38-08-04.5.
4. Moneys received from a federal agency for the purpose of this section.
5. Any other moneys as may be deposited in the fund for use in carrying out the purposes of this chapter.

SECTION 5. Section 23.1-10-06 of the North Dakota Century Code is created and enacted as follows:

23.1-10-06. Release of regulated substance prohibited - Exception.

The release of a regulated substance is prohibited. This section does not apply to releases of regulated substances pursuant to and in compliance with the conditions of a federal or state environmental permit.

SECTION 6. Section 23.1-10-07 of the North Dakota Century Code is created and enacted as follows:

23.1-10-07. Releases from petroleum tanks.

Releases from petroleum tanks are subject to this chapter, but the department may expend moneys in the fund to address releases from petroleum tanks only if there are no available moneys in the petroleum tank release compensation fund under chapter 23.1-12.

SECTION 7. Section 23.1-10-08 of the North Dakota Century Code is created and enacted as follows:

23.1-10-08. Responsible parties.

1. If the department determines a release has occurred, the department shall identify the responsible party.
2. If no other viable responsible party can be located after the department's reasonable investigation, the department shall consider a person that became an owner of the property after the release to be a responsible party, subject to the limitations in this section.
 - a. Notwithstanding any other provision of law and except as expressly provided by federal law, a person that acquires property is not liable for an existing regulated substance on the property if the person:
 - (1) Acquired the property after the disposal or placement of the regulated substance on, in, or at the property; and at the time the property was acquired did not know and had no reason to know a regulated substance was disposed of on, in, or at the property;
 - (2) Is a governmental entity that acquired the property by escheat, by tax sale, by foreclosure, through any other involuntary transfer or acquisition, or through the exercise of eminent domain authority by purchase or condemnation; or
 - (3) Acquired the property by inheritance or bequest, and did not know a regulated substance was disposed of on, in, or at the property; or is the owner of the surface estate and the regulated substance was released as a result of oil or gas drilling and production operations, or other operation authorized by chapter 38-08, and the owner of the surface estate is not and has never been an operator of oil and gas wells permitted under chapter 38-08.
 - b. To establish the person had no reason to know a regulated substance was disposed of on, in, or at the property, the person must have undertaken, at the time of acquisition, all appropriate inquiries into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability. For purposes of this requirement, the department shall take into account any specialized knowledge or

experience on the part of the person, the relationship of the purchase price to the value of the property as uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of regulated substances at the property, and the ability to detect the regulated substances by appropriate inspection.

- c. A person that has acquired real property may establish a rebuttable presumption the person has made all appropriate inquiries if the person establishes the person performed an investigation of the property, conducted by an environmental professional immediately before or at the time of acquisition, to determine or discover the obviousness of the presence or likely presence of a release or threatened release of regulated substances on the property.
 - d. The presumption does not arise unless the person has maintained a compilation of the information reviewed during the investigation.
 - e. This section does not diminish the liability of a previous owner or operator of the property which otherwise would be liable under this chapter, and nothing in this section affects the liability under this chapter of a person that, by any act or omission, caused or contributed to the release or threatened release of a regulated substance that is the subject of the action relating to the property.
 - f. As used in this section, "environmental professional" means an individual, or entity managed or controlled by an individual, such as an engineer, environmental consultant, and attorney, who, through academic training, occupational experience, and reputation, can objectively conduct one or more aspects of an environmental investigation.
3. A lender-owner is liable for a release or threatened release of a regulated substance only as provided in chapter 32-40.1.

SECTION 8. Section 23.1-10-09 of the North Dakota Century Code is created and enacted as follows:

23.1-10-09. Duty to provide information - Inspections.

- 1. When requested by the department, a responsible or potentially responsible party, or owner of real property where a release or threatened release is located or where response actions are proposed to be taken, shall furnish to the department any information the person may have or reasonably may obtain which is relevant to the release or threatened release.
- 2. The department, upon presentation of credentials, may:
 - a. Examine and copy any books, papers, records, memoranda, or data of any person that has a duty to provide information to the department under subsection 1; and
 - b. Enter upon any property, public or private, to take action authorized by this chapter, including obtaining information from a person that has a duty to provide the information under subsection 1, conducting surveys or investigations, and taking removal or remedial action.

SECTION 9. Section 23.1-10-10 of the North Dakota Century Code is created and enacted as follows:

23.1-10-10. Authority to establish and enforce remediation requirements.

In determining the appropriate standards to be achieved by corrective actions taken or requested under this chapter to protect public health and welfare and the environment from a release or threatened release, the department shall consider the planned use of the property where the release or threatened release is located. This chapter does not limit the authority of the department to establish environmental standards for remediation of air, soil, or water pollution pursuant to this title or chapters 61-28 and 61-28.1, or to enforce site-specific environmental remediation requirements in particular cases.

SECTION 10. Section 23.1-10-11 of the North Dakota Century Code is created and enacted as follows:

23.1-10-11. Action to compel performance - Injunctive relief.

1. The department may make a request for corrective action to a responsible party. A request must be in writing, state the action requested, the reasons for the action, and reasonable times for the action to begin and be completed taking into account the urgency of the action for protection of the public health or welfare or the environment.
2. If a person responsible for a release or threatened release of a regulated substance fails to take corrective actions or make reasonable progress in completing corrective actions requested under subsection 1, the department may bring an action to compel performance of the requested corrective actions. If any person having any right, title, or interest in and to the real property where the containment unit is located or where corrective actions are proposed to be taken is not a person responsible for the release or threatened release, the person may be joined as an indispensable party in an action to compel performance to assure the requested corrective actions can be taken on that property by the responsible parties.
3. The release or threatened release of a regulated substance may constitute a public nuisance and may be enjoined in an action brought by the department.

SECTION 11. Section 23.1-10-12 of the North Dakota Century Code is created and enacted as follows:

23.1-10-12. Cost recovery.

The department may recover its reasonable and necessary expenses incurred under this chapter, including all corrective action costs and administrative and legal expenses, in a civil action brought against a responsible party. The department's certification of expenses is prima facie evidence the expenses are reasonable and necessary. The department shall provide written notice to a responsible party before incurring costs, except when prior notice is not possible because identity of the responsible party is unknown or situations require emergency remedial efforts.

SECTION 12. Section 23.1-10-13 of the North Dakota Century Code is created and enacted as follows:

23.1-10-13. Corrective action costs as lien - Filing of notice of lien - Contents - Attachment priority.

All corrective action costs expended from the fund pursuant to this chapter constitute a lien on all property owned by the responsible party when a notice of lien is filed with the recorder in the county where the property is located. The notice of lien must contain a description of the property of the responsible party upon which the lien is made, a description of the property upon which corrective action or emergency remedial efforts were made, and a statement of the corrective action costs expended from the fund. Upon entry, the lien must attach to all real property of the responsible party. The lien has priority over all other claims or liens on the property, except those perfected before the department's filing of the notice of lien.

SECTION 13. Section 23.1-10-14 of the North Dakota Century Code is created and enacted as follows:

23.1-10-14. Other remedies.

This chapter does not limit the powers of the department or preclude the pursuit of any other administrative, civil, injunctive, or criminal remedies by the department or any other person. Administrative remedies do not need to be exhausted to proceed under this chapter. The remedies provided by this chapter are in addition to those provided under other statutory or common law.

SECTION 14. Section 23.1-10-15 of the North Dakota Century Code is created and enacted as follows:

23.1-10-15. Voluntary response actions - Liability protection - Procedures.

1. Subject to the provisions of this section, a person that is not otherwise responsible under this chapter or another environmental law for a release or threatened release is not responsible solely because the person undertakes and completes response actions to remove or remedy releases or threatened releases at an identified area of real property in accordance with a voluntary cleanup agreement.
2. A person requesting liability protection under this section shall submit an application in the form required by the department. The requestor also shall submit a voluntary response action plan that includes an investigation report prepared by an appropriate professional describing the methods and results of an investigation of the releases and threatened releases at the identified area of real property, methods of investigation, and the analytical results and professional's evaluation of the reported information. The department may approve the application only if the department determines the nature and extent of the releases and threatened releases at the identified area of real property have been identified and evaluated adequately in the investigation report. The department's approval also must be based on consideration of the following:
 - a. If reuse or development of the property is proposed, the voluntary response action plan provides for all response actions required to carry out the proposed reuse or development;
 - b. The response actions and the activities associated with any reuse or development proposed for the property will not aggravate or contribute to releases or threatened releases that are not required to be removed or remedied under the voluntary response action plan, and will not interfere with or substantially increase the cost of response actions to address the remaining releases or threatened releases; and

- c. The owner of the property or other relevant person agrees to cooperate with the department or other persons acting at the department's direction in taking response actions necessary to address remaining releases or threatened releases, and to avoid any action that interferes with the response actions.
- 3. If the department approves the application, the department and requestor shall enter a voluntary cleanup agreement in which the department agrees to take no action under title 23.1 and chapters 61-28 and 61-28.1 against the requestor and those persons identified in subsection 5 so long as the plan is implemented pursuant to the agreement's terms and with the exercise of due care. As part of the agreement, the department may require the owner, requestor, or other relevant person agrees to any of the following conditions:
 - a. To provide access to the property;
 - b. To allow reasonable and necessary activities at the property, including placement of borings, wells, equipment, and structures on the property; and
 - c. To enter an environmental covenant for the property containing institutional controls under chapter 47-37. Alternatively, institutional controls may be imposed on the property using zoning regulations under section 23.1-10-16.
- 4. Response actions taken under a voluntary cleanup agreement are not complete until the department certifies completion in writing. The department shall issue a certificate of completion if the parties demonstrate to the department's satisfaction the response action is complete. If a voluntary response action plan does not require removal or remedy of all regulated substances, the department may condition the certificate of completion on the owner's, requestor's, or other relevant person's continued compliance with conditions in the voluntary cleanup agreement or other conditions deemed necessary by the department.
- 5. In addition to the person that undertakes and completes a voluntary response action pursuant to a voluntary cleanup agreement, the liability protection provided by this section applies to the following persons so long as the persons comply with any conditions imposed by the department under subsection 4:
 - a. The owner of the identified property, if the owner is not responsible for any release or threatened release identified in the approved voluntary response action plan;
 - b. A person providing financing to the person that undertakes and completes the response actions or that acquires or develops the identified property;
 - c. A fiduciary that arranges for the undertaking and completion of response actions; and
 - d. A successor or assignee of a person to which the liability protection applies.

6. Notwithstanding subsection 1, when a person that is responsible for a release or threatened release undertakes and completes response actions, the protection from liability provided by this section applies to persons described in subsection 5 if the response actions are undertaken and completed in accordance with the following:
 - a. The response actions must be undertaken and completed in accordance with a voluntary cleanup agreement.
 - b. When the department issues a certificate of completion for response actions completed by a responsible party, the department and the responsible party may enter an agreement that resolves the responsible party's future liability to the department for the release or threatened release addressed by the response actions.
7. The protection from liability provided by this section does not apply to a person that:
 - a. Aggravates or contributes to a release or threatened release that was not remedied under an approved voluntary response action plan; or
 - b. Obtains the department's approval of a voluntary cleanup agreement for purposes of this section by fraud or misrepresentation or by knowingly failing to disclose material information, or that knows the approval was so obtained before taking an action that would have made the person subject to the protection of this section.
8. This section does not affect the authority of the department to exercise any powers or duties with respect to a new or additional release or threatened release of a regulated substance on a property or site regulated under this section, or the right of the department or any other person to seek legal or equitable relief against a person not subject to a liability protection provided under this section.

SECTION 15. Section 23.1-10-16 of the North Dakota Century Code is created and enacted as follows:

23.1-10-16. Zoning regulations establishing institutional controls.

1. If an area made subject to institutional controls involves two or more property owners and an area larger than either one city block or ten acres [4.05 hectares], the department and the political subdivision having zoning authority over the property may agree to institutional controls relating to the identified area impacted by the release or threatened release. Before the institutional controls become effective, the controls must be the subject of a public hearing and be established in the same manner as zoning regulations are established by that political subdivision. The political subdivision shall provide all notices under this subdivision, but any public hearing must be held jointly by the political subdivision and the department.
2. The department shall consider the factors in subsection 2 of section 23.1-10-15 before agreeing to institutional controls under this section.
3. Institutional controls may be terminated or amended at any time by written agreement between the department and the relevant political subdivision.

SECTION 16. Section 23.1-10-17 of the North Dakota Century Code is created and enacted as follows:

23.1-10-17. Liability protections issued before August 1, 2021.

This chapter does not affect liability protections related to releases or threatened releases of regulated substances issued by the department before August 1, 2021. These liability protections remain in effect, subject to any conditions that were imposed by the department and the statutes in effect on the date issued.

SECTION 17. AMENDMENT. Section 40-47-01 of the North Dakota Century Code is amended and reenacted as follows:

40-47-01. Cities may zone - Application of regulations.

For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing body of any city may, subject to the provisions of chapter 54-21.3, regulate and restrict the height, number of stories, and the size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. ~~Such~~The regulations may provide that a board of adjustment may determine and vary the application of the regulations in harmony with ~~their~~the regulations' general purpose and intent and in accordance with general or specific rules therein contained ~~in the regulations~~. The governing body of a city may establish institutional controls that address environmental concerns with the department of environmental quality as provided in section ~~23.1-04-04~~23.1-10-16.

SECTION 18. AMENDMENT. Section 58-03-11 of the North Dakota Century Code is amended and reenacted as follows:

58-03-11. Establishment of zoning districts - Uniformity.

For the purpose of promoting the health, safety, morals, or the general welfare, or to secure the orderly development of approaches to municipalities, the board of township supervisors may establish one or more zoning districts and within ~~such~~the districts may, subject to the provisions of chapter 54-21.3 and section 58-03-11.1, may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures; ~~the~~ height, number of stories, and size of buildings and structures; ~~the~~ the percentage of lot that may be occupied; ~~the~~ the size of yards, courts, and other open spaces; ~~the~~ the density of population; ~~and~~ the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. All ~~such~~ regulations and restrictions under this section must be uniform throughout each district, but the regulations and restrictions in one district may differ from those in other districts. The board of township supervisors may establish institutional controls that address environmental concerns with the department of environmental quality as provided in section ~~23.1-04-04~~23.1-10-16.

SECTION 19. REPEAL. Sections 23.1-04-04 and 23.1-10-01 of the North Dakota Century Code are repealed.

SECTION 20. RETROACTIVE APPLICATION. This Act is retroactive in application.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 213

SENATE BILL NO. 2098

(Judiciary Committee)
(At the request of the Highway Patrol)

AN ACT to amend and reenact subsections 1 and 2 of section 23.1-15-05, subsection 1 of section 23.1-15-07, and sections 23.1-15-08 and 23.1-15-09 of the North Dakota Century Code, relating to abandoned vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 2 of section 23.1-15-05 of the North Dakota Century Code are amended and reenacted as follows:

1. When an abandoned motor vehicle does not fall within the provisions of section 23.1-15-04, the unit of government or commercial towing service taking it into custody shall give notice of the taking within ten days. The notice must set forth the date and place of the taking, the year, make, model, and serial number of the abandoned motor vehicle, and the place where the vehicle is being held, must inform the owner and any lienholders or secured parties of their right to reclaim the vehicle under section 23.1-15-06, and must state that failure of the owner or, lienholders, or secured parties to exercise their right to reclaim the vehicle within thirty days is deemed a waiver by ~~them~~the owner, lienholders, or secured parties of all right, title, and interest in the vehicle and a consent to the disposal of the vehicle pursuant to section 23.1-15-07, and must state the end date of the thirty-day period during which the owner may reclaim the abandoned vehicle.
2. The notice must be sent by certified mail, return receipt requested, to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders or secured parties of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice must be published once in a newspaper of general circulation in the area where the motor vehicle was abandoned or placed on the official website for the unit of government that initiated the impound process from public property. When posted on a website, the notice must be placed in a designated area on the official website for a minimum of thirty days and must include the information in subsection 1. Published notices may be grouped together for convenience and economy. Failure of the owner, lienholders, or secured parties to exercise the right to reclaim the vehicle by the end of the public notice period is deemed a waiver by the owner, lienholders, or secured parties of all right, title, and interests in the vehicle and a consent to the disposal of the vehicle pursuant to section 23.1-15-07.

¹⁴⁶ **SECTION 2. AMENDMENT.** Subsection 1 of section 23.1-15-07 of the North Dakota Century Code is amended and reenacted as follows:

¹⁴⁶ Section 23.1-15-07 was also amended by section 5 of Senate Bill No. 2048, chapter 337.

1. An abandoned motor vehicle not more than seven model years of age taken into custody by a unit of government and not reclaimed under section 23.1-15-06 must be sold to the highest bidder at public auction or sale, following reasonable published notice. The purchaser must be given a receipt in a form prescribed by the department of transportation which is sufficient title to dispose of the vehicle. The receipt also entitles the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. The license plates displayed on an abandoned vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle.

SECTION 3. AMENDMENT. Section 23.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

23.1-15-08. Disposal of vehicles not sold.

When no bid has been received for an abandoned motor vehicle, the unit of government or a commercial towing service that is a licensed scrap iron processor may dispose of it pursuant to contract under section 23.1-15-09.

SECTION 4. AMENDMENT. Section 23.1-15-09 of the North Dakota Century Code is amended and reenacted as follows:

23.1-15-09. Contracts for disposal - Issuance of licenses by department of environmental quality - Reimbursement of units of government and commercial towing services for costs.

1. A unit of government may contract with any qualified licensed scrap iron processor for collection, storage, incineration, volume reduction, transportation, or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal. The contract may authorize the contracting scrap iron processor to pay to the owner of any abandoned motor vehicle an incentive payment for vehicle if it is voluntarily surrendered and delivered to the scrap iron processor. For purposes of this section, an owner of an abandoned motor vehicle includes only a person that has owned and operated the vehicle for the person's personal or business use.
2. The department may issue a license to any qualified scrap iron processor desiring to participate in a contract under this section that~~which~~ meets the requirements for solid waste disposers established by the department.
3. ~~When~~Before a unit of government enters a contract with a scrap iron processor duly licensed by the department, the department may review the contract to determine whether it conforms to the department's plan for solid waste disposal. A contract that does conform may be approved by the department. When a contract has been approved, the department may reimburse the unit of government for the costs incurred under the contract, including incentive payments authorized and made under the contract, subject to the limitations of legislative appropriations.
4. Before a commercial towing service that is a scrap iron processor duly licensed by the department enters a contract with the department, the department may review the contract to determine whether it conforms to the department's plan for solid waste disposal. A contract that does conform may be approved by the department. When a contract has been approved, the

department may reimburse the commercial towing service for the costs incurred under the contract for towing and up to thirty days of storage charges resulting from taking an abandoned motor vehicle into custody, subject to the limitations of legislative appropriations.

5. The department may demand that a unit of government or a commercial towing service that is a licensed scrap iron processor contract for the disposal of abandoned motor vehicles and other scrap metal under the department's plan for solid waste disposal. When the unit of government or the commercial towing service fails to contract within one hundred eighty days of the demand, the department, on behalf of the unit of government, may contract with any scrap iron processor duly licensed by the department for such disposal.

Approved March 23, 2021

Filed March 24, 2021

HIGHWAYS, BRIDGES, AND FERRIES

CHAPTER 214

SENATE BILL NO. 2297

(Senators Marcellais, Heckaman, Oehlke)
(Representatives Buffalo, D. Johnson)

AN ACT to create and enact a new section to chapter 24-01 of the North Dakota Century Code, relating to designating state highway 57 as the Akicita (veteran) memorial highway; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 24-01 of the North Dakota Century Code is created and enacted as follows:

Akicita (veteran) memorial highway - State highway 57 - Continuing appropriation.

The department shall designate state highway 57 from the junction of United States highway 281 and state highway 57 to the junction of state highway 57 and state highway 20 as the Akicita (veteran) memorial highway and shall place signs along the highway designating that name. The department may accept any appropriate signs or funds donated to the department for the placement of signs. Any donated funds are appropriated to the department on a continuing basis for the purpose of providing signs designating state highway 57 as the Akicita (veteran) memorial highway.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 215

SENATE BILL NO. 2026

(Legislative Management)
(Agriculture and Transportation Committee)

AN ACT to provide for a department of transportation long combination vehicle study and pilot projects; and to provide for a legislative management report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. DEPARTMENT OF TRANSPORTATION LONG COMBINATION VEHICLE STUDY AND PILOT PROJECTS - REPORT TO LEGISLATIVE MANAGEMENT.

1. During the 2021-22 interim, the department of transportation shall study and conduct pilot projects on the feasibility and impact of long combination vehicle operations on North Dakota roadways. The study must include:
 - a. An assessment of the federal regulations impacting long combination vehicle operations beyond the configurations currently allowed, including configuration combinations allowed in Canada and other jurisdictions;
 - b. An evaluation of the economic impact of permitting long combination vehicle operations in the state;
 - c. An assessment of the impact long combination vehicle operations would have on North Dakota bridges and structures;
 - d. An assessment and evaluation of road networks that are compatible with certain long combination vehicle configurations, or with minor modifications, not exceeding one hundred thirty feet of cargo carrying capacity unless approved by the director of the department of transportation;
 - e. Implementing pilot project safety guidelines that include protocols for traffic safety and inclement weather operations;
 - f. An assessment of the costs associated with implementing long combination vehicle operations; and
 - g. An examination of the size and weight provisions provided under chapter 39-12.
2. If a pilot project includes operating on county, city, or township roads, an agreement with local road authorities must be in place to address traffic safety considerations and costs directly attributed to the pilot project.
3. The director of the department of transportation may waive certain statutory size and weight restrictions for the pilot projects.

4. The department of transportation may continue any pilot project commenced under subsection 1 until the department determines sufficient information has been gathered to determine the pilot project is no longer necessary.
5. Before August 1, 2022, the department of transportation shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 216

HOUSE BILL NO. 1101

(Transportation Committee)

(At the request of the Department of Transportation)

AN ACT to amend and reenact section 24-02-02.3 of the North Dakota Century Code, relating to federally funded safety improvement projects on tribal owned highways, streets, roads, and bridges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-02-02.3 of the North Dakota Century Code is amended and reenacted as follows:

24-02-02.3. Director may enter agreements with tribal governments.

Notwithstanding the provisions of chapter 54-40.2, the director may enter agreements with any one or more tribal governments for the purpose of construction and maintenance of highways, streets, roads, and bridges on the state highway system or for federally funded safety improvement projects on tribal owned highways, streets, roads, and bridges.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 217

SENATE BILL NO. 2111

(Transportation Committee)

(At the request of the Department of Transportation)

AN ACT to create and enact section 24-02-45.2 of the North Dakota Century Code, relating to leasing of radio tower space; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 24-02-45.2 of the North Dakota Century Code is created and enacted as follows:

24-02-45.2. Lease agreements with public and private entities for radio tower space - Continuing appropriation.

Notwithstanding any other provision of law, the director may lease space on the forty-five department-owned radio tower locations in existence on December 31, 2020, to private entities, if the private entities have been unable to secure space on an existing tower that would provide comparable service coverage. The director shall ensure market rates are charged for a lease entered with a private entity after June 30, 2021. Funds received by the department pursuant to this section must be deposited in the state highway fund as prescribed by section 24-02-41 and are appropriated to the department on a continuing basis.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 218

SENATE BILL NO. 2110

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 and section 24-02-50 of the North Dakota Century Code, relating to criminal history background checks by the department of transportation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁷ **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The department of transportation for volunteers and final applicants for employment, as determined by the director of the department of transportation.

SECTION 2. Section 24-02-50 of the North Dakota Century Code is created and enacted as follows:

24-02-50. Criminal record history checks.

The director of the department of transportation may require volunteers and final applicants for employment to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24.

Approved April 12, 2021

Filed April 13, 2021

¹⁴⁷ Section 12-60-24 was also amended by section 1 of House Bill No. 1073, chapter 98, section 2 of House Bill No. 1073, chapter 98, section 18 of House Bill No. 1247, chapter 352 section 1 of House Bill No. 1253, chapter 164, section 1 of Senate Bill No. 2062, chapter 452, section 1 of Senate Bill No. 2131, chapter 378, section 1 of Senate Bill No. 2174, chapter 447, section 1 of Senate Bill No. 2187, chapter 323, section 1 of Senate Bill No. 2338, chapter 379.

CHAPTER 219

SENATE BILL NO. 2260

(Senators Patten, Bekkedahl)

AN ACT to amend and reenact subsection 5 of section 24-05-01 of the North Dakota Century Code, relating to the county road and bridge fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 24-05-01 of the North Dakota Century Code is amended and reenacted as follows:

5. The county treasurer shall retain and deposit in a fund known as the county road and bridge fund the county share of the tax under this section and any proceeds of this tax totaling less than twenty dollars in a taxable year which is collected on account of property situated within any city. Proceeds of the county share of the tax under this section must be expended in the improvement of highways as provided in this chapter under the direction of the board of county commissioners. The provisions of this section in regard to allocation apply to the proceeds of any tax originally levied for other purposes if appropriated or transferred to the county road and bridge fund or for expenditure for road and bridge purposes. ~~No allocation pursuant to this section may include the proceeds received by the county as its share of the allocation made pursuant to section 54-27-19, nor may any allocation under this section include moneys received from the state as the result of any other intergovernmental transfer.~~

~~Any unobligated balance in the county special road fund and reserve road and bridge fund or farm to market and federal aid roads fund and county road fund on or after August 1, 2015, must be transferred to the county road and bridge fund, and the county special road farm to market and federal aid roads fund and reserve road and bridge county road fund must be closed out.~~

Approved March 17, 2021

Filed March 18, 2021

MENTAL AND PHYSICAL ILLNESS OR DISABILITY

CHAPTER 220

HOUSE BILL NO. 1089

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 25-01.2-09 and 25-03.1-40 of the North Dakota Century Code, relating to seclusion, restraint, and the prohibition of shock treatment and aversive reinforcement conditioning.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-01.2-09 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-09. Punishment - ~~Isolation~~Seclusion - ~~Physical restraints~~Restraints - Psychosurgery - Sterilization - Shock treatment.

An individual with a developmental disability receiving services at any institution, facility, or individualized setting from a public or private agency or organization may not at any time:

1. Be subjected to any corporal punishment or shock treatment.
2. Be ~~isolated or secluded, except in emergency situations when necessary for the control of violent, disturbed, or depressed behavior which may immediately result, or has resulted, in harm to that~~ ensure immediate physical safety of the individual or other individuals ~~others~~.
3. Be ~~physically restrained in any manner, except in emergency situations when necessary for the control of violent, disturbed, or depressed behavior which may immediately result, or has resulted, in harm to that~~ ensure immediate physical safety of the individual or to other individuals ~~others~~.
4. Be subjected to psychosurgery, sterilization, medical behavioral research, or pharmacological research, except in conformity with an order of a court of competent jurisdiction. Under no circumstances may an individual receiving treatment be subjected to hazardous or intrusive experimental research ~~which that~~ is not directly related to the specific goals of that individual's treatment program.
5. Be subjected to electroconvulsive therapy ~~or shock treatment~~ without that individual's or guardian's written and informed consent. If the recipient of services is a minor, the recipient's parent, custodian, or guardian may provide informed consent for that treatment, which the parent, custodian, or guardian believes to be in the recipient's best interests.

SECTION 2. AMENDMENT. Section 25-03.1-40 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-40. Rights of patients.

Each patient of a treatment facility retains the following rights, subject only to the limitations and restrictions authorized by section 25-03.1-41. A patient has the right:

1. To receive appropriate treatment for mental and physical ailments and for the prevention of illness or disability.
2. To the least restrictive conditions necessary to achieve the purposes of treatment.
3. To be treated with dignity and respect.
4. To be free from unnecessary restraint and isolation.
5. To visitation and telephone communications.
6. To send and receive sealed mail.
7. To keep and use personal clothing and possessions.
8. To regular opportunities for outdoor physical exercise.
9. To be free to exercise religious faith of choice.
10. To be free from unnecessary medication.
11. To exercise all civil rights, including the right of habeas corpus.
12. Not to be subjected to experimental research without the express and informed written consent of the patient or of the patient's guardian.
13. Not to be subjected to psychosurgery; or electroconvulsive treatment; ~~or aversive reinforcement conditioning~~; without the express and informed written consent of the patient or of the patient's guardian.
14. In a manner appropriate to the patient's capabilities, to ongoing participation in the planning of services.
15. Not to be required to participate in the development of an individual treatment plan.
16. To be free from aversive reinforcement conditioning.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 221

SENATE BILL NO. 2134

(Senators Lee, K. Roers)
(Representative Dobervich)

AN ACT to amend and reenact sections 25-01.3-01, 25-01.3-06, and 25-01.3-08 of the North Dakota Century Code, relating to duties of the protection and advocacy project.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-01.3-01 of the North Dakota Century Code is amended and reenacted as follows:

25-01.3-01. Definitions.

In sections 25-01.3-01 through 25-01.3-12, unless the context otherwise requires:

1. "Abuse" means:
 - a. Willful use of offensive, abusive, or demeaning language by a caretaker that causes mental anguish of any person with developmental disabilities;
 - b. Knowing, reckless, or intentional acts or failures to act which cause injury or death to a developmentally disabled or mentally ill person or which placed that person at risk of injury or death;
 - c. Rape or sexual assault of a developmentally disabled or mentally ill person;
 - d. Corporal punishment or striking of a developmentally disabled or mentally ill person;
 - e. Unauthorized use or the use of excessive force in the placement of bodily restraints on a developmentally disabled or mentally ill person; and
 - f. Use of bodily or chemical restraints on a developmentally disabled or mentally ill person which is not in compliance with federal or state laws and administrative regulations.
2. "Advocacy" means action to assist or represent a person or group of persons with developmental disabilities or mental illnesses in securing their rights, obtaining needed services, investigating complaints, and removing barriers to identified needs.
3. "Advocate" means an employee of the project.
4. "Caretaker" means a person, organization, association, or facility who has assumed legal responsibility or a contractual obligation for the care of a person with developmental disabilities or mental illness, or a parent, spouse,

sibling, other relative, or person who has voluntarily assumed responsibility for the person's care.

5. "Committee" means the committee on protection and advocacy.
6. "Complaint" means an allegation of a violation of human or legal rights, or a lack of needed services, which is not a report of abuse, neglect, or exploitation.
7. "Developmental disability" is a disability as defined in section 25-01.2-01.
8. "Eligibility for services" means persons eligible for services of the project, including:
 - a. An adult with developmental disabilities.
 - b. An adult suffering from a mental illness who is an inpatient or resident in a facility rendering care or treatment, even if the location of the person is unknown.
 - c. An adult suffering from a mental illness who is in the process of being admitted to a facility rendering care or treatment, including persons being transported to such a facility.
 - d. An adult suffering from a mental illness who within the last ninety days was an inpatient or resident of a facility rendering care or treatment.
 - e. A child with developmental disabilities or a child with mental illness who meets the criteria of subdivision b, c, or d is eligible for advocacy services.
 - f. A child with developmental disabilities or mental illness who is not an abused or neglected child as defined in chapter 50-25.1 is eligible for protective services.
9. "Exploitation", when committed by a caretaker or relative of, or any person in a fiduciary relationship with, a person with developmental disabilities or mental illness, means:
 - a. The taking or misuse of property or resources of a person with developmental disabilities or mental illness by means of undue influence, breach of fiduciary relationship, deception, harassment, criminal coercion, theft, or other unlawful or improper means;
 - b. The use of the services of a person with developmental disabilities or mental illness without just compensation; or
 - c. The use of a person with developmental disabilities or mental illness for the entertainment or sexual gratification of others under circumstances that cause degradation, humiliation, or mental anguish to the person with developmental disabilities or mental illness.
10. "Facility" means a school, residence center, group home, nursing home, foster home, boarding home, or other facility operated by any public or private agency, organization, or institution, which provides services to a person with developmental disabilities or mental illness.

11. "Individually identifiable health information" and "personal representative" have the meaning set forth in title 45, Code of Federal Regulations, part 160, section 103 and part 164, section 5-02, subsection g, respectively.
12. "Mental health professional" means a mental health professional as defined in section 25-03.1-02.
13. "Mental illness" means significant mental illness or emotional impairment as determined by a mental health professional.
14. "Neglect" means:
 - a. Inability of a person with developmental disabilities or mental illness to provide food, shelter, clothing, health care, or services necessary to maintain the mental and physical health of that person;
 - b. Failure by any caretaker of a person with developmental disabilities or mental illness to meet, either by commission or omission, any statutory obligation, court order, administrative rule or regulation, policy, procedure, or minimally accepted standard for care of persons with developmental disabilities or mental illnesses;
 - c. Negligent act or omission by any caretaker which causes injury or death to a person with developmental disabilities or mental illness or which places that person at risk of injury or death;
 - d. Failure by any caretaker, who is required by law or administrative rule, to establish or carry out an appropriate individual program or treatment plan for a person with developmental disabilities or mental illness;
 - e. Failure by any caretaker to provide adequate nutrition, clothing, or health care to a person with developmental disabilities or mental illness;
 - f. Failure by any caretaker to provide a safe environment for a person with developmental disabilities or mental illness; and
 - g. Failure by any caretaker to maintain adequate numbers of appropriately trained staff at a facility providing care and services for persons with developmental disabilities or mental illnesses.
15. "Other appropriate remedies" means remedies achieved through alternative dispute resolution, such as discussion, education, conciliation, and mediation.
16. "Project" means the protection and advocacy project.
- ~~46-17.~~ "Protective services" means actions to assist persons with developmental disabilities or mental illnesses who are unable to manage their own resources or to protect themselves from abuse, neglect, exploitation, or other hazards.
- ~~47-18.~~ "Report" means a verbal or written communication, including an anonymous communication, alleging the abuse, neglect, or exploitation of a person with developmental disabilities or mental illness.

SECTION 2. AMENDMENT. Section 25-01.3-06 of the North Dakota Century Code is amended and reenacted as follows:

25-01.3-06. Authority of project - Annual report.

1. Pursuant to rules adopted by the committee, the project, within the limits of legislative appropriations, shall provide advocacy and protective services for persons with developmental disabilities and persons with mental illnesses. The rules adopted by the committee relating to the need for the consent of the client must balance the rights of persons with developmental disabilities or mental illnesses to privacy and to refuse services under section 25-01.3-11 with the committee's duties to protect the human and legal rights of persons eligible for services and to monitor facilities for compliance with federal and state laws and rules.
2. The project may:
 - 1- a. Represent persons with developmental disabilities or mental illnesses so ~~that they~~the persons may realize the rights and services to which they are entitled.
 - 2- b. Investigate complaints and reports if the alleged incidents are reported to the committee or the project or if there is probable cause to believe ~~that~~ the incidents occurred.
 - 3- c. Monitor individual habilitation or treatment plans, program plans, educational plans, facilities and programs, and all other services and care provided to persons with developmental disabilities or mental illnesses.
 - 4- d. Employ counsel to represent clients to pursue legal, administrative, voluntary compliance, and other appropriate remedies to ensure the protection of the rights of persons with developmental disabilities or mental illnesses, and employ counsel to represent the project or the committee when, in the opinion of the attorney general, a conflict of interest under the North Dakota Rules of Professional Conduct exists between the office of attorney general and the committee or the project, and the conflict cannot be avoided by the appointment of counsel under subsection 3 of section 54-12-01 or section 54-12-08.
 - 5- e. Pursue legal, administrative, voluntary compliance, and other appropriate remedies to ensure the protection and the rights of persons with developmental disabilities or mental illnesses. ~~Prior to~~Before instituting ~~any~~ legal action in a federal or state court on behalf of a person with developmental disabilities or mental illnesses, the project shall exhaust in a timely manner all administrative remedies if appropriate. If, in pursuing administrative remedies, the project determines ~~that any~~ a matter with respect to that person will not be resolved within a reasonable time, the project may pursue alternative remedies, including the initiation of a legal action with the consent of the committee. However, exhaustion of administrative remedies is not a prerequisite to initiation of a legal action ~~whenif~~ that action is instituted to prevent or eliminate imminent serious harm to a person with developmental disabilities or mental illnesses.
 - 6- f. Sign ~~any~~ a criminal complaint necessary to protect the interests of ~~any~~ a person with developmental disabilities or mental illness, or group of persons with developmental disabilities or mental illnesses, who appear to have been victimized by or subjected to criminal conduct.

7. g. Review each annual survey report and plan of corrections for cited deficiencies made pursuant to titles XVIII and XIX of the Social Security Act with respect to any facility rendering care or treatment to persons with developmental disabilities or mental illnesses.
8. h. Provide the public, on an annual basis, an opportunity to comment on the priorities established by, and the activities of the committee.
9. i. Establish a grievance procedure for clients or prospective clients to ensure that persons with developmental disabilities or mental illnesses have full access to the services of the committee.
10. j. Prepare an annual report to the legislative assembly and the governor describing the priorities, activities, accomplishments, and expenditures of the system.
11. k. Provide information on and referral to programs and services addressing the needs of persons with developmental disabilities or mental illnesses.
12. l. Accept and administer gifts, grants, or contracts with ~~persons~~individuals or organizations, including the federal government, on such terms as may be beneficial to the state.
13. m. Contract with any person, public or private, to carry out any responsibilities of the project under this chapter and section 25-01-01.1.
3. The project shall use the report, complaint, and investigation process to assess the opportunity for voluntary compliance and other appropriate remedies.

SECTION 3. AMENDMENT. Section 25-01.3-08 of the North Dakota Century Code is amended and reenacted as follows:

25-01.3-08. Investigation of reports and complaints.

1. Upon receipt of any report of suspected abuse, neglect, exploitation, or a complaint made pursuant to sections 25-01.3-01 through 25-01.3-12, the project shall assess the need for an investigation of the report or complaint. If the project determines that the report or complaint is warranted, the project shall investigate or cause the report or complaint to be investigated. For the purpose of investigating a report or a complaint, the project may:
 - a. Interview the alleged victim who has developmental disabilities or mental illness at any time of the day or night, with or without notice.
 - b. Interview any other individual who may have knowledge of the situation.
 - c. Access all locations under the control of the caretaker where records or other information exist, including the residence of the alleged victim.
 - d. Coordinate investigations with other agencies, departments, or other entities providing services necessary or advisable for the person with developmental disabilities or mental illness.
 - e. Delegate investigatory powers to the extent necessary and appropriate to any ~~person~~individual or entity.

2. This section does not limit the responsibilities of law enforcement agencies to enforce the laws of this state or preclude law enforcement agencies from investigating, as appropriate, any alleged criminal conduct.
3. This section does not prohibit the project from assessing the opportunity for voluntary compliance and other appropriate remedies in the course of investigating a report or complaint.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 222

HOUSE BILL NO. 1117

(Representatives Klemin, Buffalo, Hanson, Heinert, Jones, Karls, Roers Jones)
(Senators Bakke, Dwyer, Larson)

AN ACT to amend and reenact sections 25-03.1-03.1, 25-03.1-06, 25-03.1-08, 25-03.1-15, and 25-03.1-19, subsection 2 of section 25-03.1-21, and sections 25-03.1-22, 25-03.1-23, and 25-03.1-29 of the North Dakota Century Code, relating to commitment procedures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-03.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-03.1. Disclosure of health information.

A treating facility or mental health professional may disclose individually identifiable health information to a court, regional human service center, state's attorney, appointed counsel, retained counsel, or other mental health professional, including an expert examiner, and the disclosure is a disclosure for treatment, including the provision, coordination, and management of health care and to carry out the purposes of ~~chapter 25-03.1~~this chapter.

SECTION 2. AMENDMENT. Section 25-03.1-06 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-06. Right to release on application - Exception - Judicial proceedings.

~~Any~~An individual voluntarily admitted for inpatient treatment to ~~any~~a treatment facility or the state hospital must be orally advised of the right to release and must be further advised in writing of the rights under this chapter. A voluntary patient who requests release must be immediately released. However, if the superintendent or the director determines that the patient is a person requiring treatment, the release may be postponed until a petition for involuntary commitment has been filed with the clerk of court and judicial proceedings for involuntary treatment have been held in the county wherein which the hospital or facility is located. The patient must be served the petition within twenty-four hours, exclusive of weekends and holidays, from the time release is requested, unless extended by the magistrate for good cause shown. The treatment hearing must be held within seven days from the time the petition is served.

SECTION 3. AMENDMENT. Section 25-03.1-08 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-08. Application to state's attorney or retained attorney - Petition for involuntary treatment - Investigation by mental health professional.

1. ~~Any~~An individual eighteen years of age or over shall present, in good faith, the information necessary for the commitment of an individual for involuntary treatment to the state's attorney of the county ~~wherein~~which the respondent is

presently located, or which is the respondent's place of residence, or to an attorney retained by that applicant~~the petitioner~~ to represent the applicant~~petitioner~~ throughout the proceedings. The attorney shall assist the applicant~~petitioner~~ in completing the petition. The petition must be verified by affidavit of the applicant~~petitioner~~ and contain assertions that the respondent is a person requiring the treatment; the facts, in detail, that are the basis of that assertion; the names, telephone numbers, and addresses, if known, of any witnesses to those facts; and, if known, the name, telephone number, and address of the nearest relative or guardian of the respondent, or, if none, of a friend of the respondent.

2. The petition may be accompanied by any of the following:
 - a. A written statement supporting the petition from a tier 1 mental health professional or an addiction counselor who is practicing within the professional scope of practice and who has personally examined the respondent within forty-five days of the date of the petition.
 - b. One or more supporting affidavits otherwise corroborating the petition.
3. In assisting the applicant~~petitioner~~ in completing the petition, the state's attorney may direct a tier 1 or tier 2 mental health professional designated by the regional human service center to investigate and evaluate the specific facts alleged by the applicant~~petitioner~~. The investigation must be completed as promptly as possible and include observations of and conversation with the respondent, unless the respondent cannot be found or refuses to meet with the mental health professional. A written report of the results of the investigation must be delivered to the state's attorney. Copies of the report must be made available upon request to the respondent, the respondent's counsel, and any expert examiner conducting an examination under section 25-03.1-11. The state's attorney or retained attorney shall file the petition if the information provided by the petitioner or gathered by investigation provides probable cause to believe the subject of the petition is a person requiring treatment. A state's attorney who determines there are insufficient grounds for filing a petition may refer the applicant~~individual~~ to other community resources. A state's attorney's decision not to institute proceedings may be reviewed under section 11-16-06.

SECTION 4. AMENDMENT. Section 25-03.1-15 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-15. Respondent's attendance at hearings.

The respondent must be present at all hearings unless the respondent waives the right to be present either orally or in writing. A respondent's refusal to attend a hearing is presumed to be a waiver of the right to be present at the hearing. The judge must be notified if the respondent has been medicated within twenty-four hours of the beginning of the hearing or an adjourned session ~~thereof~~ of the hearing, and of the probable effects of the medication.

¹⁴⁸ **SECTION 5. AMENDMENT.** Section 25-03.1-19 of the North Dakota Century Code is amended and reenacted as follows:

¹⁴⁸ Section 25-03.1-19 was also amended by section 3 of House Bill No. 1034, chapter 223.

25-03.1-19. Involuntary treatment hearing.

1. The involuntary treatment hearing, unless waived by the respondent or the respondent has been released as a person not requiring treatment, must be held within fourteen days of the preliminary hearing. If the preliminary hearing is not required, the involuntary treatment hearing must be held within four days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served. The court may extend the time for hearing for good cause. The respondent has the right to an examination by an independent expert examiner if so requested. If the respondent is indigent, the county of residence of the respondent shall pay for the cost of the examination and the respondent may choose an independent expert examiner.
2. The hearing must be held in the county of the respondent's residence or location or the county wherein which the state hospital or treatment facility treating the respondent is located, if the respondent requests a change of venue. At the hearing, evidence in support of the petition must be presented by the state's attorney, private counsel, or counsel designated by the court. During the hearing, the petitioner and the respondent must be afforded an opportunity to testify and to present and cross-examine witnesses. The court may receive the testimony of any other interested person. All individuals not necessary for the conduct of the proceeding must be excluded, except that the court may admit individuals having a legitimate interest in the proceeding. The hearing must be conducted in as informal a manner as practical, but the issue must be tried as a civil matter. Discovery and the power of subpoena permitted under the North Dakota Rules of Civil Procedure are available to the respondent. The court shall receive all relevant and material evidence that may be offered as governed by the North Dakota Rules of Evidence. There is a presumption in favor of the respondent, and the burden of proof in support of the petition is upon the petitioner.
3. If, upon completion of the hearing, the court finds ~~that~~ the petition has not been sustained by clear and convincing evidence, the court shall deny the petition, terminate the proceeding, and order ~~that~~ the respondent be discharged if the respondent has been hospitalized before the hearing.

SECTION 6. AMENDMENT. Subsection 2 of section 25-03.1-21 of the North Dakota Century Code is amended and reenacted as follows:

2. If the respondent is not complying with the alternative treatment order or the alternative treatment has not been sufficient to prevent serious risk of harm, the department, a representative of the treatment program involved in the alternative treatment order, the petitioner's retained attorney, or the state's attorney may apply to the court or to the district court of a different judicial district in which the respondent is located to modify the alternative treatment order. The court shall hold a hearing within seven days after the application is filed and served on the respondent. Based upon the evidence presented at the hearing and other available information, the court may:
 - a. Continue the alternative treatment order;
 - b. Consider other alternatives to hospitalization, modify the court's original order, and direct the respondent undergo another program of alternative treatment for the remainder of the ninety-day period; or

- c. Enter a new order directing the respondent be hospitalized until discharged from the hospital under section 25-03.1-30. If the respondent refuses to comply with this hospitalization order, the court may direct a peace officer to take the respondent into protective custody and transport the respondent to a treatment facility.

SECTION 7. AMENDMENT. Section 25-03.1-22 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-22. Length of involuntary and continuing treatment orders.

1. An initial order for involuntary treatment following a preliminary hearing may not exceed nineteen days. An order for involuntary treatment following a treatment hearing may not exceed ninety days.
2. If the director or superintendent believes ~~that~~ a patient continues to require treatment, the director or superintendent ~~shall~~, not less than fourteen days before the expiration of the initial order, shall petition the court where the facility is located for a determination that the patient continues to be a person requiring treatment and for an order of continuing treatment, which order may be for a period not to exceed one year. The court shall set a hearing date that must be within fourteen days after the petition was filed, unless extended for good cause shown.
3. ~~Unless extended under section 25-03.1-31, continuing treatment orders of indefinite duration issued before August 1, 1993, expire as follows:~~
 - a. ~~Those orders issued before August 1, 1991, expire September 30, 1993.~~
 - b. ~~Those orders issued from August 1, 1991, through July 31, 1992, expire December 31, 1993.~~
 - c. ~~Those orders issued from August 1, 1992, through August 1, 1993, expire on their first anniversaries or on March 31, 1994, whichever is later.~~
4. A respondent subject to a continuing treatment order of indefinite duration retains the rights to periodic review and to petition for discharge under section 25-03.1-31 as that section existed on July 31, 1993.

SECTION 8. AMENDMENT. Section 25-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-23. Petition for continuing treatment orders.

A petition for an order authorizing continuing treatment must contain a statement setting forth the reasons for specific facts that are the basis of the determination that the patient continues to be a person requiring treatment; a statement describing the treatment program provided to the patient and the results of that treatment; and a clinical estimate as to how long further treatment will be required. The petition must be accompanied by a certificate executed by a physician, physician assistant, psychiatrist, psychologist, advanced practice registered nurse, or licensed addiction counselor, any of whom is practicing within that individual's professional scope of practice.

SECTION 9. AMENDMENT. Section 25-03.1-29 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-29. Appeal.

1. The respondent has the right to an expedited appeal from an order of involuntary commitment or alternative treatment, an order modifying a treatment order, an alternative treatment order or less restrictive treatment order, a continuing treatment order, an order denying a petition for discharge, or an order of transfer. Upon entry of an appealable order, the court shall notify the respondent of the right of appeal and the right to counsel. The notice of appeal must be filed within thirty days after the order has been entered. Such appeal must be to the supreme court and the hearing must be commenced within fourteen days of filing of the notice of appeal. The hearing must be limited to a review of the procedures, findings, and conclusions of the lower court. The name of the respondent may not appear on the record on appeal.
2. Pending appeal, the order appealed from ~~shall remain~~remains in effect, unless the supreme court determines otherwise. The respondent may not be denied the opportunity to be present at the appeal hearing, and the court conducting the appeal may issue such interim order as will assure this opportunity to the respondent while protecting the interest sought to be served by the order appealed from.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 223

HOUSE BILL NO. 1034

(Legislative Management)
(Judiciary Committee)

AN ACT to amend and reenact sections 25-03.1-11, 25-03.1-17, 25-03.1-19, 25-03.1-26, 25-03.1-27, 25-03.1-30, 25-03.1-34, and 25-03.1-42 of the North Dakota Century Code, relating to preliminary treatment and involuntary treatment hearings and references to an individual who is chemically dependent; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-11. Involuntary treatment - Examination - Report.

1. The respondent must be examined within a reasonable time by an expert examiner as ordered by the court. If the respondent is taken into custody under the emergency treatment provisions of this chapter, the examination must be conducted within the time limitations set forth in section 25-03.1-26. Any expert examiner conducting an examination under this section may consult with or request participation in the examination by any mental health professional and may include with the written examination report any findings or observations by that mental health professional. This examination report, and that of the independent examiner, if one has been requested, must be filed with the court and immediately sent to the petitioner and the respondent. The report must contain:
 - a. Evaluations of the respondent's physical condition and mental status.
 - b. A conclusion as to whether the respondent is a person requiring treatment, with a clear explanation of how that conclusion was derived from the evaluation.
 - c. If the report concludes the respondent is a person requiring treatment, a list of available forms of care and treatment that may serve as alternatives to involuntary hospitalization.
 - d. The signature of the examiner who prepared the report.
2. For purposes of any examination conducted pursuant to this section:
 - a. An evaluation of a respondent's physical condition may be made only by a tier 1b mental health professional.
 - b. An evaluation of a respondent's mental status may be made only by a tier 1 mental health professional.

- c. An evaluation of whether the respondent is ~~chemically dependent~~ an individual with a substance use disorder may be made only by a tier 1 mental health professional or a licensed addiction counselor.
3. If the expert examiner concludes the respondent is not a person requiring treatment, the court may without taking any other additional action terminate the proceedings and dismiss the petition. If the expert examiner concludes the respondent is a person requiring treatment, or makes no conclusion whether the respondent is a person requiring treatment, the court shall set a date for hearing and shall give notice of hearing to the persons designated in section 25-03.1-12. If the respondent is in custody and is alleged to be a person who is mentally ill or a person who is both mentally ill and ~~chemically dependent~~ has a substance use disorder, the preliminary hearing date must be within four days, exclusive of weekends and holidays, of the date the respondent was taken into custody through emergency commitment under section 25-03.1-25 unless a delay or continuance is concurred in by the respondent or unless extended by the magistrate for good cause shown. If a preliminary hearing is not required, the treatment hearing must be held within four days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served.

SECTION 2. AMENDMENT. Section 25-03.1-17 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-17. Involuntary treatment - Right to preliminary hearing.

1. A respondent who is in custody under section 25-03.1-25 and who is alleged to be a mentally ill person or to be a person who is both mentally ill and ~~chemically dependent~~ has a substance use disorder is entitled to a preliminary hearing.
 - a. At the preliminary hearing the court shall review the medical report. During the hearing the court shall allow the petitioner and the respondent an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of any other interested person. The court may receive evidence that would otherwise be inadmissible at a treatment hearing.
 - b. At the conclusion of the hearing, if the court does not find probable cause to believe the individual is a person requiring treatment, the court shall dismiss the petition and order the respondent be discharged from the treatment facility if the respondent was detained before the hearing.
2. If the court finds probable cause to believe the respondent is a person requiring treatment, the court shall consider less restrictive alternatives to involuntary detention and treatment.
 - a. The court may order the respondent to undergo up to fourteen days' treatment under a less restrictive alternative or, if the court finds alternative treatment is not in the best interests of the respondent or others, the court shall order the respondent detained for up to fourteen days for involuntary treatment in a treatment facility.
 - b. The court shall specifically state to the respondent and give written notice that if involuntary treatment beyond the fourteen-day period is to be

sought, the respondent will have the right to a treatment hearing as required by this chapter.

3. Except for good cause, the court may not consider medical records relating to the respondent, unless the petitioner and respondent receive the medical records at least twenty-four hours before the hearing.

¹⁴⁹ **SECTION 3. AMENDMENT.** Section 25-03.1-19 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-19. Involuntary treatment hearing.

1. The involuntary treatment hearing, unless waived by the respondent or the respondent has been released as a person not requiring treatment, must be held within fourteen days of the preliminary hearing. If the preliminary hearing is not required, the involuntary treatment hearing must be held within four days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served. The court may extend the time for hearing for good cause. The respondent has the right to an examination by an independent expert examiner if so requested. If the respondent is indigent, the county of residence of the respondent shall pay for the cost of the examination and the respondent may choose an independent expert examiner.
2. The hearing must be held in the county of the respondent's residence or location or the county where the state hospital or treatment facility treating the respondent is located. At the hearing, evidence in support of the petition must be presented by the state's attorney, private counsel, or counsel designated by the court. During the hearing, the petitioner and the respondent must be afforded an opportunity to testify and to present and cross-examine witnesses. The court may receive the testimony of any other interested person. All individuals not necessary for the conduct of the proceeding must be excluded, except that the court may admit individuals having a legitimate interest in the proceeding. The hearing must be conducted in as informal a manner as practical, but the issue must be tried as a civil matter. Discovery and the power of subpoena permitted under the North Dakota Rules of Civil Procedure are available to the respondent. The court shall receive all relevant and material evidence that may be offered as governed by the North Dakota Rules of Evidence. There is a presumption in favor of the respondent, and the burden of proof in support of the petition is upon the petitioner.
3. If, upon completion of the hearing, the court finds that the petition has not been sustained by clear and convincing evidence, the court shall deny the petition, terminate the proceeding, and order that the respondent be discharged if the respondent has been hospitalized before the hearing.
4. Except for good cause, the court may not consider a medical record or expert examiner's report relating to the respondent unless the petitioner and respondent receive the medical record or the expert examiner's report at least twenty-four hours before the hearing.

SECTION 4. AMENDMENT. Section 25-03.1-26 of the North Dakota Century Code is amended and reenacted as follows:

¹⁴⁹ Section 25-03.1-19 was also amended by section 5 of House Bill No. 1117, chapter 222.

25-03.1-26. Emergency procedure - Acceptance of petition and individual - Notice - Court hearing set.

1. A public treatment facility immediately shall accept and a private treatment facility may accept on a provisional basis the application and the individual admitted under section 25-03.1-25. The superintendent or director shall require an immediate examination of the subject and, either within twenty-four hours, exclusive of holidays, after admission or within seventy-two hours after admission, exclusive of holidays, if the individual is admitted with a serious physical condition or illness that requires prompt treatment, shall either:
 - a. Release the individual if the superintendent or director finds that the subject does not meet the emergency commitment standards; or
 - b. File a petition if one has not been filed with the court of the individual's residence or the court which directed immediate custody under subsection 2 of section 25-03.1-25, giving notice to the court and stating in detail the circumstances and facts of the case.
2. Upon receipt of the petition and notice of the emergency detention, the magistrate shall set a date for a preliminary hearing, if the respondent is alleged to be a person who is mentally ill or a person who is both mentally ill and ~~chemically dependent~~has a substance use disorder, or a treatment hearing, if the respondent is alleged to be a person who is ~~chemically dependent~~has a substance use disorder, to be held no later than four days, exclusive of weekends and holidays, after detention unless the person has been released as a person not requiring treatment, has been voluntarily admitted for treatment, has requested or agreed to a continuance, or unless the hearing has been extended by the magistrate for good cause shown. The magistrate shall appoint counsel if one has not been retained by the respondent.

SECTION 5. AMENDMENT. Section 25-03.1-27 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-27. Notice and statement of rights.

1. ~~When~~If an individual is detained for emergency evaluation and treatment under this chapter, the superintendent or director shall cause both the patient and, if possible, a responsible member of the patient's immediate family, a guardian, or a friend, if any, to receive:
 - a. A copy of the petition ~~which~~that asserted that the individual is a person requiring treatment.
 - b. A written statement explaining ~~that~~ the individual will be examined by an expert examiner within twenty-four hours of hospitalization, excluding holidays.
 - c. A written statement in simple terms explaining the rights of the individual alleged to be a person who is mentally ill or a person who is both mentally ill and ~~chemically dependent~~has a substance use disorder to a preliminary hearing, to be present at the hearing, and to be represented by legal counsel, if the individual is certified by an expert examiner or examiners as a person requiring treatment.

- d. A written statement in simple terms explaining the rights of the individual to a treatment hearing, to be present at the hearing, to be represented by legal counsel, and the right to an independent medical evaluation.
2. If the individual is unable to read or understand the written materials, every reasonable effort must be made to explain the written material in a language the individual understands, and a note of the explanation and by whom made must be entered into the patient record.

SECTION 6. AMENDMENT. Section 25-03.1-30 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-30. Discharge of hospitalized patient - Transfer to alternative treatment - Termination of alternative treatment.

1. The superintendent or director at any time may discharge a voluntarily hospitalized patient who is clinically suitable for discharge.
2. The superintendent or director shall discharge a patient hospitalized by court order if the patient's mental condition is such that the patient no longer is a person requiring treatment.
3. If a patient discharged under subsection 1 or 2 has been hospitalized by a court order, or if court proceedings are pending, the treatment facility shall notify the court of the discharge.
4. A person responsible for providing treatment, other than hospitalization, to an individual ordered to undergo a program of alternative treatment may terminate the alternative treatment if the patient is clinically suitable for termination of treatment. The person shall terminate the alternative treatment if the patient no longer is a person requiring treatment and shall notify the court upon that termination.
5. If, upon the discharge of a hospitalized patient or the termination of alternative treatment of an individual under this chapter, the individual would benefit from further treatment, the hospital or provider of alternative treatment shall offer appropriate treatment on a voluntary basis or shall aid the individual to obtain treatment from another source on a voluntary basis.
 - a. With the individual's consent, the superintendent or director shall notify the appropriate community agencies or persons of the release and of the suggested release plan. Community agencies include regional mental health centers, state and local counseling services, public and private associations the function of which is to assist persons who are mentally ill or chemically dependent persons~~persons~~individuals with a substance use disorder, and the individual's physician.
 - b. The agencies and persons notified of the individual's release shall report to the facility that initial contact with the individual has been accomplished.
6. If, before expiration of an initial treatment order, the superintendent or director determines a less restrictive form of treatment is more appropriate for a patient hospitalized by court order, the superintendent or director may petition the court that last ordered the patient's hospitalization to modify the order of the court. The petition must contain statements setting forth the reasons for the determination the patient continues to be a person requiring treatment, the

reasons for the determination a less restrictive form of treatment is more appropriate for the patient, and describing the recommended treatment program. If the patient consents, without a hearing, the court may modify the treatment order of the court by directing the patient to undergo the agreed treatment program for the remainder of the treatment order. The patient must be given an opportunity to protest the discharge and modification of treatment order and to receive a hearing on the merits of the protest.

SECTION 7. AMENDMENT. Section 25-03.1-34 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-34. Transfer of patients.

1. The superintendent or director of a treatment facility may transfer, or authorize the transfer of, an involuntary patient from a hospital to another facility if the superintendent or director determines that it would be consistent with the medical needs of the patient to do so. Due consideration must be given to the relationship of the patient to family, legal guardian, or friends, so as to maintain relationships and encourage visits beneficial to the patient. ~~Whenever any~~ If a treatment facility licensed by any state for the care and treatment of persons who are mentally ill or chemically dependent ~~persons~~ individuals with a substance use disorder agrees with the patient or patient's guardian to accept the patient for treatment, the superintendent or director of the treatment facility shall release the patient to the other facility.
2. Upon receipt of notice from an agency of the United States that facilities are available for the care or treatment of any individual ordered hospitalized who is eligible for care or treatment in a treatment facility of that agency, the superintendent or director of the treatment facility may cause the individual's transfer to that agency of the United States for treatment. ~~No person~~ An individual may ~~not~~ be transferred to any agency of the United States if the ~~person~~ individual is confined pursuant to conviction of any felony or misdemeanor or the ~~person~~ individual has been acquitted of the charge solely on the ground of mental illness unless the court originally ordering confinement of the ~~person~~ individual enters an order for transfer after appropriate motion and hearing. ~~Any person~~ An individual transferred under this section to an agency of the United States is deemed committed to that agency under the original order of treatment.
3. ~~No~~ A facility may ~~not~~ transfer a patient to another hospital or agency without first notifying the patient and the patient's legal guardian, spouse, or next of kin, if known, or a chosen friend of the patient and the court that ordered treatment. The patient must be given an opportunity to protest the transfer and to receive a hearing on the protest. The patient's objection to the transfer must be presented to the court where the facility is located or to a representative of the facility within seven days after the notice of transfer was received. If the objection is presented to a representative of the facility, the representative shall transmit ~~the objection~~ the objection to the court ~~forthwith~~. The court shall set a hearing date, which must be within fourteen days of the date of receipt of the objection. If an objection has not been filed or the patient consents to a transfer, the court may enter an ex parte order authorizing transfer.

SECTION 8. AMENDMENT. Section 25-03.1-42 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-42. Limitation of liability - Penalty for false petition.

1. A person acting in good faith upon either actual knowledge or reliable information which makes the petition for involuntary treatment of an individual under this chapter is not subject to civil or criminal liability.
2. A physician, physician assistant, psychiatrist, psychologist, advanced practice registered nurse, mental health professional, employee of a treatment facility, state's attorney, or peace officer who in good faith exercises professional judgment in fulfilling an obligation or discretionary responsibility under this chapter is not subject to civil or criminal liability for acting unless it can be shown that it was done in a negligent manner.
3. A person that makes a petition for involuntary treatment of an individual without having good cause to believe ~~that the individual is a person who is both mentally ill and chemically dependent~~has a substance use disorder and as a result is likely to cause serious harm to self or others is guilty of a class A misdemeanor.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 224

SENATE BILL NO. 2199

(Senators K. Roers, Kreun, Lee)
(Representatives Dobervich, Klemin, Westlind)

AN ACT to amend and reenact subsection 5 of section 25-03.1-34.2 of the North Dakota Century Code, relating to interstate contracts for the treatment of mental illness or substance use disorders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 25-03.1-34.2 of the North Dakota Century Code is amended and reenacted as follows:

5. The department may enter negotiations with appropriate personnel of a bordering state to develop an agreement that conforms to the requirements of this section. An agreement with a bordering state ~~must~~may enable the placement in North Dakota of individuals who require detoxification services, are on emergency holds, or who have been involuntarily committed as mentally ill or having a substance use disorder in a bordering state and enable the temporary placement in a bordering state of patients who require detoxification services or who are on emergency holds in North Dakota under chapter 25-03.1. An agreement with a bordering state ~~must also~~ provide that the North Dakota courts retain jurisdiction over North Dakota residents, and that the bordering state affords to North Dakota residents the rights afforded to ~~them~~the residents under North Dakota law. Individuals committed by a court of a bordering state and placed in North Dakota facilities continue to be in the legal custody of the bordering state. The bordering state's laws governing length of commitment, re-examinations, and extension of commitment must continue to apply to these residents. In all other respects, residents of a bordering state placed in North Dakota facilities are subject to North Dakota laws. An agreement with a bordering state must specify that responsibility for payment for the cost of care of a resident of a bordering state remains with the bordering state of which that individual is a resident and the cost of care of a North Dakota resident remains with the state of North Dakota. This section applies to detoxification services regardless of whether the services are provided on a voluntary or involuntary basis.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 225

HOUSE BILL NO. 1230

(Representatives Satrom, Jones, K. Koppelman)
(Senators Conley, Myrdal)

AN ACT to amend and reenact section 25-13-01.1 of the North Dakota Century Code, relating to the definition of a service animal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-13-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-13-01.1. Definitions.

For purposes of this chapter "service animal" means any ~~guide dog, signal dog, or other animal~~ trained to do work, perform tasks, or provide assistance for the benefit of an individual with a disability. The term includes ~~an animal~~ a dog trained to provide assistance ~~or protection services~~ to an individual with a disability, pull a wheelchair, lend balance support, retrieve dropped objects, or provide assistance in a medical crisis.

Approved March 22, 2021

Filed March 23, 2021

INSURANCE

CHAPTER 226

SENATE BILL NO. 2287

(Senators Wardner, Anderson, Bell)
(Representatives Delzer, Kreidt, Nehring)

AN ACT to provide for an insurance commissioner study of lignite coal industry insurance; and to provide for a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. STUDY OF LIGNITE COAL INDUSTRY INSURANCE - REPORT TO THE LEGISLATIVE MANAGEMENT. During the 2021-22 interim, the insurance commissioner, in consultation with the North Dakota insurance reserve fund, shall study the availability, cost, and risks associated with insurance coverage in the lignite coal industry. The study must include consideration of whether the current insurance market adequately or appropriately calculates the risk factors specifically connected to the coal industry and whether there is a need for a state-based insurance product that insures against current risk factors at an appropriate cost. The insurance commissioner shall report its findings to the legislative management and implement any necessary recommendations by June 1, 2022.

Approved March 15, 2021

Filed March 15, 2021

CHAPTER 227

SENATE BILL NO. 2078

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact a new subsection to section 26.1-26.7-02 of the North Dakota Century Code, relating to the licensing of insurance producers; to amend and reenact subsection 2 of section 26.1-02.1-01, subdivision c of subsection 1 of section 26.1-26-13.3, sections 26.1-26-33 and 26.1-26-42.1, subdivision c of subsection 1 of section 26.1-26.9-03, and subsection 2 of section 26.1-26.9-05 of the North Dakota Century Code, relating to the licensing of insurance producers; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 26.1-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Business of insurance" means the writing of insurance or the reinsuring of risks by an insurer, including acts necessary or incidental to writing insurance or reinsuring risks and the activities of persons who act as or who are officers, directors, agents, producers, or employees of insurers, or who are other persons authorized to act on their behalf. The term does not include the activities of the North Dakota life and health insurance guaranty association or the North Dakota insurance guaranty association.

SECTION 2. AMENDMENT. Subdivision c of subsection 1 of section 26.1-26-13.3 of the North Dakota Century Code is amended and reenacted as follows:

- c. Has paid to the commissioner or the commissioner's designee the fees set forth in section 26.1-01-07; and

SECTION 3. AMENDMENT. Section 26.1-26-33 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-33. Notification of address change - Duty of licensee.

Every licensee shall notify the commissioner of any change in the licensee's residential or business address or legal name within thirty days of the change. Notification may occur through the insurance producer database maintained by the national association of insurance producers, its affiliates, or subsidiaries. Any licensee who ceases to maintain residency in this state shall deliver the insurance license to the commissioner by personal delivery or by mail within thirty days after terminating residency.

SECTION 4. AMENDMENT. Section 26.1-26-42.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-42.1. Revocation of nonresident license.

Notwithstanding the provisions of subsection 13 of section 26.1-26-42, any nonresident license issued pursuant to this chapter may be suspended or revoked

without notice and hearing to the licensee and without proceeding in conformity with chapter 28-32, upon evidence in the form of a certified copy that the authority which issued the resident license to the North Dakota nonresident licensee has been revoked or suspended the resident license. This evidence may be in the form of a certified copy or through the insurance producer database maintained by the national association of insurance producers, its affiliates, or subsidiaries.

SECTION 5. A new subsection to section 26.1-26.7-02 of the North Dakota Century Code is created and enacted as follows:

A vendor, and the vendor's employees or authorized representatives, are exempt from the continuing education requirements of section 26.1-26-31.1.

SECTION 6. AMENDMENT. Subdivision c of subsection 1 of section 26.1-26.9-03 of the North Dakota Century Code is amended and reenacted as follows:

- c. Provide the actual terms of the self-service storage insurance coverage, or summarize the material terms of the insurance coverage, including:
 - (1) The identity of the insurer;
 - (2) The identity of the supervising entity, if any;
 - (3) The amount of any applicable deductible and how the deductible is to be paid;
 - (4) Benefits of the coverage; and
 - (5) Key terms and conditions of the coverage.

SECTION 7. AMENDMENT. Subsection 2 of section 26.1-26.9-05 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~a. In lieu of providing the information for all officers, directors, and shareholders owning more than ten percent of the applicant, the~~ The applicant shall provide the name, residential address, and other information required by the commissioner for an employee or officer of the ~~owner or the~~ supervising entity designated by the applicant as the person responsible for the owner's compliance with the ~~requirements~~ insurance laws, rules, and regulations of this chapter ~~state~~. However, if
- ~~b. If the owner derives more than fifty percent of the owner's revenue from the sale of self-service storage insurance, the~~ names, residential addresses, and other information required under this subsection ~~by the commissioner~~ must be provided for all officers, directors, and shareholders of record having beneficial ownership of ten percent or more.

SECTION 8. LEGISLATIVE MANAGEMENT STUDY - WRITTEN CONSENT FOR CERTAIN INSURANCE PRODUCERS. During the 2021-22 interim, the legislative management shall consider studying the process for obtaining written consent under the provisions of the Violent Crime Control and Law Enforcement Act of 1994 codified at 18 U.S.C. Section 1033 [Pub. L. 103-322] for individuals otherwise excluded from licensure as insurance producers. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 228

HOUSE BILL NO. 1092

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact three new sections to chapter 26.1-02.1 of the North Dakota Century Code, relating to civil and administrative remedies used to combat insurance fraud; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 26.1-02.1 of the North Dakota Century Code is created and enacted as follows:

Administrative penalty and enforcement.

1. Upon a showing by a preponderance of evidence that a violation of this chapter occurred, and with the consent of the county state's attorney, the commissioner may impose an administrative penalty not to exceed ten thousand dollars for each fraudulent insurance act. Assessment of the administrative penalty must be determined by the nature, circumstances, extent, and gravity of the fraudulent insurance act or acts, any prior history of such act or acts, the degree of culpability, and such other matters as justice may require. The commissioner shall determine the administrative penalty, such as fines, restitution, or both.
2. In the event of nonpayment of the administrative penalty after all rights of appeal have been waived or exhausted, the commissioner may bring a civil action in district court for the collection of the administrative penalty and any other expenses incurred, including interest, attorney's fees, and costs, in the following manner:
 - a. A summons and complaint must be filed in the district court of Burleigh County setting forth that administrative action was taken against the defendant in accordance with this chapter, that the defendant either voluntarily entered a consent order that called for the payment of a specified monetary penalty, or in the alternative, that after proper notice and hearing, the defendant was determined to be in violation of this chapter and that by order of the commissioner a specified monetary penalty had been assessed against the defendant, that all rights of appeal have been waived or exhausted, and that payment in full has not been made in accordance with the terms of the consent order or other order of the commissioner. The insurance department shall attach to the complaint a certified copy of that consent order or other order of the commissioner.
 - b. The court shall enter judgment in favor of the department for the amount specified in the complaint if the department establishes:
 - (1) The defendant is the same person against which the consent order or other order of the commissioner applies; and

- (2) Payment in full has not been made by or on behalf of the defendant according to the terms of the consent or other order of the commissioner.
- c. Except as otherwise provided in this section the North Dakota Rules of Civil Procedure govern the civil proceedings.
3. A person that is found to have committed a fraudulent insurance act and assessed an administrative penalty or a person that violated an order of the commissioner pursuant to a hearing or consent order in relation to an administrative penalty associated with a fraudulent insurance act, may be liable for expenses incurred by the insurance department at the discretion of the commissioner. The assessment for costs may not exceed fifteen percent of each penalty assessed under this section.
4. The commissioner may order restitution to the insurer or self-insured employer of any insurance proceeds paid pursuant to a fraudulent insurance act. Restitution ordered must be paid by the owing party to the insurance regulatory trust fund under section 26.1-01-07.1 and from that fund be paid to the victim insurer or self-insured employee.
5. The expenses or administrative penalties collected by the commissioner under this chapter are appropriated to the insurance department in accordance with this section and section 26.1-01-07.1. All such moneys that are deposited in the insurance regulatory trust fund under this chapter may be appropriated for use in the education and enforcement of insurance fraud, except funds ordered as restitution to a victim. Restitution funds must be reallocated to the victim. In the discretion of the department, the department may pay a reward drawn from the assessed administrative penalty to an individual who reports to the insurance department an incident of fraudulent insurance act that results in either an admission or finding of fraud. The reward may not exceed the lesser of the assessed administrative penalty or twenty-five thousand dollars. In order to be eligible to receive a reward under this subsection, a reporting individual shall sign a written complaint that subjects the person to the sanctions of section 26.1-02.1. Persons required to report fraudulent insurance acts under subsection 1 of section 26.1-02.1-06 are not eligible to receive a reward pursuant to this subsection.
6. The insurance department may collect moneys for use by the department for fraud education and enforcement purposes.
- a. The following amounts must be deposited in the insurance regulatory trust fund for use by the department for fraud education and enforcement purposes, all sums received from:
- (1) Fines assessed in accordance with this chapter; and
- (2) Assessment of department costs under subsection 3.
- b. The moneys received under this subsection are reserved for the use by the insurance department to defray the expenses of the department in the performance of the various functions and duties associated with fraud enforcement, fund specialized training of department personnel tasked with working within fraud enforcement, and provide the funding for

specialized equipment, specialized technology, and insurance fraud public service and prevention campaigns and rewards.

- c. The moneys deposited for this purpose are subject to the provisions of section 26.1-01-07.1.

SECTION 2. A new section to chapter 26.1-02.1 of the North Dakota Century Code is created and enacted as follows:

Consent orders.

A person may enter a consent order by which such person, without admitting the conduct alleged, consents to the imposition of an administrative penalty and when so requested agrees to cease and desist the acts or omissions alleged in the complaint.

SECTION 3. A new section to chapter 26.1-02.1 of the North Dakota Century Code is created and enacted as follows:

Criminal prosecution.

The imposition of a fine or other sanction under this chapter does not preclude prosecution for a violation of a criminal law of the state.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 229

SENATE BILL NO. 2075

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact chapter 26.1-02.2 of the North Dakota Century Code, relating to insurance data and security; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 26.1-02.2 of the North Dakota Century Code is created and enacted as follows:

26.1-02.2-01 Definitions.

As used in this chapter:

1. "Authorized individual" means an individual known to and screened by the licensee and determined to be necessary and appropriate to have access to the nonpublic information held by the licensee and the licensee's information systems.
2. "Commissioner" means the insurance commissioner.
3. "Consumer" means an individual, including an applicant, policyholder, insured, beneficiary, claimant, and certificate holder, who is a resident of this state and whose nonpublic information is in a licensee's possession, custody, or control.
4. "Cybersecurity event" means an event resulting in unauthorized access to, disruption, or misuse of, an information system or nonpublic information stored on the information system. The term does not include:
 - a. The unauthorized acquisition of encrypted nonpublic information if the encryption, process, or key is not also acquired, released, or used without authorization; or
 - b. An event the licensee has determined that the nonpublic information accessed by an unauthorized person has not been used or released and has been returned or destroyed.
5. "Department" means the insurance department.
6. "Encrypted" means the transformation of data into a form that results in a low probability of assigning meaning without the use of a protective process or key.
7. "Information security program" means the administrative, technical, and physical safeguards a licensee uses to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle nonpublic information.

8. "Information system" means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of electronic nonpublic information, as well as any specialized system, including industrial or process controls systems, telephone switching, private branch exchange systems, and environmental control systems.
9. "Licensee" means any person licensed, authorized to operate, registered, or required to be licensed, authorized, or registered pursuant to the insurance laws of this state. The term does not include a purchasing group or a risk retention group chartered and licensed in another state or a licensee that is acting as an assuming insurer that is domiciled in another state or jurisdiction.
10. "Multi-factor authentication" means authentication through verification of at least two of the following types of authentication factors:
 - a. Knowledge factors, including a password;
 - b. Possession factors, including a token or text message on a mobile phone; or
 - c. Inherence factors, including a biometric characteristic.
11. "Nonpublic information" means electronic information that is not publicly available information and is:
 - a. Any information concerning a consumer which can be used to identify the consumer because of name, number, personal mark, or other identifier in combination with any one or more of the following data elements:
 - (1) Social security number;
 - (2) Driver's license number or nondriver identification card number;
 - (3) Financial account number or credit or debit card number;
 - (4) Any security code, access code, or password that would permit access to a consumer's financial account; or
 - (5) Biometric records.
 - b. Any information or data, except age or gender, in any form or medium created by or derived from a health care provider or a consumer which can be used to identify a particular consumer and relates to:
 - (1) The past, present, or future physical, mental, or behavioral health or condition of any consumer or a member of the consumer's family;
 - (2) The provision of health care to any consumer; or
 - (3) Payment for the provision of health care to any consumer.
12. "Person" means any individual or any nongovernmental entity, including any nongovernmental partnership, corporation, branch, agency, or association.

13. "Publicly available information" means any information a licensee has a reasonable basis to believe is lawfully made available to the general public from: federal, state, or local government records; widely distributed media; or disclosures to the general public which are required to be made by federal, state, or local law. A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:
 - a. The information is of the type available to the general public; and
 - b. Whether a consumer can direct the information not be made available to the general public and, if so, that the consumer has not done so.
14. "Risk assessment" means the risk assessment that each licensee is required to conduct under section 26.1-02.2-03.
15. "Third-party service provider" means a person, not otherwise defined as a licensee, that contracts with a licensee to maintain, process, store, or otherwise is permitted access to nonpublic information through its provision of services to the licensee.

26.1-02.2-02. Exclusive regulation.

Notwithstanding any other provision of law, this chapter establishes the exclusive state standards applicable to licensees for data security, the investigation of a cybersecurity event, and notification to the commissioner.

26.1-02.2-03. Information security program.

1. Commensurate with the size and complexity of the licensee, the nature and scope of the licensee's activities, including the licensee's use of third-party service providers, and the sensitivity of the nonpublic information used by the licensee or in the licensee's possession, custody, or control, each licensee shall develop, implement, and maintain a comprehensive written information security program based on the licensee's risk assessment that contains administrative, technical, and physical safeguards for the protection of nonpublic information and the licensee's information system.
2. A licensee's information security program must be designed to:
 - a. Protect the security and confidentiality of nonpublic information and the security of the information system;
 - b. Protect against any threats or hazards to the security or integrity of nonpublic information and the information system;
 - c. Protect against unauthorized access to or use of nonpublic information, and minimize the likelihood of harm to any consumer; and
 - d. Define and periodically re-evaluate a schedule for retention of nonpublic information and a mechanism for destruction if no longer needed.
3. The licensee shall:

- a. Designate one or more employees, an affiliate, or an outside vendor designated to act on behalf of the licensee which is responsible for the information security program;
 - b. Identify reasonably foreseeable internal or external threats that could result in unauthorized access, transmission, disclosure, misuse, alteration, or destruction of nonpublic information, including the security of information systems and nonpublic information accessible to, or held by, third-party service providers;
 - c. Assess the likelihood and potential damage of any threats, taking into consideration the sensitivity of the nonpublic information;
 - d. Assess the sufficiency of policies, procedures, information systems, and other safeguards in place to manage any threats, including consideration of threats in each relevant area of the licensee's operations, including:
 - (1) Employee training and management;
 - (2) Information systems, including network and software design, as well as information classification, governance, processing, storage, transmission, and disposal; and
 - (3) Detecting, preventing, and responding to attacks, intrusions, or other systems failures; and
 - e. Implement information safeguards to manage the threats identified in the licensee's ongoing assessment and assess the effectiveness of the safeguards' key controls, systems, and procedures on an annual basis.
4. Based on the licensee's risk assessment, the licensee shall:
- a. Design the information security program to mitigate the identified risks, commensurate with the size and complexity of the licensee, the nature and scope of the licensee's activities, including the licensee's use of third-party service providers, and the sensitivity of the nonpublic information used by the licensee or in the licensee's possession, custody, or control.
 - b. Determine which security measures as provided under this subdivision are appropriate and implement the security measures:
 - (1) Place access controls on information systems, including controls to authenticate and permit access only to an authorized individual to protect against the unauthorized acquisition of nonpublic information;
 - (2) Identify and manage the data, personnel, devices, systems, and facilities that enable the organization to achieve business purposes in accordance with the business' relative importance to business objectives and the organization's risk strategy;
 - (3) Restrict physical access to nonpublic information only to an authorized individual;
 - (4) Protect by encryption or other appropriate means, all nonpublic information while being transmitted over an external network and all

- nonpublic information stored on a laptop computer or other portable computing or storage device or media;
- (5) Adopt secure development practices for in-house developed applications utilized by the licensee;
 - (6) Modify the information system in accordance with the licensee's information security program;
 - (7) Utilize effective controls, which may include multi-factor authentication procedures for employees accessing nonpublic information;
 - (8) Regularly test and monitor systems and procedures to detect actual and attempted attacks on, or intrusions into, information systems;
 - (9) Include audit trails within the information security program designed to detect and respond to cybersecurity events and designed to reconstruct material financial transactions sufficient to support normal operations and obligations of the licensee;
 - (10) Implement measures to protect against destruction, loss, or damage of nonpublic information due to environmental hazards, including fire and water damage or other catastrophes or technological failures; and
 - (11) Develop, implement, and maintain procedures for the secure disposal of nonpublic information in any format.
- c. Include cybersecurity risks in the licensee's enterprise risk management process.
 - d. Stay informed regarding emerging threats or vulnerabilities and use reasonable security measures if sharing information relative to the character of the sharing and the type of information shared.
 - e. Provide cybersecurity awareness training to the licensee's personnel which is updated as necessary to reflect risks identified by the licensee in the risk assessment.
5. If the licensee has a board of directors, the board or an appropriate committee of the board at a minimum shall:
- a. Require the licensee's executive management or the licensee's delegates to develop, implement, and maintain the licensee's information security program.
 - b. Require the licensee's executive management or the licensee's delegates to report the following information in writing on an annual basis:
 - (1) The overall status of the information security program and the licensee's compliance with the provisions of this chapter; and
 - (2) Material matters related to the information security program, addressing issues, including risk assessment, risk management and control decisions, third-party service provider arrangements, results of testing, cybersecurity events, or violations, and management's

this certificate for a period of five years. To the extent an insurer has identified areas, systems, or processes that require material improvement, updating, or redesign, the insurer shall document the identification and the remedial efforts planned and underway to address the areas, systems, or processes. The documentation must be available for inspection by the commissioner.

26.1-02.2-04. Investigation of a cybersecurity event.

1. If a licensee learns a cybersecurity event has or may have occurred, the licensee, an outside vendor, or service provider designated to act on behalf of the licensee, shall conduct a prompt investigation.
2. During the investigation, the licensee or an outside vendor or service provider designated to act on behalf of the licensee, at a minimum shall:
 - a. Determine whether a cybersecurity event has occurred;
 - b. Assess the nature and scope of the cybersecurity event;
 - c. Identify any nonpublic information that may have been involved in the cybersecurity event; and
 - d. Perform or oversee reasonable measures to restore the security of the information systems compromised in the cybersecurity event in order to prevent further unauthorized acquisition, release, or use of nonpublic information in the licensee's possession, custody, or control.
3. If a licensee learns a cybersecurity event has or may have occurred in a system maintained by a third-party service provider, the licensee shall complete the requirements provided under subsection 2 or confirm and document that the third-party service provider has completed the requirements.
4. The licensee shall maintain records concerning all cybersecurity events for a period of at least five years from the date of the cybersecurity event and shall produce the records upon demand of the commissioner.

26.1-02.2-05. Notification of a cybersecurity event.

1. A licensee shall notify the commissioner as promptly as possible, but no later than three business days from a determination that a cybersecurity event involving nonpublic information that is in the possession of a licensee has occurred if:
 - a. This state is the licensee's state of domicile, in the case of an insurer, or this state is the licensee's home state, in the case of a producer as defined in chapter 26.1-26, and the cybersecurity event has a reasonable likelihood of materially harming a consumer residing in this state or reasonable likelihood of materially harming any material part of the normal operations of the licensee; or
 - b. The licensee reasonably believes the nonpublic information involved is of two hundred fifty or more consumers residing in this state and is:
 - (1) A cybersecurity event impacting the licensee for which notice is required to be provided to any government body, self-regulatory

agency, or any other supervisory body pursuant to any state or federal law; or

(2) A cybersecurity event that has a reasonable likelihood of materially harming any consumer residing in this state or materially harming any part of the normal operations of the licensee.

2. The licensee shall provide the notice required under this section in electronic form as directed by the commissioner. The licensee shall update and supplement the initial and any subsequent notifications to the commissioner regarding material changes to previously provided information relating to the cybersecurity event. The licensee's notice required under this section must include:
 - a. The date of the cybersecurity event;
 - b. Description of how the information was exposed, lost, stolen, or breached, including the specific roles and responsibilities of third-party service providers, if any;
 - c. How the cybersecurity event was discovered;
 - d. Whether any lost, stolen, or breached information has been recovered and if so, how;
 - e. The identity of the source of the cybersecurity event;
 - f. Whether the licensee has filed a police report or has notified any regulatory, government, or law enforcement agencies and, if so, when the notification was provided;
 - g. Description of the specific types of information acquired without authorization. Specific types of information means particular data elements, including medical information, financial information, or any other information allowing identification of the consumer;
 - h. The period during which the information system was compromised by the cybersecurity event;
 - i. The total number of consumers in this state affected by the cybersecurity event. The licensee shall provide the best estimate in the initial report to the commissioner and update the estimate with a subsequent report to the commissioner pursuant to this section;
 - j. The results of any internal review identifying a lapse in either automated controls or internal procedures, or confirming that all automated controls or internal procedures were followed;
 - k. Description of efforts being undertaken to remediate the situation that permitted the cybersecurity event to occur;
 - l. A copy of the licensee's privacy policy and a statement outlining the steps the licensee will take to investigate and notify consumers affected by the cybersecurity event; and

- m. Name of a contact person that is both familiar with the cybersecurity event and authorized to act for the licensee.
- 3. The licensee shall comply with chapter 51-30, as applicable, and provide a copy of the notice sent to consumers to the commissioner, when a licensee is required to notify the commissioner under subsection 1.
- 4. In the case of a cybersecurity event in a system maintained by a third-party service provider, of which the licensee has become aware, the licensee shall treat the event in accordance with subsection 1 unless the third-party service provider provides the notice required under chapter 26.1-02.2 to the commissioner.
 - a. The computation of licensee's deadlines under this subsection begin on the day after the third-party service provider notifies the licensee of the cybersecurity event or the licensee otherwise has actual knowledge of the cybersecurity event, whichever is sooner.
 - b. Nothing in this chapter prevents or abrogates an agreement between a licensee and another licensee, a third-party service provider, or any other party to fulfill any of the investigation requirements imposed under section 26.1-02.2-04 or notice requirements imposed under subsection 1.
- 5. If a cybersecurity event involving nonpublic information that is used by a licensee that is acting as an assuming insurer or in the possession, custody, or control of a licensee that is acting as an assuming insurer and that does not have a direct contractual relationship with the affected consumers, the assuming insurer shall notify the insurer's affected ceding insurers and the commissioner of the insurer's state of domicile within three business days of making the determination that a cybersecurity event has occurred. The ceding insurer that has a direct contractual relationship with affected consumers shall fulfill the consumer notification requirements imposed under chapter 51-30 and any other notification requirements relating to a cybersecurity event imposed under subsection 1.
- 6. If a cybersecurity event involving nonpublic information that is in the possession, custody, or control of a third-party service provider of a licensee that is an assuming insurer, the assuming insurer shall notify the insurer's affected ceding insurers and the commissioner of the insurer's state of domicile within three business days of receiving notice from its third-party service provider that a cybersecurity event has occurred. The ceding insurers that have a direct contractual relationship with affected consumers shall fulfill the consumer notification requirements imposed under chapter 51-30 and any other notification requirements relating to a cybersecurity event imposed under subsection 1.
- 7. Any licensee acting as assuming insurer does not have any other notice obligations relating to a cybersecurity event or other data breach under this section or any other law of this state.
- 8. If a cybersecurity event involving nonpublic information that is in the possession, custody, or control of a licensee that is an insurer or the insurer's third-party service provider for which a consumer accessed the insurer's services through an independent insurance producer, and for which consumer notice is required by chapter 51-30, the insurer shall notify the producers of

record of all affected consumers of the cybersecurity event no later than the time at which notice is provided to the affected consumers. The insurer is excused from the obligation imposed under this subsection for any producers that are not authorized by law or contract to sell, solicit, or negotiate on behalf of the insurer, and those instances in which the insurer does not have the current producer of record information for an individual consumer.

26.1-02.2-06. Power of commissioner.

1. The commissioner may examine and investigate the affairs of any licensee to determine whether the licensee has been or is engaged in any conduct in violation of this chapter. This power is in addition to the powers the commissioner has under chapter 26.1-03. Any investigation or examination must be conducted pursuant to chapter 26.1-03.
2. If the commissioner has reason to believe a licensee has been or is engaged in conduct in this state which violates this chapter, the commissioner may take action that is necessary or appropriate to enforce the provisions of this chapter.

26.1-02.2-07. Confidentiality.

1. Any documents, materials, or other information in the control or possession of the department which are furnished by a licensee, or an employee or agent thereof acting on behalf of a licensee pursuant to this chapter, or that are obtained by the commissioner in an investigation or examination pursuant to section 26.1-02.2-06 are confidential, not subject to chapter 44-04, not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. The commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties. The commissioner may not otherwise make the documents, materials, or other information public without the prior written consent of the licensee.
2. The commissioner or any person that received documents, materials, or other information while acting under the authority of the commissioner may not be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection 1.
3. In order to assist in the performance of the commissioner's duties the commissioner:
 - a. May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection 1, with other state, federal, and international regulatory agencies, with the national association of insurance commissioners, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information;
 - b. May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the national association of insurance commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or

- privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information;
- c. May share documents, materials, or other information subject to this section, with a third-party consultant or vendor provided the consultant agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information; and
 - d. May enter agreements governing sharing and use of information consistent with this subsection.
4. A waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information does not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection 3.
5. Documents, materials, or other information in the possession or control of the national association of insurance commissioners or a third-party consultant or vendor pursuant to this chapter are confidential, not subject to chapter 44-04, not subject to subpoena, and not subject to discovery or admissible in evidence in any private civil action.

26.1-02.2-08. Exceptions.

1. The following exceptions apply to this chapter:
- a. A licensee with less than five million dollars in gross revenue or less than ten million dollars in year-end assets is exempt from section 26.1-02.2-03.
 - b. During the period beginning on August 1, 2021, and ending on July 31, 2023, a licensee with fewer than fifty employees, including independent contractors and employees of affiliated companies having access to nonpublic information used by the licensee or in the licensee's possession, custody, or control, is exempt from section 26.1-02.2-03.
 - c. After July 31, 2023, a licensee with fewer than twenty-five employees, including independent contractors and employees of affiliated companies having access to nonpublic information used by the licensee or in the licensee's possession, custody, or control is exempt from section 26.1-02.2-03.
 - d. A licensee that is subject to and governed by the privacy, security, and breach notification rules issued by the United States department of health and human services, title 45, Code of Federal Regulations, parts 160 and 164, established pursuant to the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191], and the federal Health Information Technology for Economic and Clinical Health Act [Pub. L. 111-5], and which maintains nonpublic information concerning a consumer in the same manner as protected health information is deemed to comply with the requirements of this chapter except for the commissioner notification requirements under subsections 1 and 2 of section 26.1-02.2-05.
 - e. An employee, agent, representative, or designee of a licensee, that also is a licensee, is exempt from section 26.1-02.2-03 and is not required to

develop an information security program to the extent the employee, agent, representative, or designee is covered by the information security program of the other licensee.

2. If a licensee ceases to qualify for an exception, the licensee has one hundred eighty days to comply with this chapter.

26.1-02.2-09. Penalties.

In the case of a violation of this chapter, a licensee may be penalized in accordance with section 26.1-01-03.3.

26.1-02.2-10. Rules and regulations.

The commissioner may adopt reasonable rules necessary for the implementation of this chapter.

26.1-02.2-11. Implementation dates.

A licensee shall implement:

1. Subsections 1, 2, 3, 4, 5, 8, and 9 of section 26.1-02.2-03 no later than August 1, 2022; and
2. Subsections 6 and 7 of section 26.1-02.2-03 no later than August 1, 2023.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - CYBER VULNERABILITIES OF ENTITIES LICENSED BY THE INSURANCE DEPARTMENT. During the 2021-22 interim, the legislative management shall consider, with the assistance of the insurance department, studying the North Dakota laws and practice of insurers making property and casualty insurance policies and related information available to insureds by electronic means; the feasibility and desirability of prohibiting insurers from restricting the conditions in which insureds may access such information, including through software and agents of their choosing; and the extent to which insurers conducting business in this state have sought to limit access to policies and related information made available to insureds, whether such restrictions restrain competition in the marketplace, balance with an analysis of the impact of such access on potential cyber breaches, and loss of trade secret or proprietary information resulting from third-party usage and software applications, and how the two competing considerations can be safely and fairly reconciled. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 230

HOUSE BILL NO. 1062

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact a new subsection to section 26.1-30-19 of the North Dakota Century Code, relating to the confidentiality of insurance filings; and to amend and reenact section 26.1-03-10, subdivision a of subsection 5 of section 26.1-03-19.4, and subsection 6 of section 26.1-03-19.4 of the North Dakota Century Code, relating to insurance company records held by the insurance commissioner.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-03-10 of the North Dakota Century Code is amended and reenacted as follows:

26.1-03-10. Publication of abstract of annual statement and certificate of authority.

An insurance company, at the time it submits its annual statement for filing, shall submit an abstract of the annual statement for publication upon the form prescribed by the commissioner. The abstract of the annual statement of each company, other than a state or county mutual insurance company, must be published at least three times in one newspaper of general circulation, designated by the commissioner, printed and published in each judicial district in this state in which the company has an agency. The abstract of the annual statement of each state or county mutual insurance company must be published once in a newspaper published in the county in which the company has its principal place of business, the newspaper to be designated by the members of the company at their annual meeting. The certificate of authority issued by the commissioner to authorize the company to do business within this state must be published in connection with the publication of the abstract of its annual statement. The fees for publication are those provided under section 46-05-03. Proof of publication must be filed with the commissioner within four months after the filing of the annual statement. The commissioner shall provide abstracts, in a convenient form, on the commissioner's website.

¹⁵⁰ **SECTION 2. AMENDMENT.** Subdivision a of subsection 5 of section 26.1-03-19.4 of the North Dakota Century Code is amended and reenacted as follows:

- a. Upon the adoption of a ~~financial~~ examination report under subdivision a of subsection 3, the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of fifteen days except to the extent provided in subsection 2. Thereafter, the commissioner may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication.

¹⁵⁰ Section 26.1-03-19.4 was also amended by section 3 of House Bill No. 1062, chapter 230.

¹⁵¹ **SECTION 3. AMENDMENT.** Subsection 6 of section 26.1-03-19.4 of the North Dakota Century Code is amended and reenacted as follows:

6. a. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of ~~a financial~~ an examination made under this chapter, or in the course of analysis by the commissioner of the financial condition or market conduct of the company, must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent provided in subsection 5. Access also ~~also~~ may ~~also~~ be granted to the national association of insurance commissioners. The parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.
- b. ~~For purposes of any other examination other than financial examinations required or authorized by law, all preliminary data, drafts, notes, impressions, memoranda, working papers, and work product generated by the commissioner or the person making an examination or inspection are confidential and not open for public inspection until the commissioner releases a final report concerning the examination or inspection or upon a declaration by the commissioner that the material is nonconfidential. If a declaration of nonconfidentiality is requested by any person and denied, the commissioner, in the denial, shall state the reason for the confidentiality and the date, as can best be reasonably determined at the time, when it will be made public.~~

SECTION 4. A new subsection to section 26.1-30-19 of the North Dakota Century Code is created and enacted as follows:

A filing and any supporting information is not open to public inspection or subject to the provisions of chapter 44-04 unless the filing is approved by the commissioner.

Approved March 9, 2021

Filed March 10, 2021

¹⁵¹ Section 26.1-03-19.4 was also amended by section 2 of House Bill No. 1062, chapter 230.

CHAPTER 231

SENATE BILL NO. 2077

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact sections 18-04-04 and 26.1-03-11 of the North Dakota Century Code, relating to the imposition of a monetary penalty on insurance companies failing to report certain data to the insurance commissioner; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 18-04-04 of the North Dakota Century Code is amended and reenacted as follows:

18-04-04. Insurance companies to report fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance premium collections - Form furnished by insurance commissioner.

1. The insurance commissioner, when the commissioner forwards to an insurance company which is issuing policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance in this state the form to be used in submitting its annual statement, shall forward a form containing the names of all cities and all rural fire protection districts or rural fire departments entitled to benefits under the provisions of this chapter. Every insurance company issuing policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance within this state shall complete such form by showing ~~thereon~~ on the form the amount of all premiums received by ~~it~~ the insurance company upon such policies issued on property within the corporate limits of each city shown on ~~such~~ the form and on property within the boundaries of each rural fire protection district shown on ~~such~~ the form or property within the boundaries of each rural fire department as certified by the state fire marshal during the year ending on the preceding thirty-first day of December and shall file the ~~same~~ form as a part of ~~its~~ the insurance company's annual statement.
2. An insurance company failing to report fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance premium collections on or before March first, on forms prescribed by the insurance commissioner, is subject to the monetary penalties prescribed in section 26.1-03-11.

SECTION 2. AMENDMENT. Section 26.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

26.1-03-11. Fire companies to report statistical data - Failure to report - Exceptions to reporting requirements - Penalty.

Each insurance company issuing fire insurance policies covering property in this state shall annually shall report information setting forth the amount of earned

premiums in this state for policies covering insured property located in this state and the amount of claims incurred. This information is not to include personal lines or farm property insurance. This information must be reported on a form prescribed by the commissioner. The company shall file the form with the commissioner or shall certify to the commissioner that the information has been reported directly to an advisory organization upon whose filings the majority of the fire insurance rates for North Dakota are based. The form or certification must accompany the annual statement required under section 26.1-03-07. ~~The commissioner shall forward information filed under this section to the advisory organization upon whose filings a majority of the fire insurance rates for North Dakota are based. Each advisory organization filing pursuant to chapter 26.1-25 shall use this information in its filing. The commissioner shall revoke the certificate of authority of an insurance company failing to file the information required by this section.~~An insurance company that fails to furnish the form on or before March first is subject to a penalty of one hundred dollars per day. The commissioner may revoke or suspend the certificate of authority of an insurance company that fails to file the form required in this section. If satisfied the delay was excusable, the insurance commissioner may waive, and if paid, issue a premium tax credit in an amount up to fifty percent of the penalty and interest. The insurance commissioner shall deposit in the insurance tax distribution fund monetary penalties collected under this section.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 232

HOUSE BILL NO. 1087

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact two new sections to chapter 26.1-36.7 of the North Dakota Century Code, relating to third-party reinsurance; to amend and reenact sections 26.1-03-17, 26.1-36.7-01, 26.1-36.7-02, 26.1-36.7-03, 26.1-36.7-04, 26.1-36.7-05, 26.1-36.7-06, 26.1-36.7-07, 26.1-36.7-08, 26.1-36.7-09, and 26.1-36.7-10 of the North Dakota Century Code, relating to premium taxes and credits for insurance companies and the establishment of an invisible reinsurance pool for the individual health insurance market; to provide for a study; to provide a penalty; to provide an appropriation; to provide a continuing appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-03-17 of the North Dakota Century Code is amended and reenacted as follows:

26.1-03-17. Commissioner to collect premium tax - Insurance companies generally - Computation - Credits - Penalty - Estimated tax. (~~Effective through December 31, 2021~~)

1. Before issuing the annual certificate required by law, the commissioner shall collect from every stock and mutual insurance company, nonprofit health service corporation, health maintenance organization, and prepaid legal service organization, except fraternal benefit and benevolent societies, doing business in this state, a tax on the gross amount of premiums, assessments, membership fees, subscriber fees, policy fees, service fees collected by any third-party administrator providing administrative services to a group that is self-insured for health care benefits, and finance and service charges received in this state during the preceding calendar year, at the rate of two percent with respect to life insurance, one and three-fourths percent with respect to accident and health insurance, and one and three-fourths percent with respect to all other lines of insurance. This tax does not apply to considerations for annuities. The total tax is payable on or before March first following the year for which the tax is assessable. If the due date falls on a Saturday or legal holiday, the tax is payable on the next succeeding business day. Collections from this tax must be deposited in the insurance tax distribution fund under section 18-04-04.1 but not in an amount exceeding one-half of the biennial amount appropriated for distribution under section 18-04-05 and chapter 23-46 in any fiscal year. Collections from this tax exceeding the sum of the amount deposited in the insurance tax distribution fund must be deposited in the general fund in the state treasury.
2. An insurance company, nonprofit health service corporation, health maintenance organization, or prepaid legal service organization subject to the tax imposed by subsection 1 is entitled to a credit against the tax due for the amount of any assessment paid as a member of a comprehensive health association under subsection 3 of section 26.1-08-09 for which the member

may be liable for the year in which the assessment was paid, a credit against the tax due for the amount of any assessment paid as a member of the reinsurance association of North Dakota under section 26.1-36.7-06 for which the member may be liable for the year in which the assessment is paid, a credit as provided under section 26.1-38.1-10, a credit against the tax due for an amount equal to the examination fees paid to the commissioner under sections 26.1-01-07, 26.1-02-02, 26.1-03-19.6, 26.1-03-22, 26.1-17-32, and 26.1-18.1-18, and a credit against the tax due for an amount equal to the ad valorem taxes, whether direct or in the form of rent, on that proportion of premises occupied as the principal office in this state for over one-half of the year for which the tax is paid. The credits under this subsection must be prorated on a quarterly basis and may not exceed the total tax liability under subsection 1.

3. Any company failing to pay the tax imposed by subsection 1, within the time required, is subject to a penalty of one hundred dollars plus twenty-five dollars per day, excepting the first day after the tax became due. Any company failing to file the appropriate tax statement required by rule if the tax is zero is subject to a penalty of twenty-five dollars per day for each day's neglect not to exceed five hundred dollars. The commissioner, if satisfied that the delay was excusable, may waive, and if paid, issue a premium tax credit for all or any part of the penalty and interest.
4. Every stock and mutual insurance company, nonprofit health service corporation, health maintenance organization, and prepaid legal service organization, except fraternal benefit or benevolent societies, doing business in this state required to pay premium taxes in this state shall make and file a statement of estimated premium taxes. The statement and payment must be made on a quarterly basis as prescribed by the commissioner. Failure of a company to make payments of at least one-fourth of the total tax paid during the previous calendar year, or eighty percent of the actual tax for the quarter being reported of the current calendar year, shall subject the company to the penalty and interest provided in subsection 3.
5. If an amount of tax, penalty, or interest has been paid which was not due under the provisions of this section, a refund may be issued to the taxpayer who made the erroneous payment. The refund is allowed as a credit against any tax due or to become due under this section or as a cash refund, at the discretion of the commissioner. The taxpayer who made the erroneous payment shall present a claim for refund to the commissioner not later than two years after the due date of the return for the period for which the erroneous payment was made.
6. In lieu of the tax required by subsection 1, the commissioner shall collect from each entity subject to this section an annual filing fee in the amount of two hundred dollars, provided the total tax liability of the entity pursuant to subsection 1 is less than two hundred dollars. No annual filing fee is due or may be collected from an entity if its total tax liability pursuant to subsection 1 is in excess of two hundred dollars. The annual filing fee may be reduced by any credits available pursuant to subsections 2 and 5. Failure of a company to pay the two hundred dollar filing fee subjects the company to the penalty as provided in subsection 3.

~~26.1-03-17. Commissioner to collect premium tax -- Insurance companies generally -- Computation -- Credits -- Penalty -- Estimated tax. (Effective after December 31, 2021)~~

- ~~1. Before issuing the annual certificate required by law, the commissioner shall collect from every stock and mutual insurance company, nonprofit health service corporation, health maintenance organization, and prepaid legal service organization, except fraternal benefit and benevolent societies, doing business in this state, a tax on the gross amount of premiums, assessments, membership fees, subscriber fees, policy fees, service fees collected by any third-party administrator providing administrative services to a group that is self-insured for health care benefits, and finance and service charges received in this state during the preceding calendar year, at the rate of two percent with respect to life insurance, one and three-fourths percent with respect to accident and health insurance, and one and three-fourths percent with respect to all other lines of insurance. This tax does not apply to considerations for annuities. The total tax is payable on or before March first following the year for which the tax is assessable. If the due date falls on a Saturday or legal holiday, the tax is payable on the next succeeding business day. Collections from this tax must be deposited in the insurance tax distribution fund under section 18-04-04.1 but not in an amount exceeding one-half of the biennial amount appropriated for distribution under section 18-04-05 and chapter 23-46 in any fiscal year. Collections from this tax exceeding the sum of the amount deposited in the insurance tax distribution fund must be deposited in the general fund in the state treasury.~~
- ~~2. An insurance company, nonprofit health service corporation, health maintenance organization, or prepaid legal service organization subject to the tax imposed by subsection 1 is entitled to a credit against the tax due for the amount of any assessment paid as a member of a comprehensive health association under subsection 3 of section 26.1-08-09 for which the member may be liable for the year in which the assessment was paid, a credit as provided under section 26.1-38.1-10, a credit against the tax due for an amount equal to the examination fees paid to the commissioner under sections 26.1-01-07, 26.1-02-02, 26.1-03-19.6, 26.1-03-22, 26.1-17-32, and 26.1-18.1-18, and a credit against the tax due for an amount equal to the ad valorem taxes, whether direct or in the form of rent, on that proportion of premises occupied as the principal office in this state for over one-half of the year for which the tax is paid. The credits under this subsection must be prorated on a quarterly basis and may not exceed the total tax liability under subsection 1.~~
- ~~3. Any company failing to pay the tax imposed by subsection 1, within the time required, is subject to a penalty of one hundred dollars plus twenty-five dollars per day, excepting the first day after the tax became due. Any company failing to file the appropriate tax statement required by rule if the tax is zero is subject to a penalty of twenty-five dollars per day for each day's neglect not to exceed five hundred dollars. The commissioner, if satisfied that the delay was excusable, may waive, and if paid, issue a premium tax credit for all or any part of the penalty and interest.~~
- ~~4. Every stock and mutual insurance company, nonprofit health service corporation, health maintenance organization, and prepaid legal service organization, except fraternal benefit or benevolent societies, doing business in this state required to pay premium taxes in this state shall make and file a~~

~~statement of estimated premium taxes. The statement and payment must be made on a quarterly basis as prescribed by the commissioner. Failure of a company to make payments of at least one-fourth of the total tax paid during the previous calendar year, or eighty percent of the actual tax for the quarter being reported of the current calendar year, shall subject the company to the penalty and interest provided in subsection 3.~~

- ~~5. If an amount of tax, penalty, or interest has been paid which was not due under the provisions of this section, a refund may be issued to the taxpayer who made the erroneous payment. The refund is allowed as a credit against any tax due or to become due under this section or as a cash refund, at the discretion of the commissioner. The taxpayer who made the erroneous payment shall present a claim for refund to the commissioner not later than two years after the due date of the return for the period for which the erroneous payment was made.~~
- ~~6. In lieu of the tax required by subsection 1, the commissioner shall collect from each entity subject to this section an annual filing fee in the amount of two hundred dollars, provided the total tax liability of the entity pursuant to subsection 1 is less than two hundred dollars. No annual filing fee is due or may be collected from an entity if its total tax liability pursuant to subsection 1 is in excess of two hundred dollars. The annual filing fee may be reduced by any credits available pursuant to subsections 2 and 5. Failure of a company to pay the two hundred dollar filing fee subjects the company to the penalty as provided in subsection 3.~~

¹⁵² **SECTION 2. AMENDMENT.** Section 26.1-36.7-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.7-01. Definitions. (Effective through December 31, 2021)

For purposes of this chapter, unless the context otherwise requires:

1. "Association" means the reinsurance association of North Dakota.
2. "Board" means the board of directors of the reinsurance association of North Dakota.
3. "Earned group health benefit plan premiums" means premium owed to an insurer for a period of time during which the insurer has been liable to cover claims for an insured pursuant to the terms of a group health benefit plan issued by the insurer.
4. "Future losses" means reserves for claims incurred but not reported.
5. "Group health benefit plan" means a health benefit plan offered through an employer, or an association of employers, to more than one individual employee.
6. "Health benefit plan" means any hospital and medical expense-incurred policy or certificate, nonprofit health care service plan contract, health maintenance organization subscriber contract, or any other health care plan or arrangement

¹⁵² Section 26.1-36.7-01 was also amended by section 2 of Senate Bill No. 2073, chapter 239.

that pays for or furnishes benefits that pay the costs of or provide medical, surgical, or hospital care.

- a. "Health benefit plan" does not include any one or more of the following:
 - (1) Coverage only for accident or disability income insurance, or any combination of the two;
 - (2) Coverage issued as a supplement to liability insurance;
 - (3) Liability insurance, including general liability insurance and automobile liability insurance;
 - (4) Workforce safety and insurance or similar workers' compensation insurance;
 - (5) Automobile medical payment insurance;
 - (6) Credit-only insurance;
 - (7) Coverage for onsite medical clinics;
 - (8) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits; and
 - (9) Self-funded plans.
- b. "Health benefit plan" does not include the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:
 - (1) Limited scope dental or vision benefits;
 - (2) Benefits for long-term care, nursing home care, home health care, or community-based care, or any combination of this care; and
 - (3) Other similar limited benefits specified under federal regulations issued under the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.].
- c. "Health benefit plan" does not include the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance; there is no coordination between the provision of the benefits; and any exclusion of benefits under any group health insurance coverage maintained by the same plan sponsor, and the benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same sponsor:
 - (1) Coverage only for specified disease or illness; and
 - (2) Hospital indemnity or other fixed indemnity insurance.
- d. "Health benefit plan" does not include the following if offered as a separate policy, certificate, or contract of insurance:

- (1) Medicare supplement health insurance as defined under section 1882(g)(1) of the federal Social Security Act [42 U.S.C. 13295ss(g)(1)];
 - (2) Coverage supplemental to the coverage provided under chapter 55 of United States Code title 10 [10 U.S.C. 1071 et seq.] relating to armed forces medical and dental care; and
 - (3) Similar supplemental coverage provided under a group health plan.
7. "Individual health benefit plan" means a health benefit plan offered to individuals, other than in connection with a group health benefit plan. The term does not include short-term limited-duration health insurance as defined by section 26.1-36-49.
 8. "Insured" means an individual who is insured by a health benefit plan.
 9. "Insurer" means an entity authorized to write health benefit plans or that provides health benefit plans in the state. The term includes an insurance company as defined in section 26.1-02-01, a nonprofit health service organization, a fraternal benefit society, and a health maintenance organization.
 10. "Member insurer" means an insurer that offers individual health benefit plans and is actively marketing individual health benefit plans in this state.

SECTION 3. AMENDMENT. Section 26.1-36.7-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.7-02. Waiver proposal and application. (~~Effective through December 31, 2024~~)

1. The commissioner may develop a proposal for an innovation waiver under section 1332 of the federal Patient Protection and Affordable Care Act [Pub. L. 111-148; 119 Stat. 124; 42 U.S.C. 1801 et seq.].
2. On behalf of the state, in accordance with the proposal developed under subsection 1, the commissioner may submit an application to the United States department of health and human services and to the United States secretary of the treasury. The commissioner may implement any federally approved waiver.
3. The commissioner may develop an amendment for an innovation waiver under section 1332 of the federal Patient Protection and Affordable Care Act [Pub. L. 111-148; 119 Stat. 124; 42 U.S.C. 1801 et seq.].

SECTION 4. AMENDMENT. Section 26.1-36.7-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.7-03. Reinsurance association of North Dakota. (~~Effective through December 31, 2024~~)

1. The reinsurance association of North Dakota is established as a nonprofit legal entity. As a condition of writing health insurance business in this state, an insurer that has issued or administered a group health benefit plan within the previous twelve months or is actively marketing or administering a group health benefit plan in this state shall participate in the association.

2. The association may begin operation on either:
 - a. The January first following the date the commissioner certifies to the secretary of state and the legislative council that the state's innovation waiver application has been approved by the federal government pursuant to section 1332 of the federal Patient Protection and Affordable Care Act [Pub L. 111-148; 119 Stat. 124; 42 U.S.C. 1801 et seq.]; or
 - b. The January first following the date the commissioner certifies to the secretary of state and the legislative council that the Patient Protection and Affordable Care Act [Pub. L. 111-148] has been repealed, amended, or finally adjudicated by a court of law with jurisdiction over North Dakota as invalid or in a manner that makes the granting of an innovation waiver unnecessary or inapplicable.
3. If the federal funding associated with an approved innovation waiver under section 1332 of the federal Patient Protection and Affordable Care Act [Pub. L. 111-148; 119 Stat. 124; 42 U.S.C. 1801 et seq.] is terminated or otherwise discontinued, the commissioner may cease or suspend operations of the reinsurance association of North Dakota beginning on the January first following the date the commissioner notifies the board that federal funding has been terminated or otherwise discontinued.

SECTION 5. AMENDMENT. Section 26.1-36.7-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.7-04. Board of directors. (~~Effective through December 31, 2021~~)

1. The association is governed by the board of directors of the reinsurance association of North Dakota.
2. The board consists of the state health officer, one senator appointed by the majority leader of the senate of the legislative assembly, one representative appointed by the speaker of the house of representatives of the legislative assembly, one individual from each of the four insurers of the association with the highest annual market share as determined by annual market share reports of health benefit plans provided by the commissioner annually, and two nonvoting members from the insurance department appointed by the commissioner.
3. Members of the board may be reimbursed from the moneys of the association for expenses incurred by the members due to their service as board members, but may not otherwise be compensated by the association for board services.
4. The costs of conducting the meetings of the association and the board are borne by the association.
5. For cause, the commissioner may remove any board member representing one of the four insurers.

SECTION 6. AMENDMENT. Section 26.1-36.7-05 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.7-05. Powers and duties of commissioner and board. (~~Effective through December 31, 2021~~)

1. The commissioner shall:
 - a. Perform all functions necessary for the association to carry out the purposes of this chapter; and
 - b. Approve any assessments to the insurers writing or otherwise issuing group health benefit plans. A group health benefit plan issued pursuant to chapter 54-52.1 is exempt from the assessment.
2. The board shall:
 - a. Formulate general policies to advance the purposes of this chapter;
 - b. Schedule and approve independent biennial audits in order to:
 - (1) Ensure claims are being processed appropriately and only include services covered by the individual health benefit plan for the contracted rates; and
 - (2) Verify that the assessment base is accurate and that the appropriate percentage was used to calculate the assessment;
 - c. Approve bylaws and operating rules; and
 - d. Provide for other matters as may be necessary and proper for the execution of the commissioner's and board's powers, duties, and obligations.
3. The commissioner and the members of the board are not liable for any obligations of the association.

SECTION 7. AMENDMENT. Section 26.1-36.7-06 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.7-06. Assessments against insurers. (~~Effective through December 31, 2021~~)

1. For the purpose of providing the funds necessary to carry out the purposes of the association under this chapter, the commissioner shall assess insurers writing or otherwise issuing group health benefit plans based on the insurer's group health benefit plan premium written in this state. The assessment must be paid quarterly within forty-five days of the end of the previous quarter on all earned group health benefit plan premiums for the previous calendar quarter. An assessment not paid within forty-five days of the end of the previous quarter accrues interest at twelve percent per annum beginning on the date due.
2. An insurer writing less than one hundred thousand dollars, annually, in group health benefit plan premium is exempt from the assessments.
3. The commissioner may verify the amount of each insurer's assessment based on annual statements and other reports determined to be necessary by the commissioner. The commissioner may use any reasonable method of estimating an insurer's group health benefit plan premium if the specific number is not reported to the commissioner.

- 3-4. Any federal funding obtained by the association must be used to reduce the assessments of insurers writing or otherwise issuing group health benefit plans pursuant to this section.
- 4-5. Before April second of each year, the association shall determine and report to the board the association's net gains or net losses for the previous calendar year.
- 5-6. Before April sixteenth of each year, the association shall provide an estimate to the commissioner and the board of the amount of assessments needed for the association to carry out the powers and duties of the association under this chapter.
- 6-7. Before May second of each year, the board may provide a recommendation to the commissioner and the board of the amount of assessments needed for the association to carry out the powers and duties of the association under this chapter.
- 7-8. An insurer may apply to the commissioner for a deferral of all or part of an assessment imposed by the association under this section. The commissioner may defer all or part of the assessment if the commissioner determines the payment of the assessment would place the insurer in a financially impaired condition. If all or part of the assessment is deferred, the amount deferred must be assessed against other insurers in a proportionate manner consistent with this section. The insurer that receives a deferral remains liable to the association for the amount deferred and is prohibited from reinsuring any person through the association until such time as the insurer pays the assessments.
- 8-9. The board shall use any surplus, including any interest earned on the surplus, to:
- a. Offset future losses;
 - b. Reduce future assessments to insurers writing or otherwise issuing group health benefit plans; or
 - c. Pay off a line of credit issued pursuant to section 26.1-36.7-07.
- 9-10. The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer that fails to pay an assessment. As an alternative, the commissioner may levy a penalty on any member insurer that fails to pay an assessment when due. In addition, the commissioner may use any power granted to the commissioner by this title to collect any unpaid assessment.

SECTION 8. AMENDMENT. Section 26.1-36.7-07 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.7-07. Bank of North Dakota line of credit. (~~Effective through December 31, 2021~~)

The Bank of North Dakota shall extend to the association a line of credit not to exceed twenty-five million dollars. The association shall repay the line of credit from assessments against insurers writing or otherwise issuing group health benefit plans in this state or from other funds appropriated by the legislative assembly. The

association may access the line of credit to the extent necessary to provide reimbursements to member insurers as required by this chapter.

SECTION 9. AMENDMENT. Section 26.1-36.7-08 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.7-08. Reinsurance. (Effective through December 31, 2021)

For claims of an insured which total one hundred thousand dollars to one million dollars incurred per plan year, a member insurer must be reinsured by the association at seventy-five percent of the member insurer's responsibility for claims incurred by the insured pursuant to the terms of an individual's nongrandfathered individual health benefit plan.

SECTION 10. AMENDMENT. Section 26.1-36.7-09 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.7-09. Reimbursement of member insurer. (~~Effective through December 31, 2021~~)

For nongrandfathered individual health benefit plans issued or renewed after the November second preceding to the date the association begins operation, a member insurer may seek reimbursement from the association and the association shall reimburse the member insurer pursuant to the provisions of section 26.1-36.7-08 to the extent the claims incurred by the insured and submitted by the member insurer to the association are eligible for coverage and reimbursement according to the terms of insured's individual health benefit plan.

SECTION 11. AMENDMENT. Section 26.1-36.7-10 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.7-10. Rulemaking. (~~Effective through December 31, 2021~~)

The commissioner may adopt rules for the implementation and administration of this chapter.

SECTION 12. A new section to chapter 26.1-36.7 of the North Dakota Century Code is created and enacted as follows:

Third-party reinsurance.

The association may use federal funding received under section 1332 of the federal Patient Protection and Affordable Care Act [Pub. L. 111-148; 119 Stat. 124; 42 U.S.C. 1801 et seq.] to procure third-party reinsurance for the association's portion of eligible claims.

SECTION 13. A new section to chapter 26.1-36.7 of the North Dakota Century Code is created and enacted as follows:

Federal funding - Administration of the association - Continuing appropriation.

Federal funding received by the association under the innovation waiver approved under section 1332 of the federal Patient Protection and Affordable Care Act [Pub. L. 111-148; 119 Stat. 124; 42 U.S.C. 1801 et seq.] is appropriated to the insurance commissioner on a continuing basis for the purposes of this chapter.

SECTION 14. INSURANCE DEPARTMENT STUDY - COMBINING INDIVIDUAL MARKET AND SMALL GROUP MARKET FOR REINSURANCE. During the 2021-22 interim, the insurance department shall study ways the state may be able to establish an invisible reinsurance pool for the combination of the individual health insurance market with the small group health insurance market.

SECTION 15. APPROPRIATION. There is appropriated out of special funds derived from the reinsurance association of North Dakota, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the insurance commissioner for the purpose of a study relating to the establishment of an invisible reinsurance pool for the combination of the individual health insurance market with the small group health insurance market, and implementing the findings of the study, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 16. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 1, 2021

Filed April 1, 2021

CHAPTER 233

SENATE BILL NO. 2072

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact section 26.1-04-01, subsection 8 of section 26.1-04-03, section 26.1-25-16, and subdivision a of subsection 4 of section 26.1-36-09.8 of the North Dakota Century Code, relating to unfair trade practices and the use of rebates in the business of insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-04-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-04-01. Limitation on right to engage in trade.

An insurance company organized under this title may not deal or trade, directly or indirectly, in the buying or selling of any goods, wares, merchandise, or other commodities whatsoever, except such as may have been insured by the company and are claimed to be damaged by reason of the risk insured against or as allowed under this chapter.

SECTION 2. AMENDMENT. Subsection 8 of section 26.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

8. Rebates.

- a. Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity, or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to the insurance or annuity any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatsoever not specified in the contract; or giving, selling, or purchasing, or offering to give, sell, or purchase as inducement to the insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.
- b. Subsection 7 or subdivision a of this subsection do not prohibit the following practices:
 - (1) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or abatement of premiums are fair and

equitable to policyholders and for the best interests of the company and its policyholders;

- (2) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses; and
 - (3) Readjusting the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for the policy year.
- c. Notwithstanding any other provision in this subsection, if the cost does not exceed an aggregate retail value of one hundred dollars per person per year, an insurance producer may give a gift, prize, promotional article, logo merchandise, meal, or entertainment activity directly or indirectly to a person in connection with marketing, promoting, or advertising the business. As used in this subdivision, "person" means the named insured, policy owner, or prospective client or the spouse of any of these individuals, but the term does not include a certificate holder, child, or employee of the named insured, policy owner, or prospective client. Subject to the limits of this subdivision, an insurance producer may give a gift card for specific merchandise or services such as a meal, gasoline, or car wash but may not give cash, a cash card, any form of currency, or any refund or discount in premium. An insurance producer may not condition the giving of a gift, prize, promotion article, logo merchandise, meal, or entertainment activity on obtaining a quote or a contract of insurance. Notwithstanding the limitation in this subdivision, an insurance producer may conduct raffles or drawings, if there is no financial cost to an entrant to participate, the drawing or raffle does not obligate a participant to purchase insurance, the prizes are not valued in excess of a reasonable amount determined by the commissioner, and the drawing or raffle is open to the public. The raffle or drawing must be offered in a manner that is not unfairly discriminatory and may not be contingent on the purchase, continued purchase, or renewal of a policy. Notwithstanding the limitation in this subdivision, an insurance producer may make a donation to a nonprofit organization that is exempt from federal taxation under Internal Revenue Code section 501(c)(3) [26 U.S.C. 501(c)(3)] in any amount as long as the donation is not given as an inducement to obtain a contract of insurance.
- d. The provisions in this subsection may not be construed as including within the definition of discrimination or rebates any of the following practices:
- (1) The offer or provision by an insurer or producer, by or through an employee, an affiliate, or a third-party representative, of value-added products or services at no or reduced cost if such products or services are not specified in the policy of insurance if the product or service:
 - (a) Relates to the insurance coverage and is designed to satisfy one or more of the following:
 - [1] Provide loss mitigation or loss control;

- [2] Reduce claims costs or claim settlement costs;
 - [3] Provide education about liability risk or risk of loss to persons or property;
 - [4] Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;
 - [5] Enhance health;
 - [6] Enhance financial wellness through items such as education of financial planning services;
 - [7] Provide post-loss services;
 - [8] Incent behavioral changes to improve the health or reduce the risk of death or disability of an individual defined as policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured, or applicant; or
 - [9] Assist in the administration of the employee or retiree benefit insurance coverage.
- (b) If offered by the insurer or producer, the insurer or producer, upon request, shall ensure the person is provided with contact information to assist the person with questions regarding the product or service.
- (c) Is based on documented objective criteria and offered in a manner not unfairly discriminatory. The documented criteria must be maintained by the insurer or producer and produced at the request of the commissioner.
- (d) Is reasonable in comparison to that person's premiums or insurance coverage for the policy class.
- (2) If an insurer or producer does not have sufficient evidence, but has a good-faith belief the product or service meets the criteria in paragraph 1 of subdivision d of subsection 8, the insurer or producer may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for no longer than one year. An insurer or producer shall notify the department of the pilot or testing program offered to consumers in this state before launching and may proceed with the program unless the department objects within twenty-one days of notice.
- e. An insurer, producer, or representative of an insurer or producer may not offer or provide insurance as an inducement to the purchase of another policy or otherwise use of the words "free" or "no cost" or words of similar import in an advertisement.
- f. The commissioner may adopt regulations when implementing the permitted practices set forth in this subsection to ensure consumer protection. Consistent with applicable law, the topics addressed by the

regulations may include consumer data protections and privacy, consumer disclosure, and unfair discrimination.

SECTION 3. AMENDMENT. Section 26.1-25-16 of the North Dakota Century Code is amended and reenacted as follows:

26.1-25-16. Rebates prohibited - Exception.

1. No insurance producer may knowingly charge, demand, or receive a premium for any insurance policy except in accordance with this chapter. No insurer or employee of an insurer, and no broker or agent may pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in an insurance policy, or any special favor or advantage in the dividends or other benefits to accrue on the policy, or any valuable consideration or inducement whatever, not specified in the insurance policy, except to the extent provided for in applicable filing. No insured named in an insurance policy, nor any employee of the insured, may knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit, or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. This section does not prohibit the payment of commissions or other compensation to licensed insurance producers, nor any insurer from allowing or returning to its participating policyholders, members, or subscribers dividends, savings, or unabsorbed premium deposits. As used in this section, "insurance" includes suretyship and "policy" includes bond.
2. Notwithstanding any other provision in this section, if the cost does not exceed an aggregate retail value of one hundred dollars per person per year, an insurance producer may give a gift, prize, promotional article, logo merchandise, meal, or entertainment activity directly or indirectly to a person in connection with marketing, promoting, or advertising the business. As used in this subsection, "person" means the named insured, policy owner, or prospective client or the spouse of any of these individuals, but the term does not include a certificate holder, child, or employee of the named insured, policy owner, or prospective client. Subject to the limits of this subsection, an insurance producer may give a gift card for specific merchandise or services such as a meal, gasoline, or car wash but may not give cash, a cash card, any form of currency, or any refund or discount in premium. An insurance producer may not condition the giving of a gift, prize, promotional article, logo merchandise, meal, or entertainment activity on obtaining a quote or a contract of insurance. Notwithstanding the limitation in this subsection, an insurance producer may conduct raffles or drawings, if there is no financial cost to an entrant to participate, the drawing or raffle does not obligate a participant to purchase insurance, the prizes are not valued in excess of a reasonable amount determined by the commissioner, and the drawing or raffle is open to the public. The raffle or drawing must be offered in a manner that is not unfairly discriminatory and may not be contingent on the purchase, continued purchase, or renewal of a policy. Notwithstanding the limitation in this subsection, an insurance producer may make a donation to a nonprofit organization that is exempt from federal taxation under Internal Revenue Code section 501(c)(3) [26 U.S.C. 501(c)(3)] in any amount as long as the donation is not given as an inducement to obtain a contract of insurance.
3. The provisions in this section may not be construed as including within the definition of discrimination or rebates any of the following practices:

- a. The offer or provision by an insurer or producer, by or through an employee, an affiliate, or a third-party representative, of value-added products or services at no or reduced cost if the products or services are not specified in the policy of insurance if the product or service:
- (1) Relates to the insurance coverage and is designed to satisfy one or more of the following:
 - (a) Provide loss mitigation or loss control;
 - (b) Reduce claims costs or claim settlement costs;
 - (c) Provide education about liability risk or risk of loss to persons or property;
 - (d) Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;
 - (e) Enhance health;
 - (f) Enhance financial wellness through items such as education of financial planning services;
 - (g) Provide post-loss services;
 - (h) Incent behavioral changes to improve the health or reduce the risk of death or disability of an individual defined as policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured, or applicant; or
 - (i) Assist in the administration of the employee or retiree benefit insurance coverage.
 - (2) If offered by the insurer or producer, the insurer or producer, upon request, shall ensure the person is provided with contact information to assist the person with questions regarding the product or service.
 - (3) Is based on fair documented criteria and offered in a manner not unfairly discriminatory. The documented criteria must be maintained by the insurer or producer and produced at the request of the commissioner.
 - (4) Is reasonable in comparison to that person's premiums or insurance coverage for the policy class.
- b. If an insurer or producer does not have sufficient evidence, but has a good-faith belief the product or service meets the criteria in subdivision a, the provision by the insurer or producer of a product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program no longer than one year. An insurer or producer shall notify the department of the pilot or testing program offered to consumers in this state before launching and may proceed with the program unless the department objects within twenty-one days of notice.

4. An insurer, producer, or representative of an insurer or producer may not offer or provide insurance as an inducement to the purchase of another policy or otherwise use of the words "free" or "no cost" or words of similar import in an advertisement.
5. The commissioner may adopt regulations when implementing the permitted practices set forth in this regulation to ensure consumer protection. Consistent with applicable law, the topics addressed by the regulations may include consumer data protections and privacy, consumer disclosure, and unfair discrimination.

SECTION 4. AMENDMENT. Subdivision a of subsection 4 of section 26.1-36-09.8 of the North Dakota Century Code is amended and reenacted as follows:

- a. Provide monetary payments ~~or rebates~~ to any insured person to request less than the minimum coverage required under this section;

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 234

HOUSE BILL NO. 1093

(Appropriations Committee)
(At the request of the State Auditor)

AN ACT to amend and reenact section 26.1-21-08 of the North Dakota Century Code, relating to the audit of state bonding coverage.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-21-08 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-08. Review of coverage by auditor.

When conducting an audit examination of a state agency or political subdivision, the auditor ~~shall~~may evaluate the blanket bond coverage and, if necessary, the auditor ~~shall~~may include recommendations for changes in the amount of that coverage in the auditor's report.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 235

HOUSE BILL NO. 1086

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact sections 26.1-22-02.1, 26.1-22-06.1, 26.1-22-10, 26.1-22-14, 26.1-22-15, and 26.1-22-19 of the North Dakota Century Code, relating to property insured by the state fire and tornado fund; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-22-02.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-22-02.1. Insurance against indirect losses.

The commissioner shall provide, upon request of an entity insured with the fund, coverage by the fund for an indirect loss incurred because of a loss arising out of a peril insured against by the fund. The coverage provided by the fund shall be an amount that is subject to the underwriting guidelines adopted by the commissioner.

SECTION 2. AMENDMENT. Section 26.1-22-06.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-22-06.1. Replacement cost appraisal required on state-owned property.

Once every six years each state agency and institution shall obtain from the fund a replacement cost appraisal on all buildings and fixtures and permanent contents under its control which are insured at replacement cost. The fund shall determine the manner of conducting the appraisal. Annually, except for any year an appraisal is conducted, the agency or institution shall adjust the appraisal amount in the manner authorized by the fund.

SECTION 3. AMENDMENT. Section 26.1-22-10 of the North Dakota Century Code is amended and reenacted as follows:

26.1-22-10. Commissioner to provide insurance on buildings and personal property.

1. Upon application the commissioner shall provide for insurance against loss by fire, lightning, inherent explosion, windstorm, cyclone, tornado and hail, explosions, riot attending a strike, aircraft, smoke, vehicles, or may insure any other risks of direct physical loss, ~~all in the manner and subject to the restrictions of the standard fire insurance policy and standard endorsement, and no other hazards, in the fund, and exclusions deemed necessary by the commissioner,~~ on all buildings owned by the state, state industries, political subdivisions, international peace gardens, and winter shows, and the fixtures and permanent contents in such buildings, to the extent of not to exceed the insurable value of such property, as the value is agreed to between the commissioner and the officer or board having control of such property, or, in

case of disagreement, by approval through arbitration. The commissioner may allow personal property to be insured on a blanket basis.

2. All buildings and the contents of the buildings owned by the state mill and elevator association, in lieu of coverage under this chapter, may, at the option of the industrial commission, be insured by private insurance companies licensed to do business in this state, against at least all the types of hazards insured against by the fund. If the industrial commission exercises the option provided in this section, the commission shall seek competitive sealed bids, shall invite the fund to submit a bid, and may reject any or all bids received.
3. All public buildings owned by a political subdivision, in lieu of coverage provided for in this section, may at the option of the governing body of the political subdivision be insured on the basis of competitive sealed bids, through the fund which must be invited to submit a sealed bid or private insurance companies licensed to do business in this state, against damage resulting from hazards, which include those types of hazards that may be insured against by the fund. The governing body may reject any or all such bids.
4. All public libraries owned by the state or political subdivisions may, in addition to the coverage provided for in this section, be covered against damage through vandalism. If this coverage cannot be extended to the public libraries situated within this state, the libraries may contract for this coverage with private insurance companies; provided, that this coverage meets the recommendations of the insurance code of the American library association.

SECTION 4. AMENDMENT. Section 26.1-22-14 of the North Dakota Century Code is amended and reenacted as follows:

26.1-22-14. Assessments and reporting of premiums and losses.

1. If the reserve balance is less than twelve million dollars, the commissioner shall determine the amount of money necessary to bring the reserve balance up to twelve million dollars. The commissioner then shall ~~then~~ levy an assessment against every policy in force with the fund.
2. The assessment must be computed as follows:
 - a. The eighty percent or ninety percent coinsurance rate established ~~by the insurance services office~~ for each insured property for which that rate may be applicable, and the full rate established for policies providing coverage against indirect losses and for properties to which the eighty percent or ninety percent coinsurance rate is not applicable ~~under the rules of the insurance services office~~, must be applied to the amount of insurance provided in each policy and the result of the application of the rate to the amount of insurance sets the tentative assessment to be made against the policy.
 - b. The total of all tentative assessments must then be ascertained.
 - c. The percentage of the assessment necessary to restore the reserve balance to the sum of twelve million dollars must then be computed and collected on each policy; provided, that until the reserve balance reaches twelve million dollars, the assessment must be in an amount determined by the commissioner but may not exceed sixty percent of the rates set by

the insurance services office for insured property unless the reserve balance is depleted below three million dollars.

- d. In case of a fractional percentage the next higher whole percent must be used in such computation.

~~The commissioner shall submit, not later than December thirty-first of every five-year period, all data concerning premiums written and losses incurred during the previous five-year period ending June thirtieth to the insurance services office so that the experience of the fund may be included in the computation of rates to apply to the classes of business written by the fund.~~

SECTION 5. AMENDMENT. Section 26.1-22-15 of the North Dakota Century Code is amended and reenacted as follows:

26.1-22-15. Collection of premiums and assessments.

The commissioner, as soon as possible after providing for insurance coverage against any indirect loss or loss of property belonging to the state, a political subdivision, an international peace garden, or a winter show, shall certify to the insured the amount of premium or assessment due. The certificate must give the name of the insured, the amount of insurance written thereon, and the amount of the premium or assessment, and if applicable, the location and description of the insured property. The proper officer shall remit to the commissioner the amount of the premium or assessment within sixty days after the date of the certification. The commissioner shall deposit the premiums and assessments with the state treasurer to the credit of the fund. If the premiums or assessments are not paid within sixty days after the date on which they are certified, ~~they shall bear interest at the rate of six percent per annum and collection thereof may be enforced by appropriate action.~~ The attorney general and the state's attorney of the relevant county shall bring appropriate actions to enforce the collections of the premium and assessment upon request of the commissioner. An enforcement judgment obtained under this section must include a rate of six percent interest per annum. Payment of the premiums or assessments certified pursuant to this section may be made by any state department, officer, board, institution, or agency and by any political subdivision, out of any available funds, notwithstanding that no specific appropriation or tax levy has been made therefor.

SECTION 6. AMENDMENT. Section 26.1-22-19 of the North Dakota Century Code is amended and reenacted as follows:

26.1-22-19. Repair or replacement of destroyed buildings.

If the commissioner and the insured agree that the fund shall repair or replace the building destroyed or damaged, no repairs, rebuilding, or replacement may be undertaken by the commissioner or any employees of the commissioner, ~~but if they are deemed necessary or proper in any case, they must be performed by independent contractors.~~ The cost of any repairs, rebuilding, or replacements may not exceed the amount of the insurance carried upon the particular risk.

SECTION 7. EFFECTIVE DATE. This Act becomes effective on July 1, 2021.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 236

SENATE BILL NO. 2076

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact section 26.1-31.2-01 of the North Dakota Century Code, relating to reinsurance credit of insurers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-31.2-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-31.2-01. Credit allowed a domestic ceding insurer.

1. Credit for reinsurance must be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subsection 4, 2, 3, 4, 5, ~~or 6, 7, or 8.~~ Credit will be allowed under subsection 4, 2, ~~or 3, or 4~~ only with respect to cessions of a kind or class of business that the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit must be allowed under subsection ~~3—~~4 ~~or 5~~ only if the applicable requirements of subsection ~~7~~9 have been satisfied.
- ~~4-2.~~ Credit must be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.
- ~~2-3.~~ Credit must be allowed when the reinsurance is ceded to an assuming insurer which is accredited by the commissioner as a reinsurer in this state. In order to be eligible for accreditation, a reinsurer:
 - a. Shall file with the commissioner evidence of its submission to this state's jurisdiction;
 - b. Shall submit to this state's authority to examine its books and records;
 - c. Must be licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one state;
 - d. Annually, shall file with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and
 - e. Shall demonstrate to the satisfaction of the commissioner the assuming insurer has adequate financial capacity to meet the assuming insurer's reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this

requirement as of the time of application the assuming insurer maintains a surplus as regards policyholders in an amount which is not less than twenty million dollars and the assuming insurer's accreditation has not been denied by the commissioner within ninety days after submission of its application.

- ~~3-4.~~ a. Credit must be allowed when the reinsurance is ceded to an assuming insurer domiciled in, or in the case of a United States branch of an alien assuming insurer, is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

- (1) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars; and
- (2) Submits to the authority of this state to examine its books and records.

- b. The requirement of subdivision a does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

- ~~4-5.~~ a. Credit must be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in subsection 2 of section 26.1-31.2-03, for the payment of valid claims of its United States ceding insurers, their assigns, and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the national association of insurance commissioners annual statement form by licensed insurers. The assuming insurer shall submit to examination of the insurer's books and records by the commissioner and bear the expense of examination.

- b. (1) Credit for reinsurance may not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by:

(a) The commissioner of the state in which the trust is domiciled; or

(b) The commissioner of another state who, pursuant to the terms of the trust instrument, accepted principal regulatory oversight of the trust.

- (2) The form of the trust and any trust amendments also must be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to the trust's assets in the trust's trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer are subject to examination as determined by the commissioner.

- (3) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February twenty-eighth of each year the trustee of the trust shall report to the commissioner in writing the balance of the trust and listing of the trust's investments at the preceding year-end and shall certify the date of termination of the trust, if so planned, or certify the trust will not expire before the following December thirty-first.
- c. The following requirements apply to the following categories of assuming insurer:
- (1) The trust fund for a single assuming insurer must consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers and, in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars, except as provided in paragraph 2.
- (2) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and must consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than thirty percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.
- (3) (a) In the case of a group, including incorporated and individual unincorporated underwriters:
- [1] For reinsurance ceded under a reinsurance agreement with an inception, amendment, or renewal date after December 31, 1992, the trust must consist of a trustee account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;
- [2] For reinsurance ceded under a reinsurance agreement with an inception date before January 1, 1993, and not amended or renewed after that date, notwithstanding the other provisions of this chapter, the trust must consist of a trustee account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

- [3] In addition to these trusts, the group shall maintain a trustee surplus of one hundred million dollars which must be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.
- (b) The incorporated members of the group may not be engaged in any business other than underwriting as a member of the group and are subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.
- (c) Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the group.
- (4) In the case of a group of incorporated underwriters under common administration, the group:
- (a) Must have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation;
- (b) Shall maintain aggregate policyholders' surplus of at least ten billion dollars;
- (c) Shall maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;
- (d) Shall maintain a joint trustee surplus of which one hundred million dollars must be held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for these liabilities; and
- (e) Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, shall make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.
- 5-6. Credit must be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and secures the assuming insurer's obligations in accordance with the requirements of this subsection.
- a. In order to be eligible for certification, the assuming insurer shall meet the following requirements:

- (1) The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to subdivision c;
 - (2) The assuming insurer shall maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to rule;
 - (3) The assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner pursuant to rule;
 - (4) The assuming insurer shall agree to submit to the jurisdiction of this state, appoint the commissioner as its agent for service of process in this state, and agree to provide security for one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final United States judgment;
 - (5) The assuming insurer shall agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis; and
 - (6) The assuming insurer shall satisfy any other requirements for certification deemed relevant by the commissioner.
- b. An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying requirements of subdivision a:
- (1) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and the association's members which must include a joint central fund that may be applied to any unsatisfied obligation of the association or any of the association's members, in an amount determined by the commissioner to provide adequate protection;
 - (2) The incorporated members of the association may not be engaged in any business other than underwriting as a member of the association and are subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and
 - (3) Within ninety days after the association's financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.
- c. The commissioner shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in such

jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

- (1) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction must agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the commissioner has determined the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner.
 - (2) A list of qualified jurisdictions must be published through the national association of insurance commissioner committee process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified which does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification in accordance with criteria to be developed under regulations.
 - (3) United States jurisdictions that meet the requirement for accreditation under the national association of insurance commissioners financial standards and accreditation program must be recognized as qualified jurisdictions.
 - (4) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, in lieu of revocation, the commissioner may suspend the reinsurer's certification indefinitely.
- d. The commissioner shall assign a rating to each certified reinsurer. Giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the commissioner pursuant to rule. The commissioner shall publish a list of all certified reinsurers and the reinsurer's ratings.
- e. A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection at a level consistent with the certified reinsurer's rating, as specified in rules adopted by the commissioner.
- (1) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with the provisions of section 26.1-31.2-02 or in a multibeneficiary trust in accordance with subsection 45, except as otherwise provided in this subsection.
 - (2) If a certified reinsurer maintains a trust to fully secure the certified reinsurer's obligations subject to subsection 45, and chooses to secure

the certified reinsurer's obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for the certified reinsurer's obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other United States jurisdictions and for the certified reinsurer's obligations subject to subsection 45. As a condition to the grant of certification under subsection 56, the certified reinsurer must have bound itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.

- (3) The minimum trustee surplus requirements provided in subsection 45 are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that such trust must maintain a minimum trustee surplus of ten million dollars.
- (4) With respect to obligations incurred by a certified reinsurer under this subsection, if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and may impose further reductions in allowable credit upon finding there is a material risk the certified reinsurer's obligations will not be paid in full when due.
- (5) For purposes of this subsection, a certified reinsurer whose certification has been terminated for any reason must be treated as a certified reinsurer required to secure one hundred percent of the certified reinsurer's obligations.
 - (a) As used in this subsection, "terminated" refers to revocation, suspension, voluntary surrender, and inactive status.
 - (b) If the commissioner continues to assign a higher rating as permitted by other provisions of this section, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.
- f. If an applicant for certification has been certified as a reinsurer in a national association of insurance commissioners accredited jurisdiction, the commissioner may defer to that jurisdiction's certification, and may defer to the rating assigned by that jurisdiction, and such assuming insurer must be considered to be a certified reinsurer in this state.
- g. A certified reinsurer that ceases to assume new business in this state may request to maintain the certified reinsurer's certification in inactive status in order to continue to qualify for a reduction in security for the certified reinsurer's in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

6-7. a. Credit must be allowed if the reinsurance is ceded to an assuming insurer meeting each of the following conditions:

- (1) The assuming insurer must have the assuming insurer's head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. A "reciprocal jurisdiction" is a jurisdiction that meets one of the following:

 - (a) A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union. As used in this subsection, a "covered agreement" is an agreement entered pursuant to the federal Dodd-Frank Wall Street Reform and Consumer Protection Act [31 U.S.C. 313 and 314] which is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering a reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;
 - (b) A United States jurisdiction that meets the requirements for accreditation under the national association of insurance commissioners financial standards and accreditation program recognized by the commissioner; or
 - (c) A qualified jurisdiction, as determined by the commissioner pursuant to subdivision c of subsection 6, which is not otherwise described in subdivision a or b of subsection 6 and which meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by rules adopted by the commissioner.
- (2) The assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of the assuming insurer's domiciliary jurisdiction, in an amount in compliance with rules adopted by the commissioner. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, the assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus equivalents, net of liabilities, calculated according to the methodology applicable in the domiciliary jurisdiction of the assuming insurer, and a central fund containing a balance in compliance with rules adopted by the commissioner.
- (3) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, in compliance with rules adopted by the commissioner. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, the assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction in which the assuming insurer has the assuming insurer's head office or is domiciled, as applicable, and is also licensed.

- (4) The assuming insurer shall agree and provide adequate assurance to the commissioner, in a form in compliance with rules adopted by the commissioner, as follows:
- (a) The assuming insurer shall provide prompt written notice and explanation to the commissioner if the assuming insurer falls below the minimum requirements set forth in paragraph 2 or 3, or if any regulatory action is taken against the assuming insurer for serious noncompliance with applicable law;
 - (b) The assuming insurer shall consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process. The commissioner may require consent for service of process be provided to the commissioner and included in each reinsurance agreement. This subparagraph does not limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;
 - (c) The assuming insurer shall consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or the ceding insurer's legal successor, which have been declared enforceable in the jurisdiction in which the judgment was obtained;
 - (d) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which the final judgment was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by the ceding insurer's legal successor on behalf of the ceding insurer's resolution estate; and
 - (e) The assuming insurer shall confirm the assuming insurer is not presently participating in any solvent scheme of arrangement that involves this state's ceding insurers, and agree to notify the ceding insurer and the commissioner and to provide security in an amount equal to one hundred percent of the assuming insurer's liabilities to the ceding insurer, if the assuming insurer enters such a solvent scheme of arrangement. Such security must be in a form consistent with the provisions of subsection 6 and section 26.1-31.2-02 and as specified by the commissioner by rule.
- (5) The assuming insurer or the assuming insurer's legal successor shall provide, if requested by the commissioner, on behalf of the assuming insurer and any legal predecessors, certain documentation to the commissioner, as specified by the commissioner by regulation.
- (6) The assuming insurer shall maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth by the commissioner by rule.

- (7) The assuming insurer's supervisory authority shall confirm to the commissioner on an annual basis, as of the preceding December thirty-first or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in paragraphs 2 and 3.
- (8) This subdivision does not preclude an assuming insurer from providing the commissioner with information on a voluntary basis.
- b. The commissioner shall create timely and publish a list of reciprocal jurisdictions.

 - (1) A list of reciprocal jurisdictions is published through the national association of insurance commissioners committee process. The commissioner's list must include any reciprocal jurisdiction as defined under subparagraphs a and b of paragraph 1 of subdivision a, and must consider any other reciprocal jurisdiction included on the national association of insurance commissioners' list. The commissioner may approve a jurisdiction that does not appear on the national association of insurance commissioners' list of reciprocal jurisdictions in accordance with criteria to be set by rules adopted by the commissioner.
 - (2) The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set by rules adopted by the commissioner, except that the commissioner may not remove from the list a reciprocal jurisdiction as defined under subparagraphs a and b of paragraph 1 of subdivision a. Upon removal of a reciprocal jurisdiction from this list credit for reinsurance ceded to an assuming insurer that has the assuming insurer's home office or is domiciled in that jurisdiction must be allowed, if otherwise allowed pursuant to chapter 26.1-31.2.
- c. The commissioner timely shall create and publish a list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions must be granted credit in accordance with this subsection. The commissioner may add an assuming insurer to the list if a national association of insurance commissioners accredited jurisdiction has added the assuming insurer to a list of the assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner as required under paragraph 4 of subdivision a and complies with any additional requirements the commissioner may impose by rule, except to the extent the requirements conflict with an applicable covered agreement.
- d. If the commissioner determines an assuming insurer no longer meets one or more of the requirements under this subsection, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection in accordance with procedures set forth by rule.

 - (1) While an assuming insurer's eligibility is suspended, a reinsurance agreement issued, amended, or renewed after the effective date of the suspension does not qualify for credit except to the extent the

assuming insurer's obligations under the contract are secured in accordance with section 26.1-31.2-02.

- (2) If an assuming insurer's eligibility is revoked, credit for reinsurance may not be granted after the effective date of the revocation with respect to any reinsurance agreements entered by the assuming insurer, including reinsurance agreements entered before the date of revocation, except to the extent the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of section 26.1-31.2-02.
- e. If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or the ceding insurer's representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring the assuming insurer post security for all outstanding ceded liabilities.
- f. This subsection does not limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this chapter.
- g. Credit may be taken under this subsection only for reinsurance agreements entered, amended, or renewed on or after the effective date of this Act, and only with respect to losses incurred and reserves reported on or after the later of the date on which the assuming insurer has met all eligibility requirements pursuant to subdivision a and the effective date of the new reinsurance agreement, amendment, or renewal.
- (1) This subdivision does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this subsection, as long as the reinsurance qualifies for credit under any other applicable provision of this chapter.
- (2) This subsection does not authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.
- (3) This subsection does not limit or in any way alter the capacity of parties to any reinsurance agreement to renegotiate the agreement.
8. Credit must be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subsection 4; 2, 3, 4, or 5, 6, or 7 but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.
- 7-9. a. If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this state, the credit permitted by subsections 34 and 45 may not be allowed unless the assuming insurer agrees in the reinsurance agreements:
- (1) In the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to

the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

- (2) To designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

- b. This subsection is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

8-10. If the assuming insurer does not meet the requirements of subsection 4, 2, or 3, 4, or 8, the credit permitted by subsection 45 or 56 may not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

- a. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because the trust fund contains an amount less than the amount required by subdivision c of subsection 45, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.
- b. The assets must be distributed by and claims must be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled which are applicable to the liquidation of domestic insurers.
- c. If the commissioner with regulatory oversight determines the assets of the trust fund or any part of this trust fund are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part of the assets must be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.
- d. The grantor shall waive any right otherwise available to the grantor under United States law that is inconsistent with this provision.

9-11. If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

- a. The commissioner shall give the reinsurer notice and opportunity for a hearing. The suspension or revocation may not take effect until after the commissioner's order on a hearing, unless:

- (1) The reinsurer waives the reinsurer's right to a hearing;

- (2) The commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in the reinsurer's domiciliary jurisdiction or in the primary certifying state of the reinsurer under subdivision f of subsection 56; or
 - (3) The commissioner finds an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.
 - b. During the period of suspension of a reinsurer's accreditation or certification, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with section 26.1-31.2-02. If a reinsurer's accreditation or certification is revoked, credit for reinsurance may not be granted after the effective date of the revocation, except to the extent the reinsurer's obligations under the contract are secured in accordance with subdivision e of subsection 5 of section 26.1-31.2-02.
- 40:12. a. A ceding insurer shall take steps to manage the ceding insurer's reinsurance recoverables proportionate to the ceding insurer's own book of business. A domestic ceding insurer shall notify the commissioner within thirty days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceed fifty percent of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification must demonstrate the exposure is safely managed by the domestic ceding insurer.
- b. A ceding insurer shall take steps to diversify the ceding insurer's reinsurance program. A domestic ceding insurer shall notify the commissioner within thirty days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty percent of the ceding insurer's gross written premium in the prior calendar year, or after the ceding insurer's determined the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification must demonstrate the exposure is safely managed by the domestic ceding insurer.
 - c. Credit for reinsurance ceded to a certified reinsurer is limited to reinsurance contracts entered or renewed on or after the effective date of the commissioner's certification of the assuming insurer.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 237

HOUSE BILL NO. 1153

(Representative Keiser)
(Senator Klein)

AN ACT to amend and reenact subsection 2 of section 26.1-34-02 of the North Dakota Century Code, relating to the interest rate used in determining the minimum nonforfeiture amount for an annuity.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 26.1-34-02 of the North Dakota Century Code is amended and reenacted as follows:

2. For an annuity contract issued after July 31, 2005:
 - a. The minimum nonforfeiture amount at any time at or before the commencement of any annuity payments must be equal to an accumulation up to such time at rates of interest, as provided under subdivision c, of the net considerations, as defined under subdivision b, paid before such time, decreased by the sum of:
 - (1) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as provided under subdivision c;
 - (2) An annual contract charge of fifty dollars, accumulated at rates of interest as provided under subdivision c;
 - (3) Any premium tax paid by the company for the contract, accumulated at rates of interest as provided under subdivision c; and
 - (4) The amount of any indebtedness to the company on the contract, including interest due and accrued.
 - b. The net considerations for a given contract year used to define the minimum nonforfeiture amount under subdivision a must be an amount equal to eighty-seven and one-half percent of the gross considerations credited to the contract during that contract year.
 - c. The interest rate used in determining minimum nonforfeiture amounts must be determined as the lesser of:
 - (1) Three percent per annum; or
 - (2) The five-year constant maturity rate reported by the federal reserve as of a date or average over a period, reduced by one hundred twenty-five basis points. The rate calculated under this paragraph may not be less than ~~one-fifteen one-hundredths of one~~ percent, must be specified in the contract, and must be determined no more than fifteen months before the contract issue date or redemption date.

- d. The interest rate used in determining minimum nonforfeiture amounts applies for an initial period and may be redetermined for additional periods. The redetermination date basis and period, if any, must be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.
- e. Notwithstanding subdivisions a, b, c, and d, during the period or term that a contract provides substantive participation in an equity indexed benefit, the contract may increase the reduction of one hundred twenty-five basis points under paragraph 2 of subdivision c by an amount not to exceed one hundred basis points, in order to reflect the value of the equity index benefit. The present value at the contract issue date, the present value at each redetermination date, or the additional reduction may not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the reduction does not exceed the market value of the benefit. Lacking such a demonstration acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.
- f. The commissioner may adopt rules to implement the provisions of subdivision e and to provide further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts if the commissioner determines that adjustments are justified.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 238

HOUSE BILL NO. 1160

(Representative Keiser)
(Senator Klein)

AN ACT to amend and reenact sections 26.1-34.2-01.1, 26.1-34.2-02, 26.1-34.2-03, 26.1-34.2-03.1, 26.1-34.2-04, and 26.1-34.2-05 of the North Dakota Century Code, relating to annuity transaction practices; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-34.2-01.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-34.2-01.1. Scope.

This chapter applies to ~~any~~ any sale or recommendation to purchase, exchange, or replace of an annuity made to a consumer by an insurance producer, or an insurer when no producer is involved, that results in the purchase, exchange, or replacement recommended. This chapter may not be construed to create or imply a private cause of action for a violation of this chapter or to subject a producer to civil liability under the best interest standard of care outlined in section 26.1-34.2-03 or under standards governing the conduct of a fiduciary or a fiduciary relationship.

SECTION 2. AMENDMENT. Section 26.1-34.2-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-34.2-02. Definitions.

1. "Annuity" means an annuity that is an insurance product under state law which is individually solicited, whether the product is classified as an individual or group annuity.
2. "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, including annuities.
3. "Cash compensation" means a discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer or intermediary or directly from the consumer.
3. "Comparable standards":
 - a. With respect to a broker-dealer and registered representative of a broker-dealer, applicable federal securities and exchange commission and financial industry regulatory authority rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including Regulation Best Interest [17 CFR 240];

- b. With respect to an investment adviser registered under federal or state securities laws or an investment adviser representative, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the federal Investment Advisers Act of 1940 [15 U.S.C. 80b-1 et seq.] or applicable state securities law, including, the form ADV and interpretations; and
 - c. With respect to plan fiduciaries or fiduciaries, the duties, obligations, prohibitions, and all other requirements attendant to such status under the federal Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.] or the federal Internal Revenue Code as amended.
4. "Consumer profile information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs, and financial objectives, including, at a minimum, the following:
- a. Age;
 - b. Annual income;
 - c. Financial situation and needs, including debts and other obligations;
 - d. Financial experience;
 - e. Insurance needs;
 - f. Financial objectives;
 - g. Intended use of the annuity;
 - h. Financial time horizon;
 - i. Existing assets or financial products, including investment, annuity, and insurance holdings;
 - j. Liquidity needs;
 - k. Liquid net worth;
 - l. Risk tolerance, including willingness to accept nonguaranteed elements in the annuity;
 - m. Financial resources used to fund the annuity; and
 - n. Tax status.
5. "Continuing education credit" means one continuing education credit as provided for under section 26.1-26-31.1.
6. "Continuing education provider" means an individual or entity approved to offer continuing education courses pursuant to section 26.1-26-31.1.
7. "Financial professional" means a producer that is regulated and acting as:

- a. A broker-dealer registered under federal or state securities laws or a registered representative of a broker-dealer;
 - b. An investment adviser registered under federal or state securities laws or an investment adviser representative associated with the federal or state registered investment adviser; or
 - c. A plan fiduciary under section 3(21) of the federal Employee Retirement Income Security Act of 1974 [29 CFR 2510.3-21] or fiduciary under section 4975(e)(3) of the Internal Revenue Code [26 U.S.C. 4975(e)(3)] as amended.
8. "Insurer" means a company required to be licensed under the laws of this state to provide insurance products, including annuities.
- 4-9. "Intermediary" means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by producers.
10. "Material conflict of interest" means a financial interest of the producer in the sale of an annuity which a reasonable person would expect to influence the impartiality of a recommendation. The term does not include cash compensation or noncash compensation.
11. "Noncash compensation" means any form of compensation that is not cash compensation, including health insurance, office rent, office support, and retirement benefits.
12. "Nonguaranteed elements" means the premiums, credited interest rates, including a bonus, benefits, values, dividends, noninterest based credits, charges, or elements of formulas used to determine any of these which are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in the element's calculation.
13. "Producer" means an individual or entity required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, including annuities. The term includes an insurer if no producer is involved.
14. "Recommendation" means advice provided by an insurance producer, or an insurer when no producer is involved, to an individual consumer which results in a purchase, replacement, or exchange of an annuity in accordance with that advice; a producer to an individual consumer which was intended to result or results in a purchase, a replacement, or an exchange of an annuity in accordance with that advice. The term does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.
- 5-15. "Replacement" means a transaction in which a new policy or contract annuity is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is now whether or not a producer is involved, that by reason of the transaction, an existing annuity or other insurance policy or contract has been or is to be any of the following:

- a. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or otherwise terminated;
 - b. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;
 - c. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
 - d. Reissued with any reduction in cash value; or
 - e. Used in a financed purchase.
6. ~~"Suitability information" means information that is reasonably appropriate to determine the suitability of a recommendation, including the following:~~
- a. Age;
 - b. Annual income;
 - c. ~~Financial situation and needs, including the financial resources used for the funding of the annuity;~~
 - d. ~~Financial experience;~~
 - e. ~~Financial objectives;~~
 - f. ~~Intended use of the annuity;~~
 - g. ~~Financial time horizon;~~
 - h. ~~Existing assets, including investment and life insurance holdings;~~
 - i. ~~Liquidity needs;~~
 - j. ~~Liquid net worth;~~
 - k. ~~Risk tolerance; and~~
 - l. ~~Tax status.~~

SECTION 3. AMENDMENT. Section 26.1-34.2-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-34.2-03. Duties of insurers and insurance producers.

- 1. ~~In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer when no producer is involved, must have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to the consumer's investments and other insurance products and as to the consumer's financial situation and needs,~~

including the consumer's suitability information, and that there is a reasonable basis to believe all of the following:

- a. TheA producer, if making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the producer's or the insurer's financial interest ahead of the consumer's interest. A producer has acted in the best interest of the consumer if the producer has satisfied the following obligations regarding care, disclosure, conflict of interest, and documentation:
 - a. (1) The producer, in making a recommendation, shall exercise reasonable diligence, care, and skill to:
 - (a) Know the consumer's financial situation, insurance needs, and financial objectives;
 - (b) Understand the available recommendation options after making a reasonable inquiry into options available to the producer;
 - (c) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and
 - (d) Communicate the basis or bases of the recommendation.
 - (2) The requirements under this subdivision include making reasonable efforts to obtain consumer profile information from the consumer before the recommendation of an annuity.
 - (3) The requirements under this subdivision require a producer to consider the types of products the producer is authorized and licensed to recommend or sell which address the consumer's financial situation, insurance needs, and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation. A producer must be held to standards applicable to producers with similar authority and licensure.
 - (4) The requirements under this subdivision do not create a fiduciary obligation or relationship and only create a regulatory obligation as established in this chapter.
 - (5) The consumer profile information, characteristics of the insurer, and product costs, rates, benefits, and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs, and financial objectives, but the level of importance of each factor under the care obligation of this paragraph may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

- (6) The requirements under this subdivision include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit, or other insurance-related features.
 - (7) The requirements under this subdivision apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar producer enhancements, if any.
 - (8) The requirements under this subdivision do not mean the annuity with the lowest one-time or multiple occurrence compensation structure necessarily must be recommended.
 - (9) The requirements under this subdivision do not mean the producer has ongoing monitoring obligations under the care obligation under this paragraph, although such an obligation may be owed separately under the terms of a fiduciary, consulting, investment advising, or financial planning agreement between the consumer and the producer.
 - (10) In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:

 - (a) The consumer will incur a surrender charge; be subject to the commencement of a new surrender period; lose existing benefits, such as death, living, or other contractual benefits; or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;
 - (b) The replacing product would benefit the consumer substantially in comparison to the replaced product over the life of the product; and
 - (c) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding sixty months.
 - (11) This chapter may not be construed to require a producer to obtain a license other than a producer license with the appropriate line of authority to sell, solicit, or negotiate insurance in this state, including a securities license, in order to fulfill the duties and obligations contained in this chapter; provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.
- b. (1) Before the recommendation or sale of an annuity, the producer prominently shall disclose to the consumer on a form substantially similar to a model form designed by the insurance department:
- (a) A description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction;
 - (b) An affirmative statement on whether the producer is licensed and authorized to sell the following products:

- [1] Fixed annuities;
 - [2] Fixed indexed annuities;
 - [3] Variable annuities;
 - [4] Life insurance;
 - [5] Mutual funds;
 - [6] Stocks and bonds; and
 - [7] Certificates of deposit;
- (c) An affirmative statement describing the insurers the producer is authorized, contracted, or appointed, or otherwise able to sell insurance products for, using the following descriptions:
- [1] One insurer;
 - [2] From two or more insurers; or
 - [3] From two or more insurers although primarily contracted with one insurer.
- (d) A description of the sources and types of cash compensation and noncash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary, or other producer or by fee as a result of a contract for advice or consulting services; and
- (e) A notice of the consumer's right to request additional information regarding cash compensation described in subparagraph d;
- (2) Upon request of the consumer or the consumer's designated representative, the producer shall disclose:
- (a) A reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages; and
 - (b) Whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages;
- (3) Before or at the time of the recommendation or sale of an annuity, the producer must have a reasonable basis to believe the consumer has been reasonably informed of various features of the annuity, such as the potential surrender period and surrender charge; potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity; mortality and expense fees; investment advisory fees; annual fees; potential charges for and features of riders or other options of the

annuity; limitations on interest returns; potential changes in nonguaranteed elements of the annuity; insurance and investment components; and market risk;

- b. ~~The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, or death or living benefit;~~
 - c. ~~The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable, and in the case of an exchange or replacement, the transaction as a whole is suitable, for the particular consumer based on the consumer's suitability information; and~~
 - d. ~~In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable, including taking into consideration whether:~~
 - (1) ~~The consumer will incur a surrender charge; be subject to the commencement of a new surrender period; lose existing benefits, such as death, living, or other contractual benefits; or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;~~
 - (2) ~~The consumer would benefit from product enhancements and improvements; and~~
 - (3) ~~The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding thirty-six months.~~
2. ~~Before the execution of a purchase, replacement, or exchange of an annuity resulting from a recommendation, an insurance producer, or an insurer when no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information.~~
3. ~~Except as permitted under subsection 4, an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.~~
4. c. A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.
- d. At the time of recommendation or sale the producer shall:
- (1) Make a written record of any recommendation and the basis for the recommendation subject to this chapter;
 - (2) Obtain a consumer-signed statement on a form substantially similar to a model form established by the insurance department:
 - (a) A customer's refusal to provide the consumer profile information, if any; and

- (b) A customer's understanding of the ramifications of not providing the customer's consumer profile information or providing insufficient consumer profile information; and
- (3) Obtain a consumer-signed statement on a form substantially similar to a model form established by the insurance department acknowledging the annuity transaction is not recommended if a customer decides to enter an annuity transaction that is not based on the producer's recommendation.
- e. A requirement applicable to a producer under this subsection applies to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.
2. a. ~~Except as provided under subdivision b, neither an insurance producer, nor an insurer, has any~~ does not have an obligation to a consumer under subsection 1 or 3 related to any annuity transaction if:
- (1) A recommendation was not made;
 - (2) A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;
 - (3) A consumer refuses to provide relevant ~~suitability~~ consumer profile information and the annuity transaction is not recommended; or
 - (4) A consumer decides to enter an annuity transaction that is not based on a recommendation of the ~~insurer or the insurance~~ producer.
- b. An insurer's issuance of an annuity subject to subdivision a must be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.
5. ~~An insurance producer or, when no insurance producer is involved, the responsible insurer representative, at the time of sale shall:~~
- a. ~~Make a record of any recommendation subject to subsection 1;~~
 - b. ~~Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and~~
 - c. ~~Obtain a customer signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter an annuity transaction that is not based on the insurance producer's or insurer's recommendation.~~
- 6-3. a. Except as permitted under subdivision b, an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's

financial situation, insurance needs, and financial objectives based on the consumer's consumer profile information.

- b. An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and the insurer's ~~insurance~~ producers' compliance with this chapter, including the following:
- (1) The insurer shall establish and maintain reasonable procedures to inform the insurer's ~~insurance~~ producers of the requirements of this chapter and shall incorporate the requirements of this chapter into relevant ~~insurance~~ producer training manuals.
 - (2) The insurer shall establish and maintain standards for insurance producer product training and shall maintain reasonable procedures to require the insurer's ~~insurance~~ producers to comply with the requirements of section 26.1-34.2-03.1.
 - (3) The insurer shall provide product-specific training and training materials that explain all material features of the insurer's annuity products to the insurer's ~~insurance~~ producers.
 - (4) The insurer shall establish and maintain procedures for the review of each recommendation before issuance of an annuity which are designed to ensure that there is a reasonable basis to determine that a recommendation is suitable~~the recommended annuity effectively would address the particular consumer's financial situation, insurance needs, and financial objectives.~~ Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means, including physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria.
 - (5) The insurer shall establish and maintain reasonable procedures to detect recommendations that are not ~~suitable~~in compliance with this paragraph and paragraphs 1, 2, and 4. This may include confirmation of the consumer suitability~~profile~~ information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or attestations, and programs of internal monitoring. This paragraph does not prevent an insurer from complying with this paragraph by applying sampling procedures or by confirming ~~suitability~~the consumer profile information or other required information under this section after issuance or delivery of the annuity.
 - (6) ~~Annually, the insurer shall provide a report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.~~The insurer shall establish and maintain reasonable procedures to assess, before or upon issuance or delivery of an annuity, whether a producer has provided to the customer the information required to be provided under this section.

- b. (7) The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information.
- (8) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this subdivision are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits, or other employee benefits by employees as long as those benefits are not based on the volume of sales of a specific annuity within a limited period of time.
- (9) Annually, the insurer shall provide a written report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.
- c. (1) This subsection does not restrict an insurer from contracting for performance of a function, including maintenance of procedures, required under this subdivision a. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to section 26.1-34.2-04, regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with paragraph 2.
- (2) An insurer's supervision system under ~~subdivision a~~this subsection must include supervision of contractual performance under this subsection. This includes the following:
- (a) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and
- (b) Annually, obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.
- e.d. An insurer is not required to include in the insurer's system of supervision ~~an insurance;~~
- (1) ~~A producer's recommendations to consumers of products other than the annuities offered by the insurer; or~~
- (2) Include consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.
- 7.4. ~~An insurance~~A producer or an insurer may not dissuade, or attempt to dissuade, a consumer from:
- a. Responding truthfully to an insurer's request for confirmation of suitabilitythe consumer profile information;

- b. Filing a complaint; or
- c. Cooperating with the investigation of a complaint.

8.5. ~~a. Sales Recommendations and sales of annuities made in compliance with the financial industry regulatory authority requirements pertaining to suitability and supervision of annuity transactions comparable standards must satisfy the requirements under this chapter. This subsection applies to financial industry regulatory authority broker-dealer recommendations and sales of variable annuities and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales made by financial professionals in compliance with business rules, controls, and procedures that satisfy a comparable standard even if the standard would not otherwise apply to the product or recommendation at issue. However, this subsection does not limit the insurance commissioner's ability to enforce, including investigate, this chapter. This subdivision does not limit the insurer's obligation to comply with subdivision a of subsection 3 although the insurer may base the insurer's analysis on information received from either the financial professional or the entity supervising the financial professional.~~

- b. For subdivision a to apply, an insurer shall:

- (1) Monitor relevant conduct of the financial industry regulatory authority member broker-dealer professional seeking to rely upon subdivision a or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment advisor registered under federal or state securities laws using information collected in the normal course of an insurer's business; and
- (2) Provide to the entity responsible for supervising the financial industry regulatory authority member broker-dealer professional seeking to rely on subdivision a, such as the financial professional's broker-dealer or investment advisor registered under federal or state securities laws, information and reports that are reasonably appropriate to assist the financial industry regulatory authority member broker-dealer the entity to maintain its supervision system.

SECTION 4. AMENDMENT. Section 26.1-34.2-03.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-34.2-03.1. Insurance producer ~~Producer~~ training.

- 1. ~~An insurance~~A producer may not solicit the sale of an annuity product unless the insurance producer has adequate knowledge of the product to recommend the annuity and the insurance producer is in compliance with the insurer's standards for product training. ~~An insurance~~A producer may rely on insurer-provided product-specific training standards and materials to comply with this subsection.
- 2. a. (1) ~~An insurance~~A producer who engages in the sale of annuity products shall complete a one-time, four-hour training course.
- (2) ~~An insurance producer who holds a life insurance line of authority on August 1, 2011, and who desires to sell annuities shall complete the requirements of this subsection within twelve months after August 1,~~

~~2011. An individual who obtains a life insurance line of authority on or after August 1, 2011, may not engage in the sale of annuities until the annuity training course required under this subsection has been completed.~~

- b. The training required under this subsection must include information on the following topics:
 - (1) The types of annuities and various classifications of annuities;
 - (2) Identification of the parties to an annuity;
 - (3) How fixed, variable, and indexed annuity contract provisions affect consumers;
 - (4) The application of income taxation of qualified and nonqualified annuities;
 - (5) The primary uses of annuities; and
 - (6) Appropriate standards of conduct, sales practices, replacement, and disclosure requirements.
- c. Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and may not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.
- d. A producer who has completed an annuity training course approved by the insurance department before the effective date of this Act, within six months after such date, shall complete either:
 - (1) A new four-credit training course approved by the insurance department after the effective date of this Act; or
 - (2) An additional one-time, one-credit training course approved by the insurance department and provided by an insurance department-approved education provider on appropriate sales practices, replacement, and disclosure requirements under this chapter.
- e. Providers of annuity training shall issue certificates of completion.
- e-f. The satisfaction of the training requirements of another state which are substantially similar to the provisions of this subsection are deemed to satisfy the training requirements of this subsection in this state.
- f-g. The satisfaction of the components of the training requirements of a course with components substantially similar to the provisions of this subsection is deemed to satisfy the training requirements of this subsection in this state.
- h. An insurer shall verify that ~~an insurance~~the producer has completed the annuity training course required under this subsection before allowing the

producer to sell an annuity product for that insurer. An insurer may satisfy the insurer's responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports from a reasonably reliable commercial database vendor that has a reporting arrangement with insurance education providers.

SECTION 5. AMENDMENT. Section 26.1-34.2-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-34.2-04. Mitigation of responsibility Compliance mitigation - Enforceability - Penalty.

1. An insurer is responsible for compliance with this chapter. If a violation occurs, either because of the action or inaction of the insurer or the insurer's insurance producer, the commissioner may order:
 - a. An insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with this chapter by the insurer or by the insurer's insurance producer's violation of this chapter;
 - b. A general agency, independent agency, or the insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this chapter; and
 - c. Appropriate penalties and sanctions.
2. Any applicable penalty under section 26.1-01-03.3 for a violation of subsection 4 or 2 or subdivision b of subsection 3 of section 26.1-34.2-03 this chapter may be reduced or eliminated, according to a schedule adopted by the commissioner, if corrective action for the consumer was taken promptly after a violation was discovered.
3. The authority to enforce compliance with this section is vested exclusively with the commissioner.

SECTION 6. AMENDMENT. Section 26.1-34.2-05 of the North Dakota Century Code is amended and reenacted as follows:

26.1-34.2-05. Recordkeeping.

1. Insurers, general agents, independent agencies, and insurance producers shall maintain or be able to make available to the commissioner a record of the information collected from the consumer, disclosures made to the consumer, including summaries of oral disclosures, and other information used in making the recommendations that were the basis for insurance transactions for ten years after the insurance transaction is completed by the insurer. An insurer is permitted, but is not required, to maintain documentation on behalf of an insurance producer.
2. Records required to be maintained by this chapter may be maintained in paper, photographic, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces the actual document.

SECTION 7. EFFECTIVE DATE. This Act becomes effective January 1, 2022.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 239

SENATE BILL NO. 2073

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact chapter 26.1-36.8 of the North Dakota Century Code, relating to short-term limited-duration health insurance plans; to amend and reenact section 26.1-36.4-02 and subsection 7 of section 26.1-36.7-01 of the North Dakota Century Code, relating to short-term limited-duration health insurance plans; and to repeal section 26.1-36-49 of the North Dakota Century Code, relating to short-term limited-duration health insurance plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-36.4-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.4-02. Definitions.

As used in this chapter, the definitions in section 26.1-36.3-01 apply, unless the context otherwise requires. In addition:

1. "Insurer" means any insurance company, nonprofit health service organization, fraternal benefit society, or health maintenance organization that provides a plan of health insurance or health benefits subject to state insurance regulation.
2. "Policy" means any health benefit plan as defined in section 26.1-36.3-01, whether offered on a group or individual basis. The term does not include an individual short-term limited-duration health insurance plan offered in the individual market plan or association short-term limited-duration plan as defined in section 26.1-36.8-01.
3. ~~"Short-term limited-duration health insurance plan", except as required by the Health Insurance Portability and Accountability Act of 1996, is defined by section 26.1-36-49.~~

¹⁵³ **SECTION 2. AMENDMENT.** Subsection 7 of section 26.1-36.7-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Individual health benefit plan" means a health benefit plan offered to individuals, other than in connection with a group health benefit plan. The term does not include an individual short-term limited-duration health insurance plan or association short-term limited-duration plan as defined by section 26.1-36-49 26.1-36.8-01.

SECTION 3. Chapter 26.1-36.8 of the North Dakota Century Code is created and enacted as follows:

¹⁵³ Section 26.1-36.7-01 was also amended by section 2 of House Bill No. 1087, chapter 232.

26.1-36.8-01. Definitions.

1. "Association" means a group that has a constitution and bylaws, has been organized and maintained in good faith for the purposes other than that of obtaining insurance, and insures at least twenty-five members of the association for the benefit of persons other than the association or officers or trustees of the association.
2. "Association short-term limited-duration plan" means health insurance coverage provided to an association which has an expiration date specified in the policy which is no longer than twelve months after the original effective date of the policy and, taking into account any renewals or extensions, has a duration of no more than thirty-six months in total.
3. "Essential health benefits" means benefits pursuant to section 1302 of the federal Patient Protection and Affordable Care Act [42 U.S.C. 18022] and title 45, Code of Federal Regulations, section 156.110.
4. "Individual short-term limited-duration plan" means health insurance coverage provided pursuant to an individual insurance policy which has an expiration date specified in the policy which is no longer than twelve months after the original effective date of the policy including renewals or extension.

26.1-36.8-02. Individual short-term limited-duration plans.

1. An insurer issuing an individual short-term limited-duration plan shall provide, at the insured's option, for renewal or continuation of coverage.
2. An insurer may not subject an insured to additional underwriting at renewal or continuation of coverage and the insured shall remain within the same risk class as of the original effective date of the policy.
3. An insurer shall provide a notice of termination of the individual short-term limited-duration plan to the insured at least fifteen days before renewal or end of the policy term.

26.1-36.8-03. Association short-term limited-duration insurance plans.

1. For purposes of this section an association short-term limited-duration insurance plan approved under section 26.1-30-19 before August 1, 2021, may maintain the current plan and is not required to comply with the requirements of this section.
2. An insurer issuing a policy or certificate under this section shall provide, at the insured's option, for renewal or continuation of coverage. The renewal or continuation of coverage period may not extend for more than thirty-six months from the original effective date of the policy.
3. An insurer may not subject an insured to additional underwriting at renewal or continuation of coverage. An insurer offering a short-term limited-duration health insurance plan may not rate an insured based on any factor other than:
 - a. Geographic areas;
 - b. Tobacco use;

- c. Family size;
 - d. Age; and
 - e. Gender.
4. At a minimum, an association short-term limited-duration plan must cover the following:
- a. Ambulatory patient services in accordance with the essential health benefits;
 - b. Emergency services in accordance with the essential health benefits;
 - c. Hospitalization in accordance with the essential health benefits;
 - d. Pregnancy, maternity, and newborn care in accordance with the essential health benefits;
 - e. Mental health and substance use disorder services in accordance with the essential health benefits;
 - f. Prescription drugs in accordance with the essential health benefits;
 - g. Rehabilitative and habilitative services and devices in accordance with the essential health benefits;
 - h. Laboratory services in accordance with the essential health benefits; and
 - i. Preventive and wellness services in accordance with the essential health benefits.
5. An insurer shall provide a notice of termination of the policy or certificate to the insured at least fifteen days before renewal or end of the policy term.

26.1-36.8-04. Marketing and sales of individual and association plans.

- 1. All marketing materials related to the offering or sale of an individual or association short-term limited-duration plan must be filed with and approved by the commissioner before the plan is offered for sale in this state.
- 2. Sale of an individual or association short-term limited-duration plan is only allowed through a licensed and properly appointed insurance producer. An insurance producer's signature and identification number must be included on the prospective insured's application.

SECTION 4. REPEAL. Section 26.1-36-49 of the North Dakota Century Code is repealed.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 240

SENATE BILL NO. 2074

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact subsection 1 of section 26.1-36.4-09 of the North Dakota Century Code, relating to health insurance utilization reports; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 26.1-36.4-09 of the North Dakota Century Code is amended and reenacted as follows:

1. Once each calendar year, any employer with fifty-one or more eligible employees, any employer investigating becoming part of a health plan, including a plan sponsored by an association or a multiple employer welfare arrangement, or any employer upon termination of health insurance coverage ~~for any employer~~, the employer is entitled to a report from the insurer or administrator of that employer's employee health plan which includes a:
 - a. monthly accounting for the most recent twenty-four month period of the total number of insured or covered employees, the total premiums paid, and the total benefits paid on behalf of the employer's health plan~~Annual data for the previous three years on the premiums paid by the employer and the claims paid by the insurer or administrator.~~
 - b. A current census of employees and dependents covered under the employer's health plan.

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

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 241

HOUSE BILL NO. 1154

(Representative Keiser)
(Senators Klein, Vedaa)

AN ACT to create and enact chapter 26.1-36.9 and sections 26.1-47-02.2 and 26.1-47-02.3 of the North Dakota Century Code, relating to prior authorization of dental services, dental networks, and payment of dental claims.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 26.1-36.9 of the North Dakota Century Code is created and enacted as follows:

26.1-36.9-01. Definitions.

As used in this chapter:

1. "Dental benefit plan" means a benefits plan that pays or provides dental expense benefits for covered dental services and is delivered through a dental insurer.
2. "Dental insurer" means a dental insurance company, dental service corporation, or dental plan organization authorized to provide dental benefits.
3. "Dental provider" means a licensed provider of dental services in this state.
4. "Dental services" means services for the diagnosis, prevention, treatment, or cure of a dental condition, illness, injury, or disease.
5. "Prior authorization" means confirmation by the covered individual's dental benefit plan that the services sought to be provided by the dental provider meet the criteria for coverage under the covered individual's dental benefit plan as defined by the covered individual's dental benefit plan.

26.1-36.9-02. Dental benefit plans - Prior authorization.

A dental benefit plan may not deny a claim subsequently submitted by a dental provider for procedures specifically included in a prior authorization, unless at least one of the following circumstances applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached due to utilization after issuance of the prior authorization.
2. The documentation for the claim provided by the dental provider submitting the claim clearly fails to support the claim as originally authorized.
3. If, after the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the

prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care.

4. If, after the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time require disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was used.
5. The denial of the payment was due to one of the following:
 - a. Another payor is responsible for payment.
 - b. The dental provider already has been paid for the procedures identified on the claim.
 - c. The claim was submitted fraudulently.
 - d. The individual receiving the procedure was not eligible to receive the procedure on the date of service.

SECTION 2. Section 26.1-47-02.2 of the North Dakota Century Code is created and enacted as follows:

26.1-47-02.2. Dental networks.

1. As used in this section:
 - a. "Affiliate" means a person that directly or indirectly through one or more intermediaries controls, or is under the control of, or is under common control with, the person specified.
 - b. "Contracting entity" means a person that enters a direct contract with a dental provider for the delivery of dental services.
 - c. "Network" means a group of preferred dental providers providing services under a network plan.
 - d. "Network plan" means a dental benefit plan that requires a covered individual to use, or creates incentives, including financial incentives, for a covered individual to use a dental provider managed by, owned by, under contract with, or employed by the dental insurer.
 - e. "Third party" means an entity that is not a party to a contracting entity's dental provider network.
2. A contracting entity may grant a third party access to a dental provider network contract, or a provider's dental services or contractual discounts provided pursuant to a dental provider network contract, if all of the following are met:
 - a. The contract specifically states the contracting entity may enter an agreement with a third party allowing the third party to obtain the contracting entity's rights and responsibilities as if the third party were the contracting entity.

- b. If the contracting entity is a dental insurer, the dental provider may opt out of the third-party access at the time the dental provider network contract was entered or renewed.
 - c. The contracting entity identifies, in writing or electronic form to the dental provider, all third parties in existence as of the date the contract is entered or renewed.
 - d. The contracting entity notifies dental network providers that a new third party is leasing or purchasing the network at least thirty days in advance of the relationship taking effect.
 - e. The contracting entity makes available a copy of the dental provider network contract relied on in the adjudication of a claim to a participating dental provider within thirty days of a request from the dental provider.
- 3. A dental provider's refusal to agree in writing to the third-party access to the dental provider network does not permit the contracting entity to end the contractual relationship with the dental provider.
 - 4. The provisions of this section do not apply if access to a provider network contract is granted to a dental carrier or an entity operating in accordance with the same brand licensee program as the contracting entity or to an entity that is an affiliate of the contracting entity.

SECTION 3. Section 26.1-47-02.3 of the North Dakota Century Code is created and enacted as follows:

26.1-47-02.3. Postpayment of dental claims - Payment recovery limitations.

- 1. As used in this section, "dental care provider" means a licensed provider of dental care services in this state.
- 2. Other than recovery for duplicate payments, a dental insurer, if engaging in overpayment recovery efforts, shall provide written notice to the dental care provider which identifies the error made in the processing or payment of the claim and justifies the overpayment recovery.
- 3. A dental insurer shall provide a dental care provider with the opportunity to challenge an overpayment recovery, including the sharing of claims information, and shall establish written policies and procedures for a dental care provider to follow to challenge an overpayment recovery.
- 4. A dental insurer may not initiate overpayment recovery efforts more than twelve months after the original payment for the claim was made. This time limit does not apply to overpayment recovery efforts that are:
 - a. Based on reasonable belief of fraud, abuse, or other intentional misconduct;
 - b. Required by, or initiated at the request of, a self-insured plan; or
 - c. Required by a state or federal government plan.

Filed March 26, 2021

CHAPTER 242

HOUSE BILL NO. 1032

(Legislative Management)
(Health Care Committee)

AN ACT to create and enact a new chapter to title 26.1 of the North Dakota Century Code, relating to prescription drug cost transparency; to amend and reenact section 43-15.3-12 of the North Dakota Century Code, relating to wholesale drug license fees; to provide a continuing appropriation; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 26.1 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter:

1. "Board" means the state board of pharmacy.
2. "Commissioner" means the insurance commissioner.
3. "Concession" includes a free good, delayed billing, and billing forgiveness.
4. "Drug" has the same meaning as provided under section 19-02.1-01.
5. "Drug manufacturer" means the entity that holds the national drug code for a drug which is engaged in the production, preparation, propagation, compounding, conversion, or processing of the drug or which is engaged in the packaging, repackaging, labeling, relabeling, or distribution of the drug. The term does not include a wholesale drug distributor or retail pharmacy licensed in this state.
6. "Health care plan" means an individual, blanket, or group plan, policy, or contract for health care services issued or delivered in this state by a health insurer.
7. "Health insurer" means an insurance company, nonprofit health service corporation, health maintenance organization, third-party payer, health program administered by a state agency other than the department of human services or state department of health, or other person engaged as principal in the business of insurance which issues or delivers a health care plan in this state.
8. "Manufacturer-packaged drug container" means a drug manufacturer-prepared supply of medication packaged in a container with a unique product-identifying national drug code number.

9. "Net spending" means the cost of drugs minus any discounts that lower the price of the drugs, including a rebate, fee, retained price protection, retail pharmacy network spread, and dispensing fee.
10. "Pharmacy benefits manager" has the same meaning as provided under section 19-03.6-01. The term does not include the department of human services or state department of health.
11. "Prescription drug" has the same meaning as under section 43-15-01.
12. "Rebate" includes any discount, financial incentive, or concession that affects the price of a drug to a pharmacy benefits manager or health insurer for a drug manufactured by the drug manufacturer.
13. "Specialty drug" has the same meaning as provided under section 19-02.1-16.2.
14. "Utilization management" means a set of formal techniques designed to monitor the use of, or evaluate the medical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings.
15. "Wholesale acquisition cost" means, with respect to a prescription drug, the drug manufacturer's list price for the prescription drug to wholesalers or direct purchasers in the United States for the most recent month for which the information is available, as reported in wholesale price guides or other publications of drug pricing data, such as Medi-Span Price Rx, Gold Standard Drug Database, or First Databank drug data. The term does not include a rebate, prompt pay, or other discount or other reduction in price.

Disclosure of drug pricing information.

1. Each drug manufacturer shall submit a report to the commissioner no later than the fifteenth day of January, April, July, and October with the current wholesale acquisition cost information for the prescription drugs sold in or into the state by that drug manufacturer.
2. a. Not more than thirty days after an increase in wholesale acquisition cost of forty percent or greater over the preceding five calendar years or ten percent or greater in the preceding twelve months for a prescription drug with a wholesale acquisition cost of seventy dollars or more for a manufacturer-packaged drug container, a drug manufacturer shall submit a report to the commissioner. The report must contain the following information:
 - (1) Name of the drug;
 - (2) Whether the drug is a brand name or a generic;
 - (3) The effective date of the change in wholesale acquisition cost;
 - (4) Aggregate, company-level research and development costs for the previous calendar year;
 - (5) Aggregate rebate amounts paid to each pharmacy benefits manager for the previous calendar year;

- (6) The name of each of the drug manufacturer's drugs approved by the United States food and drug administration in the previous five calendar years;
 - (7) The name of each of the drug manufacturer's drugs that lost patent exclusivity in the United States in the previous five calendar years; and
 - (8) A concise statement of rationale regarding the factor or factors that caused the increase in the wholesale acquisition cost, such as raw ingredient shortage or increase in pharmacy benefits manager rebates.
 - b. The quality and types of information and data a drug manufacturer submits to the commissioner pursuant to this subsection must be the same as the quality and types of information and data the drug manufacturer includes in the drug manufacturer's annual consolidated report on securities and exchange commission form 10-K or any other public disclosure.
 - 3. A drug manufacturer shall notify the commissioner in writing if the drug manufacturer is introducing a new prescription drug to market at a wholesale acquisition cost that exceeds the threshold set for a specialty drug under the Medicare part D program.
 - a. The notice must include a concise statement of rationale regarding the factor or factors that caused the new drug to exceed the Medicare part D program price.
 - b. The drug manufacturer shall provide the written notice within three calendar days following the release of the drug in the commercial market.
 - c. A drug manufacturer may make the notification pending approval by the United States food and drug administration if commercial availability is expected within three calendar days following the approval.

Disclosure of pharmacy benefits manager information.

- 1. On or before April first of each year, a pharmacy benefits manager providing services for a health care plan shall file a report with the commissioner. The report must contain the following information for the previous calendar year:
 - a. The aggregated rebates, fees, price protection payments, and any other payments collected from each drug manufacturer;
 - b. The aggregated dollar amount of rebates, price protection payments, fees, and any other payments collected from each drug manufacturer which were passed to health insurers;
 - c. The aggregated fees, price concessions, penalties, effective rates, and any other financial incentive collected from pharmacies which were passed to enrollees at the point of sale;
 - d. The aggregated dollar amount of rebates, price protection payments, fees, and any other payments collected from drug manufacturers which were retained as revenue by the pharmacy benefits manager; and
 - e. The aggregated rebates passed on to employers.

2. Reports submitted by pharmacy benefits managers under this section may not disclose the identity of a specific health benefit plan or enrollee, the identity of a drug manufacturer, the prices charged for specific drugs or classes of drugs, or the amount of any rebates or fees provided for specific drugs or classes of drugs.

Disclosure of health insurer spending information.

1. On or before April first of each year, each health insurer shall submit a report to the commissioner. The report must contain the following information for the previous two calendar years:
 - a. Names of the twenty-five most frequently prescribed drugs across all plans;
 - b. Names of the twenty-five prescription drugs dispensed with the highest dollar spend in terms of gross revenue;
 - c. Percent increase in annual net spending for prescription drugs across all plans;
 - d. Percent increase in premiums which is attributable to prescription drugs across all plans;
 - e. Percentage of specialty drugs with utilization management requirements across all plans; and
 - f. Premium reductions attributable to specialty drug utilization management.
2. A report submitted by a health insurer may not disclose the identity of a specific health benefit plan or the prices charged for specific prescription drugs or classes of prescription drugs.

Website.

1. The commissioner shall develop a website to publish information the commissioner receives under this chapter. The commissioner shall make the website available on the commissioner's website with a dedicated link prominently displayed on the home page, or by a separate, easily identifiable internet address.
2. Within sixty days of receipt of reported information under this chapter, the commissioner shall publish the reported information on the website developed under this section. The information the commissioner publishes may not disclose or tend to disclose trade secret, proprietary, commercial, financial, or confidential information of any pharmacy, pharmacy benefits manager, drug wholesaler, or hospital.

Rulemaking - Forms - Services - Records.

1. The commissioner may adopt rules to implement this chapter.
2. In consultation with the board, the commissioner shall develop forms that must be used for reporting required under this chapter.
3. The commissioner may contract for services to implement this chapter.

4. A report received by the commissioner is an exempt record as defined by section 44-04-17.1; however, as provided under section 44-04-18.4 any portion of a report which discloses trade secret, proprietary, commercial, or financial information is confidential if it is of a privileged nature and has not been previously publicly disclosed.

Drug pricing fund - Transfer - Continuing appropriation.

There is created in the state treasury the drug pricing fund, which consists of any money deposited in the fund by the board and any interest earned on moneys in the fund. The board may deposit up to six hundred dollars of every wholesaler license fee and every virtual wholesaler license fee collected by the board under section 43-15.3-12 to the drug pricing fund. All moneys in the fund, not otherwise appropriated, are appropriated to the insurance department to implement this chapter.

Civil penalty.

A health insurer, drug manufacturer, or pharmacy benefits manager that violates this chapter is subject to the imposition by the attorney general of a civil penalty not to exceed ten thousand dollars for each violation. The attorney general may waive or reduce a fine under this section upon a finding of good cause, such as excusable neglect or other extenuating circumstances. The fine may be collected and recovered in an action brought in the name of the state.

SECTION 2. AMENDMENT. Section 43-15.3-12 of the North Dakota Century Code is amended and reenacted as follows:

43-15.3-12. Fees.

The board shall charge and collect the following fees under this chapter:

Chain drug warehouse	\$200
Chain pharmacy warehouse	\$200
Durable medical equipment distributor, medical gas distributor, or both	\$200
Durable medical equipment retailer, medical gas retailer and distributor, or both	\$300
Hospital offsite warehouse	\$200
Jobber or broker	\$400 Not to exceed \$1,000
Manufacturer	\$400 Not to exceed \$1,000
Medical gas retailer, durable medical equipment retailer, or both	\$200
Medical gas durable medical equipment distributor and retailer	\$300
Outsourcing facility	\$200
Own label distributor	\$400 Not to exceed \$1,000
Pharmacy distributor	\$200
Private label distributor	\$400 Not to exceed \$1,000
Repackager	\$400 Not to exceed \$1,000
Reverse distributor	\$200
Third-party logistic provider	\$400 Not to exceed \$1,000
Veterinary-only distributor	\$200
Virtual manufacturer	\$400
Virtual wholesaler or distributor	\$400 Not to exceed \$1,000
Wholesaler or distributor	\$400 Not to exceed \$1,000

Approved April 27, 2021

Filed April 28, 2021

CHAPTER 243

HOUSE BILL NO. 1493

(Representatives Weisz, Beltz, Fegley, Skroch)
(Senator Lee)

AN ACT to amend and reenact section 26.1-47-10 of the North Dakota Century Code and section 10 of chapter 194 of the 2017 Session Laws, relating to air ambulance services; and to provide for ambulance service operation funding.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵⁴ **SECTION 1. AMENDMENT.** Section 26.1-47-10 of the North Dakota Century Code is amended and reenacted as follows:

26.1-47-10. Preferred provider arrangements - Requirements for accessing air ambulance providers. (~~Contingent effective date~~—[See note](#))

1. In addition to the other preferred provider arrangement requirements under this chapter, a preferred provider arrangement must require the health care insurer and health care provider comply with this section.
2. Except as otherwise provided under this section, before a health care provider arranges for air ambulance services for an individual the health care provider knows to be a covered person, the health care provider shall request a prior authorization from the covered person's health care insurer for the air ambulance services to be provided to the covered person. If the health care provider is unable to request or obtain prior authorization from the covered person's health care insurer:
 - a. The health care provider shall provide the covered person or the covered person's authorized representative an out-of-network services written disclosure stating the following:
 - (1) Certain air ambulance providers may be called upon to render care to the covered person during the course of treatment;
 - (2) These air ambulance providers might not have contracts with the covered person's health care insurer and are, therefore, considered to be out of network;
 - (3) If these air ambulance providers do not have contracts with the covered person's health care insurer, the air ambulance services will be provided on an out-of-network basis;
 - (4) A description of the range of the charges for the out-of-network air ambulance services for which the covered person may be responsible;

¹⁵⁴ Section 26.1-47-10 was also amended by section 326 of House Bill No. 1247, chapter 352.

- (5) A notification the covered person or the covered person's authorized representative may agree to accept and pay the charges for the out-of-network air ambulance services, contact the covered person's health care insurer for additional assistance, or rely on other rights and remedies that may be available under state or federal law; and
 - (6) A statement indicating the covered person or the covered person's authorized representative may obtain a list of air ambulance providers from the covered person's health care insurer which are preferred providers and the covered person or the covered person's representative may request those participating air ambulance providers be accessed by the health care provider.
 - b. Before air ambulance services are accessed for the covered person, the health care provider shall provide the covered person or the covered person's authorized representative the written disclosure, as outlined by subdivision a and obtain the covered person's or the covered person's authorized representative's signature on the disclosure document acknowledging the covered person or the covered person's authorized representative received the disclosure document before the air ambulance services were accessed. If the health care provider is unable to provide the written disclosure or obtain the signature required under this subdivision, the health care provider shall document the reason, which may include the health and safety of the patient. The health care provider documentation satisfies the requirement under this subdivision.
3. This section does not:
- a. ~~Preclude a covered person from agreeing to accept and pay the charges for the out-of-network services and not access the covered person's health care insurer's out-of-network air ambulance billing process described under this section.~~
 - b. ~~Preclude a covered person from agreeing to accept and pay the bill received from the out-of-network air ambulance provider or from not accessing the air ambulance provider mediation process described under this section.~~
 - c. ~~Regulate an out-of-network air ambulance provider's ability to charge certain fees for services or to charge any amount of fee for services provided to a covered person by the out-of-network air ambulance provider.~~
4. ~~A health care insurer shall develop a program for payment of out-of-network air ambulance bills submitted under this section. A health benefit plan may not be issued in this state without the terms of the health benefit plan including the provisions of the health care insurer's program for payment of out-of-network air ambulance bills.~~
- a. ~~A health care insurer may elect to pay out-of-network air ambulance provider bills as submitted, or the health care insurer may elect to use the out-of-network air ambulance provider mediation process described in subsection 5.~~

- ~~b. This section does not preclude a health care insurer and an out-of-network facility air ambulance provider from agreeing to a separate payment arrangement.~~
- ~~5. A health care insurer shall establish an air ambulance provider mediation process for payment of out-of-network air ambulance provider bills. A health benefit plan may not be issued in this state if the terms of the health benefit plan do not include the provisions of the health care insurer's air ambulance provider mediation process for payment of out-of-network air ambulance provider bills.~~
 - ~~a. A health care insurer's air ambulance provider mediation process must be established in accordance with mediation standards recognized by the department by rule.~~
 - ~~b. If the health care insurer and the out-of-network air ambulance provider agree to a separate payment arrangement or if the covered person agrees to accept and pay the out-of-network air ambulance provider's charges for the out-of-network services, compliance with the air ambulance provider mediation process is not required.~~
 - ~~c. A health care insurer shall maintain records on all requests for mediation and completed mediation under this subsection for one year and, upon request of the commissioner, submit a report to the commissioner in the format specified by the commissioner.~~
- ~~6. The rights and remedies provided under this section to covered persons are in addition to and may not preempt any other rights and remedies available to covered persons under state or federal law.~~
- ~~7.4. The department shall enforce this section and shall report a violation of this section by a facility to the state department of health.~~
- ~~8.5. This section does not apply to a policy or certificate of insurance, whether written on a group or individual basis, which provides coverage limited to:~~
 - ~~a. A specified disease, a specified accident, or accident-only coverage;~~
 - ~~b. Credit;~~
 - ~~c. Dental;~~
 - ~~d. Disability;~~
 - ~~e. Hospital;~~
 - ~~f. Long-term care insurance as defined by chapter 26.1-45;~~
 - ~~g. Vision care or any other limited supplemental benefit;~~
 - ~~h. A Medicare supplement policy of insurance, as defined by the commissioner by rule or coverage under a plan through Medicare;~~
 - ~~i. Medicaid;~~

- j. The federal employees health benefits program and any coverage issued as a supplement to that coverage;
- k. Coverage issued as supplemental to liability insurance, workers' compensation, or similar insurance; or
- l. Automobile medical payment insurance.

9-6. A health care provider is exempt from complying with this section if the health care provider determines and documents that due to emergency circumstances, compliance might jeopardize the health or safety of the patient.

7. The commissioner may adopt rules to implement this section.

¹⁵⁵ **SECTION 2. AMENDMENT.** Section 10 of chapter 194 of the 2017 Session Laws is amended and reenacted as follows:

~~SECTION 10. EFFECTIVE DATE – CONTINGENT EFFECTIVE DATE.~~

~~Sections 2, 4, 5, and 6 of this Act become effective January 1, 2018. If section 6 of this Act is declared invalid, sections Sections 3, 7, and 8 of this Act become effective on the date the insurance commissioner certifies the invalidity of section 6 to the secretary of state and the legislative council August 1, 2021.~~

SECTION 3. AMBULANCE SERVICE OPERATION FUNDING DISTRIBUTION.

Notwithstanding section 23-46-04, during the biennium beginning July 1, 2021, and ending June 30, 2023, the state department of health, in consultation with the emergency medical services advisory council, shall provide state financial assistance annually to each eligible ambulance service operation pursuant to the following calculation:

1. The minimum reasonable budget for each operation must be determined by adding the product of the operation's average number of runs for the two most recent calendar years multiplied by the median cost of a run. The cost of a run is determined using statewide data. The minimum budget for each ambulance service operation may not be less than \$60,000, or other base amount determined by the department.
2. The operation's grant amount must be determined by deducting the following amounts from the operation's budget calculated under subsection 1:
 - a. The product of the operation's average number of runs for the two most recent calendar years multiplied by the median amount of reimbursement for a run. The reimbursement amount for a run is determined using statewide data; and
 - b. The product of the property tax valuation, as provided to the state department of health by the county auditor no later than July thirty-first of each year, of the operation's response area for the prior taxable year multiplied by five mills. If the response area covers multiple counties, the county auditor with the most response area is responsible for coordinating with the other county auditors.

¹⁵⁵ Section 26.1-47-01 was also amended by section 325 of House Bill No. 1247, chapter 352.

3. The department shall distribute a prorated share of the operation's calculated grant amount if legislative appropriations for state financial assistance for emergency medical services is not sufficient to provide full grant funding calculated under this section.
4. An operation is not eligible to receive funding under this section if the operation's average number of runs for the two most recent fiscal years is more than seven hundred.

Approved April 23, 2021

Filed April 23, 2021

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 244

SENATE BILL NO. 2233

(Senators Bekkedahl, Hogue, Larson)
(Representatives Ista, Klemm, Roers Jones)

AN ACT to create and enact chapter 27-02.2 of the North Dakota Century Code, relating to attorney recruitment in rural counties and municipalities; to provide for a report to the legislative management; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 27-02.2 of the North Dakota Century Code is created and enacted as follows:

27-02.2-01. Attorney recruitment program - Participation - Assessment.

1. The supreme court may establish a program to assist rural counties and municipalities in recruiting attorneys.
2. A county or municipality interested in participating in the program shall apply to the supreme court. After determining eligibility, the supreme court shall conduct an assessment of the applicant to evaluate the applicant's need for an attorney and the ability of the applicant to sustain and support an attorney.
3. In making the selection of an eligible applicant, the supreme court shall consider the assessment and:
 - a. The demographic of the county or municipality;
 - b. The age and number of the members of the county or local bar association;
 - c. The recommendation of the presiding district court judge;
 - d. The economic development programs within the county or municipality;
 - e. The geographical location of the county or municipality in comparison to other counties or municipalities participating in the program; and
 - f. Any prior participation in the program by the county or municipality.
4. The supreme court shall maintain a list of counties and municipalities that have been assessed and are selected for participation in the recruitment assistance program.
5. The supreme court may revise the assessment of any county or municipality or conduct a new assessment as necessary to reflect a change in conditions.

27-02.2-02. County eligibility.

A county is eligible to participate in the recruitment assistance program if the county:

1. Has a population of sixteen thousand or fewer;
2. Agrees to provide the county's portion of the incentive payment as required under section 27-02.2-06; and
3. Is determined to be eligible by the supreme court.

27-02.2-03. Municipality eligibility.

A municipality is eligible to participate in the recruitment if the municipality:

1. Has a population of five thousand or fewer;
2. Agrees to provide the municipality's portion of the incentive payment as required under section 27-02.2-06; and
3. Is determined to be eligible by the supreme court.

27-02.2-04. Attorney eligibility.

An attorney licensed to practice in the state who meets all requirements set by the supreme court may participate in the recruitment assistance program. An attorney participating in the program shall practice in a supreme court-selected county or municipality for at least five consecutive years. No more than four attorneys may participate in the program at any given time.

27-02.2-05. Incentive payment to participating attorneys.

An attorney selected by the supreme court to participate in the recruitment assistance program is entitled to receive an incentive payment of forty-five thousand dollars to be paid in five equal annual installments.

27-02.2-06. Agreement for payment of recruitment assistance - Repayment.

1. An agreement for the payment of recruitment assistance under this chapter must require the county or municipality served by the attorney to provide thirty-five percent of the total amount of the incentive payment in five equal installments.
2. The state bar association of North Dakota, the North Dakota bar foundation, or any other legal association in North Dakota shall pay fifteen percent of the annual installment to the supreme court.
3. After the county or municipality certifies to the supreme court that the county or municipality has paid the attorney the annual amount and the state bar association of North Dakota, the North Dakota bar foundation, or any other legal association in North Dakota has paid its installment to the supreme court, the supreme court shall pay the attorney the remaining balance of the annual installment.
4. Subject to appropriation by the legislative assembly, the supreme court shall pay the required amount of funds pursuant to this chapter and the funds

received from the state bar association of North Dakota, the North Dakota bar foundation, or any other legal association in North Dakota, as required under this chapter, to an attorney participating in the program.

5. If an attorney breaches the agreement, the attorney shall repay all funds received under this chapter and under the terms and conditions set by the supreme court. Failure to repay the funds is grounds for discipline by the supreme court.

27-02.2-07. County and municipal funding.

A county or municipality may appropriate funds for the purpose of carrying out this chapter. A county or municipality may enter an agreement with any other county, municipality, school district, or nonprofit entity to assist the county or municipality in carrying out this chapter.

27-02.2-08. Payments.

1. Notwithstanding any other provision of law, the supreme court may receive fifteen percent of the total amount of an incentive payment in five equal annual installments from the state bar association of North Dakota, the North Dakota bar foundation, or any other legal association in North Dakota as required under this chapter.
2. A county or municipality may prepay its portion of the incentive program to the supreme court at any time during the five-year period.

27-02.2-09. Attorney recruitment assistance program fund - Continuing appropriation.

The attorney recruitment assistance program fund is established in the state treasury. Payments collected under section 27-02.2-08 must be deposited in the attorney recruitment assistance program fund. The funds deposited in the attorney recruitment assistance program fund are appropriated to the judicial branch on a continuing basis for the purpose of making attorney payments under the recruitment assistance program.

27-02.2-10. Filing and approval of recruitment assistance agreement.

A recruitment assistance agreement entered under this chapter becomes effective when the agreement is filed with and approved by the supreme court. The agreement must require the attorney to practice law full-time in the eligible county or municipality for at least five consecutive years.

27-02.2-11. Ineligibility for participation in other program.

If an individual has previously participated in an attorney recruitment program under this chapter, or any other state or federal scholarship, loan repayment, or tuition reimbursement program requiring the individual to provide attorney services within an underserved area, the individual may not participate in another attorney recruitment program under this chapter.

27-02.2-12. Rulemaking authority.

The supreme court may adopt rules as necessary to implement this chapter.

27-02.2-13. Annual report.

Before July first of each year, the supreme court shall submit a report on the status of the program to the legislative management.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 245

HOUSE BILL NO. 1035

(Legislative Management)
(Judiciary Committee)

AN ACT to create and enact chapters 27-20.2, 27-20.3, and 27-20.4 of the North Dakota Century Code, relating to the Juvenile Court Act; to amend and reenact subsection 16 of section 11-16-01, section 12.1-32-15, subsections 1 and 3 of section 12.1-41-12, subsection 2 of section 14-02.1-03.1, subsection 2 of section 14-02.1-08, subdivision c of subsection 2 of section 14-07.1-18, section 14-15-11, subsections 1 and 2 of section 15.1-09-33.4, sections 15.1-19-15, 20.1-13.1-01, 20.1-15-01, 26.1-36-20, and 26.1-40-11.1, subsection 2 of section 27-05-30, section 27-20.1-01, paragraph 4 of subdivision n of subsection 2 of section 27-20.1-06, subsection 1 of section 27-20.1-10, subdivision d of subsection 1 of section 27-20.1-11, subsection 3 of section 27-20.1-11, subsection 2 of section 27-20.1-17, section 27-20.1-22, section 27-20.3-05 as created by section 23 of this Act, section 27-20.4-06 as created by section 25 of this Act, subsections 2 and 3 of section 27-21-02, subsection 3 of section 27-21-02.1, section 27-21-09, subsections 2 and 5 of section 27-21-12, section 30.1-27-02, subsection 3 of section 30.1-27-06, section 39-06-32.1, subsection 2 of section 39-20-01, section 39-24.1-01, subsection 5 of section 50-06-05.1, subdivision a of subsection 4 of section 50-06-43.2, subsection 1 of section 50-11.3-01, sections 50-25.1-02 and 50-25.1-06, subsection 4 of section 50-25.1-15, subsection 2 of section 54-12-34, and sections 54-23.4-17 and 62.1-02-01 of the North Dakota Century Code, relating to juvenile justice; to repeal chapter 27-20 and section 27-21-03 of the North Dakota Century Code, relating to the Uniform Juvenile Court Act; to provide a penalty; to provide an appropriation; to provide a legislative management report; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵⁶ **SECTION 1. AMENDMENT.** Subsection 16 of section 11-16-01 of the North Dakota Century Code is amended and reenacted as follows:

16. Institute and defend proceedings under sections 14-09-12 and 14-09-19 and chapters 14-15, ~~27-20.2, 27-20.3, 27-20.4~~, and 50-01 upon consultation with the human service zone director or the executive director of the department of human services.

¹⁵⁷ **SECTION 2. AMENDMENT.** Section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-15. Offenders against children and sexual offenders - Sexually violent predators - Registration requirement - Penalty. (~~Contingent effective date~~ - [See note](#))

¹⁵⁶ Section 11-16-01 was also amended by section 9 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2086, chapter 353.

¹⁵⁷ Section 12.1-32-15 was also amended by section 22 of House Bill No. 1247, chapter 352.

1. ~~As used in this section:~~

- a. ~~"A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.~~
- b. ~~"Department" means the department of corrections and rehabilitation.~~
- c. ~~"Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.~~
- d. ~~"Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.~~
- e. ~~"Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.~~
- f. ~~"Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1, 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and subdivision b of subsection 1 if the offense involves only a demand for money, chapter 12.1-27.2, subsection 2 of section 12.1-22-03.1, subdivision b of subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or 12.1-41-06, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.~~
- g. ~~"Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.~~
- h. ~~"Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.~~

2. ~~The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a~~

county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city or the sheriff of the county if the individual resides, attends school, or is employed in an area other than a city. A homeless individual shall register every three days with the sheriff or chief of police of the jurisdiction in which the individual is physically present. The court shall require an individual to register by stating this requirement on the court records, if that individual:

- a. ~~Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.~~
 - b. ~~Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.~~
 - c. ~~Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.~~
 - d. ~~Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.~~
 - e. ~~Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that registration is warranted by the nature of the crime and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.~~
3. If a court has not ordered an individual to register in this state, an individual who resides, is homeless, or is temporarily domiciled in this state shall register if the individual:
 - a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or

- 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
- b. ~~Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or~~
 - c. ~~Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.~~
4. ~~In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.~~
5. ~~When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement, or the department, shall obtain the address where the individual expects to reside, attend school, or work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall send three copies to the attorney general no later than forty-five days before the scheduled release of that individual. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release, one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.~~
6. ~~An individual who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be informed of the duty to register under this section by the court in which that individual is convicted. The court shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register under this section has been explained to that individual. The court shall obtain the address where the individual expects to reside, attend school, or work upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the individual and shall send two copies to the attorney general. The attorney general shall forward one copy to the~~

appropriate law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release.

7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the biometric data and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized database of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, biometric data, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall register, within three days after the change, with the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall register, at least ten days before the change, with the law enforcement agency with which that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section, the individual shall register within three days of the termination with the law enforcement agency with which the individual last registered. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the biometric data portion of the registration if that agency has a set of biometric data on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.
8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:
 - a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;

- b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or
- c. For the life of the individual, if that individual:
 - (1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;
 - (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or
 - (3) Is assigned a high risk by the attorney general as provided in subsection 12.
- 9. An individual required to register under this section who violates this section is guilty of a class C felony. The failure of a homeless individual to register as required in subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.
- 10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.
- 11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.
- 12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:
 - a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and

- ~~sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.~~
- ~~b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.~~
 - ~~c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.~~
 - ~~d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.~~
13. ~~Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:~~
- ~~a. Is required to register for a lifetime under subsection 8;~~
 - ~~b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or~~
 - ~~c. Has been determined to be a high risk to the public by an agency of another state or the federal government.~~
- ~~If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.~~
14. ~~A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations,~~

~~allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.~~

- ~~15. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.~~
- ~~16. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or 27-20-52.1 before August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.~~
- ~~17. A sexual offender who is currently assigned a moderate or high-risk level by the attorney general may not use a state park of this state as a residence or residential address to comply with the registration requirements of this section. Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high-risk level by the attorney general shall notify a parks and recreation department law enforcement officer at the state park where the sexual offender will be staying.~~
- ~~18. When an individual who is required to register pursuant to this section plans to travel outside of the United States, at least twenty-one days before the intended travel, the individual shall inform the agency with which the individual last registered the individual's residence address the details of the intended travel. Upon receipt of the information from the registering law enforcement agency, the attorney general shall report the travel to the United States marshal service.~~

~~Offenders against children and sexual offenders – Sexually violent predators~~
~~- Registration requirement – Penalty. (Contingent effective date – [See note](#))~~

1. As used in this section:
 - a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.
 - b. "Department" means the department of corrections and rehabilitation.

- c. "Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.
 - d. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
 - e. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.
 - f. "Reside" means to live permanently or be situated for a considerable time in a home or a particular place.
 - g. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1, 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and subdivision b of subsection 1 if the offense involves only a demand for money, chapter 12.1-27.2, subsection 2 of section 12.1-22-03.1, subdivision b of subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or 12.1-41-06, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.
 - h. "Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.
 - i. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.
2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city of the individual's place of residence, or the sheriff of the county if the individual resides in an area other than a city. A homeless individual shall register every three days with the sheriff or chief of police of the jurisdiction in which the individual is physically present. The court shall require an individual to register by stating this requirement on the court records, if that individual:
- a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including

- juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.
- b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - c. Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that registration is warranted by the nature of the crime and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.
3. If a court has not ordered an individual to register in this state, an individual who resides, is homeless, or is temporarily domiciled in this state shall register if the individual:
 - a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
 - b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or
 - c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.

4. In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.
5. When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement, or the department, shall obtain the address where the individual expects to reside, attend school, or work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall send three copies to the attorney general no later than forty-five days before the scheduled release of that individual. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release, one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.
6. An individual who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be informed of the duty to register under this section by the court in which that individual is convicted. The court shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register under this section has been explained to that individual. The court shall obtain the address where the individual expects to reside, attend school, or work upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the individual and shall send two copies to the attorney general. The attorney general shall forward one copy to the appropriate law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release.
7. Registration consists of a written or electronic statement signed by the individual, giving the information required by the attorney general, and the biometric data and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized database of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible

in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, biometric data, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall register, within three days after the change, with the law enforcement agency having local jurisdiction of the individual's place of residence of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall register, at least ten days before the change, with the law enforcement agency having local jurisdiction of the individual's place of residence of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section, the individual shall register within three days of the termination with the law enforcement agency having local jurisdiction of the individual's place of residence. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register also shall register within three days at the law enforcement agency having local jurisdiction of the new place of residence. If an individual required to register in North Dakota, including in a tribal registry, resides in another state or on tribal lands, that individual shall register employment and school addresses and any changes in required registration information with the law enforcement agency having local jurisdiction over the school or employment address. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the biometric data portion of the registration if that agency has a set of biometric data on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.

8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:
 - a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;
 - b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or
 - c. For the life of the individual, if that individual:

- (1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;
 - (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or
 - (3) Is assigned a high risk by the attorney general as provided in subsection 12.
9. An individual required to register under this section who violates this section is guilty of a class C felony. The failure of a homeless individual to register as required in subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.
 10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.
 11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.
 12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:
 - a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.

- b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.
 - c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.
 - d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.
13. An individual assessed as a high-risk sexual offender in accordance with subsection 12, may not reside within five hundred feet [152.4 meters] of a public or nonpublic preschool or elementary, middle, or high school.
14. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:
- a. Is required to register for a lifetime under subsection 8;
 - b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or
 - c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

15. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under section

12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.

16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.
17. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.
18. A sexual offender who is currently assigned a moderate or high-risk level by the attorney general may not use a state park of this state as a residence or residential address to comply with the registration requirements of this section. Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high-risk level by the attorney general shall notify a parks and recreation department law enforcement officer at the state park where the sexual offender will be staying.
19. When an individual who is required to register pursuant to this section plans to travel outside of the United States, at least twenty-one days before the intended travel, the individual shall inform the agency with which the individual last registered the individual's residence address the details of the intended travel. Upon receipt of the information from the registering law enforcement agency, the attorney general shall report the travel to the United States marshal service.

SECTION 3. AMENDMENT. Subsections 1 and 3 of section 12.1-41-12 of the North Dakota Century Code are amended and reenacted as follows:

1. If the individual was a minor at the time of the offense and committed the offense as a direct result of being a victim, the individual is not criminally liable or subject to a juvenile delinquency proceeding under chapter 27-2027-20.4 for:
 - a. Prostitution under section 12.1-29-03;
 - b. Misdemeanor forgery under section 12.1-24-01;
 - c. Misdemeanor theft offenses under chapter 12.1-23;
 - d. Insufficient funds or credit offenses under section 6-08-16;

- e. Manufacture or possession of a controlled or counterfeit substance offenses under section 19-03.1-23; and
 - f. Drug paraphernalia offenses under chapter 19-03.4.
3. An individual who has engaged in commercial sexual activity is not criminally liable or subject to a juvenile delinquency proceeding under chapter 27-2027-20.4 for prostitution if the individual was a minor at the time of the offense.

SECTION 4. AMENDMENT. Subsection 2 of section 14-02.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

2. Any pregnant woman under the age of eighteen or next friend is entitled to apply to the juvenile court for authorization to obtain an abortion without parental consent. All proceedings on such application must be conducted in the juvenile court of the county of the minor's residence before a juvenile judge or referee, if authorized by the juvenile court judge in accordance with the provisions of chapter 27-05, except that the parental notification requirements of ~~chapter 27-20~~rules 3, 4, and 5 of the North Dakota Rules of Juvenile Procedure are not applicable to proceedings under this section. A court may change the venue of proceedings under this section to another county only upon finding that a transfer is required in the best interests of the minor. All applications in accordance with this section must be heard by a juvenile judge or referee within forty-eight hours, excluding Saturdays and Sundays, of receipt of the application. The juvenile judge or referee shall find by clear and convincing evidence:
- a. Whether or not the minor is sufficiently mature and well informed with regard to the nature, effects, and possible consequences of both having an abortion and bearing her child to be able to choose intelligently among the alternatives.
 - b. If the minor is not sufficiently mature and well informed to choose intelligently among the alternatives without the advice and counsel of her parents or guardian, whether or not it would be in the best interests of the minor to notify her parents or guardian of the proceedings and call in the parents or guardian to advise and counsel the minor and aid the court in making its determination and to assist the minor in making her decision.
 - c. If the minor is not sufficiently mature and well informed to choose intelligently among the alternatives and it is found not to be in the best interests of the minor to notify and call in her parents or guardian for advice and counsel, whether an abortion or some other alternative would be in the best interests of the minor.

SECTION 5. AMENDMENT. Subsection 2 of section 14-02.1-08 of the North Dakota Century Code is amended and reenacted as follows:

2. Whenever an unborn child who is the subject of abortion is born alive and is viable, it becomes an abandoned child and ~~deprived~~a child in need of protection, unless:
- a. The termination of the pregnancy is necessary to preserve the life of the mother; or

- b. The mother and her spouse, or either of them, have agreed in writing in advance of the abortion, or within seventy-two hours thereafter, to accept the parental rights and responsibilities for the unborn child if it survives the abortion procedure.

SECTION 6. AMENDMENT. Subdivision c of subsection 2 of section 14-07.1-18 of the North Dakota Century Code is amended and reenacted as follows:

- c. A court of competent jurisdiction orders the disclosure after an in camera review and a written finding by the court that the information directly and specifically relates to a determination of child abuse and neglect under chapter 50-25.1 or termination of parental rights under sections 14-15-19, ~~27-20-44, 27-20-45, 27-20-46, 27-20-47~~27-20.3-20, 27-20.3-21, ~~27-20.3-22, 27-20.3-23, and 27-20-48~~27-20.3-24; or

¹⁵⁸ **SECTION 7. AMENDMENT.** Section 14-15-11 of the North Dakota Century Code is amended and reenacted as follows:

14-15-11. Notice of petition - Investigation and hearing.

1. a. After the filing of a petition to adopt a minor, the court shall fix a time and place for hearing the petition. At least twenty days before the date of hearing, notice of the filing of the petition and of the time and place of hearing must be given by the petitioner to the department and human service zone; any agency or individual whose consent to the adoption is required by this chapter but who has not consented; an individual whose consent is dispensed with upon any ground mentioned in subdivisions a, b, f, h, i, and j of subsection 1 of section 14-15-06 but who has not consented; any appropriate Indian tribe; and any individual identified by the court as a biological parent or a possible biological parent of the minor, upon making inquiry to the extent necessary and appropriate, as in proceedings under section ~~27-20-45~~27-20.3-22, unless the individual has relinquished parental rights or the individual's parental rights have been previously terminated by a court. The notice to the department and human service zone must be accompanied by a copy of the petition.
- b. Notice of the filing of a petition to adopt an adult must be given by the petitioner at least twenty days before the date of the hearing to each living parent of the adult to be adopted.
2. An investigation must be made by a licensed child-placing agency to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor.
3. A written report of the investigation must be filed with the court by the investigator before the petition is heard.
4. The report of the investigation must contain a review of the child's history; a preplacement adoption assessment of the petitioner, including a criminal history record investigation of the petitioner; and a postplacement evaluation of the placement with a recommendation as to the granting of the petition for

¹⁵⁸ Section 14-15-11 was also amended by section 7 of Senate Bill No. 2086, chapter 353.

adoption and any other information the court requires regarding the petitioner or the minor.

5. An investigation and report is not required in cases in which a stepparent is the petitioner or the individual to be adopted is an adult. The department and human service zone, when required to consent to the adoption, may give consent without making the investigation. If the petitioner is a relative other than a stepparent of the minor, the minor has lived with the petitioner for at least nine months, no allegations of abuse or neglect have been filed against the petitioner or any member of the petitioner's household, and the court is satisfied that the proposed adoptive home is appropriate for the minor, the court may waive the investigation and report required under this section.
6. The department and human service zone, when required to consent to the adoption, may request the licensed child-placing agency to conduct further investigation and to make a written report thereof as a supplemental report to the court.
7. After the filing of a petition to adopt an adult, the court by order shall direct that a copy of the petition and a notice of the time and place of the hearing be given to any individual whose consent to the adoption is required but who has not consented and to each living parent of the adult to be adopted. The court may order an appropriate investigation to assist it in determining whether the adoption is in the best interest of the individuals involved.
8. Notice must be given in the manner appropriate under the North Dakota Rules of Civil Procedure for the service of process in a civil action in this state or in any manner the court by order directs. Proof of the giving of the notice must be filed with the court before the petition is heard.

SECTION 8. AMENDMENT. Subsections 1 and 2 of section 15.1-09-33.4 of the North Dakota Century Code are amended and reenacted as follows:

1. The board of a school district shall prohibit a student from participating in any extracurricular activity if:
 - a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an offense specified in subsection 1 of section 12.1-32-09.1;
 - b. The student has:
 - (1) An order prohibiting contact issued against the student at the request of another student or employee of the school under section 12.1-31.2-02;
 - (2) A disorderly conduct restraining order issued against the student at the request of another student or employee of the school under section 12.1-31.2-01, except a temporary restraining order under subsection 4 of section 12.1-31.2-01; or
 - (3) A protection order issued against the student at the request of another student or employee of the school, except a temporary protection order under section 14-07.1-03;

- c. The principal of the school receives information pertaining to an offense or order included under this section as provided in ~~subsection 2 of section 27-20-51~~section 27-20.2-21; or
 - d. The victim of the offense or the subject of the order notifies the principal of the offense or order.
2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court pertaining to a student of the school which are open to inspection by the principal under ~~subsection 2 of section 27-20-51~~section 27-20.2-21.

SECTION 9. AMENDMENT. Section 15.1-19-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-19-15. Record retention.

Records regarding a student obtained by a school under section 15.1-19-14, ~~section 27-20-51~~27-20.2-21, or ~~section 27-20-52~~27-20.4-21 must be destroyed when the student reaches the age of eighteen or no longer attends the school, whichever occurs later.

SECTION 10. AMENDMENT. Section 20.1-13.1-01 of the North Dakota Century Code is amended and reenacted as follows:

20.1-13.1-01. Implied consent to determine alcohol concentration and presence of drugs.

Any individual who operates a motorboat or vessel in this state is deemed to have given consent, and shall consent, subject to 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, "operates" means to be in motion, en route, but not at anchor or aground; "vessel" means any watercraft used or designed to be used for navigation on the water such as a boat operated by machinery, either permanently or temporarily affixed, a sailboat other than a sailboard, an inflatable manually propelled boat, a canoe, kayak, or rowboat, but does not include an inner tube, air mattress, or other water toy; "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely operating a motorboat or vessel; and "chemical test" means any test or tests 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. The chemical test must be administered at the direction of a game warden or a law enforcement officer only after placing the individual, except individuals mentioned in section 20.1-13.1-04, under arrest and informing that individual that the individual is or will be charged with the offense of operating a motorboat or vessel while under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking into custody of a minor under ~~section 27-20-13~~27-20.4-05 satisfies the requirement of an arrest. The game warden or law enforcement officer shall also inform the individual charged that refusal of the individual to submit to the chemical test determined appropriate will result in that individual being prohibited from operating a motorboat or vessel for up to three years. The game warden or law enforcement officer shall determine the chemical test to be used. When a minor is taken into custody for violating section 20.1-13-07, the game warden or law enforcement officer shall diligently attempt to

contact the minor's parent or legal guardian to explain the cause for the custody and the implied consent chemical testing requirements. Neither the game warden or 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.

SECTION 11. AMENDMENT. Section 20.1-15-01 of the North Dakota Century Code is amended and reenacted as follows:

20.1-15-01. Implied consent to determine alcohol concentration and presence of drugs.

Any individual who is afield with a gun or other firearm or a bow and arrow is deemed to have given consent, and shall consent, subject to this chapter, to a chemical test 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, "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely hunting or being afield with a gun or other firearm or a bow and arrow, and "chemical test" means any test or tests 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. The chemical test must be administered at the direction of a game warden or a law enforcement officer only after placing the individual, except individuals mentioned in section 20.1-15-04, under arrest and informing that individual that the individual is or will be charged with the offense of being afield with a gun or other firearm or a bow and arrow while under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking into custody of a minor under section ~~27-20-13~~27-20.4-05 satisfies the requirement of an arrest. The game warden or law enforcement officer shall also inform the individual charged that refusal of the individual to submit to the chemical test determined appropriate will result in a revocation for up to four years of the individual's hunting privileges. The game warden or law enforcement officer shall determine the chemical test to be used. When a minor is taken into custody for violating section 20.1-01-06, the game warden or law enforcement officer shall diligently attempt to contact the minor's parent or legal guardian to explain the cause for the custody and the implied consent chemical testing requirements. Neither the game warden or 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.

SECTION 12. AMENDMENT. Section 26.1-36-20 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36-20. Juvenile's accident and health coverage to continue - Conditions.

Insurance companies and nonprofit health service corporations licensed in this state shall continue coverage of a juvenile insured under an accident and health insurance policy or a health service contract while the legal custody of the juvenile has been given by a court, under ~~chapter 27-20~~chapters 27-20.3 and 27-20.4, to any public institution or agency, to the same extent as the general public is covered as long as the juvenile meets all the other usual qualifications for insurability and continues to pay the policy or contract premiums. A juvenile's incarceration may not be a basis for cancellation of the juvenile's accident and health insurance policy or health service contract.

SECTION 13. AMENDMENT. Section 26.1-40-11.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-40-11.1. Juvenile's suspension of driving privileges - Nontraffic delinquent conduct.

Insurers are prohibited from using or relying on a nontraffic delinquent juvenile's suspension of driving privileges under section ~~27-20-31.1~~27-20.4-16 as a reason for canceling, denying, or nonrenewing the automobile insurance policy of the nontraffic delinquent juvenile offender or the parents of the nontraffic delinquent juvenile offender.

SECTION 14. AMENDMENT. Subsection 2 of section 27-05-30 of the North Dakota Century Code is amended and reenacted as follows:

2. In accordance with rules of the supreme court, the presiding judge may assign a referee to preside in any case or proceeding provided for in chapter 12.1-31.2, title 14, sections 20.1-01-28 and 20.1-01-29, ~~chapter 27-20,~~ chapter chapters 27-20.2, 27-20.3, 27-20.4, and 28-25, subsection 6 of section 50-09-08.6, and subsection 2 of section 50-09-14.

SECTION 15. AMENDMENT. Section 27-20.1-01 of the North Dakota Century Code is amended and reenacted as follows:

27-20.1-01. Definitions.

The definitions set forth in section 27-20-02 are applicable to this chapter. As used in this chapter:

1. "Abandon" means:

- a. As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause:

(1) To communicate with the child; or

(2) To provide for the care and support of the child as required by law; or

- b. As to a parent of a child in that parent's custody:

(1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;

(2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or

(3) Willfully fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.

2. "Abandoned infant" means a child who has been abandoned before reaching the age of one year.

3. "Child in need of protection" means a child who:

- a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the need for services or protection is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;
 - b. Has been placed for care or adoption in violation of law;
 - c. Has been abandoned by the child's parents, guardian, or other custodian;
 - d. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent;
 - e. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court;
 - f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner;
 - g. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2; or
 - h. Is a victim of human trafficking as defined in title 12.1.
5. "Custodian" means a person, other than a parent or legal guardian, that stands in loco parentis to the child and a person that has been given legal custody of the child by order of a court.
6. "Fit and willing person" means a relative or other individual who has been determined, after consideration of an assessment that includes a criminal history record investigation under chapter 50-11.3, to be a qualified individual under this chapter and chapter 30.1-27, and who consents in writing to act as a legal guardian.
7. "Relative" means:
- a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
 - b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
 - c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a;
 - d. The child's stepparent; or

- e. An extended family member as defined by the law or custom of an Indian child's tribe.

SECTION 16. AMENDMENT. Paragraph 4 of subdivision n of subsection 2 of section 27-20.1-06 of the North Dakota Century Code is amended and reenacted as follows:

- (4) The parent has ~~deprived the~~ a child in need of protection as that term is defined under section ~~27-20-02~~27-20.1-01;

SECTION 17. AMENDMENT. Subsection 1 of section 27-20.1-10 of the North Dakota Century Code is amended and reenacted as follows:

1. A hearing under this chapter must be conducted by the court without a jury, in an informal but orderly manner, and separately from other proceedings not included in section ~~27-20-03~~27-20.2-03 or section 27-20.1-02.

¹⁵⁹ **SECTION 18. AMENDMENT.** Subdivision d of subsection 1 of section 27-20.1-11 of the North Dakota Century Code is amended and reenacted as follows:

- d. The child is a ~~deprived~~ child in need of protection as defined under section ~~27-20-02~~27-20.1-01.

¹⁶⁰ **SECTION 19. AMENDMENT.** Subsection 3 of section 27-20.1-11 of the North Dakota Century Code is amended and reenacted as follows:

3. The court may appoint a guardian as a dispositional alternative if a child has been adjudicated as ~~deprived~~ a child in need of protection, ~~unruly~~, or delinquent under chapter ~~27-20~~27-20.2, ~~27-20.3~~, or ~~27-20.4~~.

SECTION 20. AMENDMENT. Subsection 2 of section 27-20.1-17 of the North Dakota Century Code is amended and reenacted as follows:

2. A guardian's authority and responsibility terminates upon the death, resignation, or removal of the guardian, or upon the child's death, adoption, marriage, or attainment of majority, but termination does not affect the guardian's liability for prior acts or the guardian's obligation to account for funds and assets of the child. For cases arising under section ~~27-20-30~~27-20.3-16, the age of majority is age twenty-one.

SECTION 21. AMENDMENT. Section 27-20.1-22 of the North Dakota Century Code is amended and reenacted as follows:

27-20.1-22. Confidentiality.

Except as provided by section ~~27-20-54~~27-20.2-21, all files and records under this chapter are closed to the public and confidential.

SECTION 22. Chapter 27-20.2 of the North Dakota Century Code is created and enacted as follows:

¹⁵⁹ Section 27-20.1-11 was also amended by section 19 of House Bill No. 1035, chapter 245.

¹⁶⁰ Section 27-20.1-11 was also amended by section 18 of House Bill No. 1035, chapter 245.

27-20.2-01. Definitions.

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

1. "Abandon" means:

a. As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause:

(1) To communicate with the child; or

(2) To provide for the care and support of the child as required by law; or

b. As to a parent of a child in that parent's custody:

(1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;

(2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or

(3) Willfully fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.

2. "Abandoned infant" means a child who has been abandoned before reaching the age of one year.

3. "Child" means an individual who is:

a. Under the age of eighteen years and is not married; or

b. Under the age of twenty years with respect to a delinquent act committed while under the age of eighteen years and not married.

4. "Child in need of protection" means a child who:

a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the need for services or protection is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;

b. Has been placed for care or adoption in violation of law;

c. Has been abandoned by the child's parents, guardian, or other custodian;

d. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent;

- e. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court;
 - f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner;
 - g. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2; or
 - h. Is a victim of human trafficking as defined in title 12.1.
5. "Child in need of services" means a child who in any of the foregoing instances is in need of treatment or rehabilitation:
- a. Is habitually and without justification truant from school subject to compulsory school attendance and is absent from school without an authorized excuse more than three days during a school year;
 - b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian, including running away, and is ungovernable or who is willfully in a situation dangerous or injurious to the health, safety, or morals of the child or others;
 - c. Has committed an offense applicable only to a child, except for an offense committed by a minor fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution; or
 - d. Is under the age of fourteen years and has purchased, possessed, smoked, or used tobacco, a tobacco-related product, an electronic smoking device, or an alternative nicotine product in violation of subsection 2 of section 12.1-31-03. As used in this subdivision, "electronic smoking device" and "alternative nicotine product" have the same meaning as in section 12.1-31-03; and
 - e. In any of the foregoing instances is in need of treatment or rehabilitation.
6. "Custodian" means a person, other than a parent or legal guardian, which stands in loco parentis to the child and a person that has been given legal custody of the child by order of a court.
7. "Delinquent act" means an act designated a crime under the law, including local ordinances or resolutions of this state, or of another state if the act occurred in that state, or under federal law.
8. "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation.
9. "Director" means the director of juvenile court or the director's designee.
10. "Diversion" means an intervention strategy that redirects a child away from formal processing in the juvenile justice system, while still holding the child accountable for that child's actions.

11. "Facility" means buildings, structures, or systems, including those for essential administration and support, which are used to provide residential treatment for children.
12. "Host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.
13. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department of human services.
14. "Juvenile court" means the district court of this state.
15. "Juvenile drug court" means a program established by the supreme court which is a post-petition or post-adjudication program aimed at intervening in substance use disorders through intense supervision and participation in recovery services.
16. "Proceeding" means any hearing conducted before a juvenile court or a referral for service.
17. "Qualified residential treatment program" means a licensed or approved residence providing an out-of-home treatment placement for children, including a trauma-informed model.
18. "Relative" means:
 - a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
 - b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
 - c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or
 - d. The child's stepparent.
19. "Restorative justice" means a system of justice which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large.
20. "Shelter care" means temporary care of a child in physically unrestricted facilities.
21. "The court" means the district courts as designated by the North Dakota supreme court which includes juvenile court as a subset of district court.
22. "Willfully" has the meaning provided in section 12.1-02-02.

22-20.2-02. Presumption of age.

1. In determining an individual's age for purposes of this chapter, the individual's date of birth as provided by any of the following is presumed to be the individual's legal date of birth:
 - a. A state government in the form of a birth certificate, other state-issued identification, or a certified copy of a birth certificate that includes the individual's date of birth.
 - b. The United States government in the form of a tribal identification document, military identification, passport, passport card, permanent resident card, certificate of United States citizenship, certificate of naturalization, border crossing card, visa, or other entry document that includes the individual's date of birth.
 - c. A foreign government in the form of a passport, driver's license, or other foreign government-issued identity document that includes the individual's date of birth. If there is a conflict between government-issued forms, a government-issued birth certificate or a certified copy of a birth certificate takes precedence.
2. The presumption in subsection 1 may be rebutted by clear and convincing evidence to the contrary.

27-20.2-03. Jurisdiction.

1. The juvenile court has exclusive original jurisdiction of the following proceedings, which are governed by this chapter:
 - a. Proceedings in which a child is alleged to be delinquent, a child in need of services, or a child in need of services or protection under this chapter or chapter 27-20.4;
 - b. Proceedings for the termination of parental rights except if a part of an adoption proceeding under chapter 27-20.3;
 - c. Proceedings arising under section 27-20.3-16;
 - d. Civil forfeiture proceedings arising under chapter 19-03.1 or section 29-31.1-04 for which a child is alleged to have possessed forfeitable property. The juvenile court shall conduct the proceedings in accordance with the procedures provided for under sections 19-03.1-36 through 19-03.1-37; and
 - e. Proceedings for the guardianship of a child under chapter 27-20.1, except the testamentary appointment of a guardian for a minor governed by chapter 30.1-27.
2. The juvenile court also has exclusive original jurisdiction of the following proceedings, which are governed by the laws relating to those proceedings without regard to the other provisions of this chapter:
 - a. Proceedings to obtain judicial consent to the marriage, employment, or enlistment in the armed services of a child, if consent is required by law;
 - b. Proceedings under the interstate compact on juveniles;

- c. Proceedings under the interstate compact on the placement of children; and
- d. Proceedings arising under section 50-06-06.13 to obtain a judicial determination that the placement of a severely emotionally disturbed child in an out-of-home treatment program is in the best interests of the child.

27-20.2-04. Juvenile court personnel.

- 1. The supreme court may provide for the appointment by administrative and personnel rules of the necessary juvenile court officers, clerical personnel, and other specialized personnel within the limits of legislative appropriations to assist the juvenile court in carrying out the juvenile probation and supervisor functions of the juvenile court.
- 2. Detention center facilities and personnel must be funded by the county.
- 3. All salaries, per diem, and other compensation payable to juvenile court personnel, all necessary books, forms, stationery, office supplies and equipment, postage, telephone, and travel, and other necessary expenses incurred in carrying out the provisions of this chapter must be borne by the state, except for suitable quarters for conducting official business and lights and fuel which must be funded by the county and except as provided by subsection 1 of section 27-20.2-19.

27-20.2-05. Powers and duties of the director of juvenile court.

- 1. For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a director shall:
 - a. Make investigations, reports, and recommendations to the juvenile court.
 - b. Receive and examine referrals and charges of delinquency, a child in need of services, or a child in need of protection for the purpose of considering the commencement of proceedings under this chapter.
 - c. Make a determination upon intake of referrals regarding the appropriate manner to handle delinquent conduct, or a child in need of services or a child in need of protection by use of nonjudicial adjustments or formal court processes.
 - d. Supervise and assist a child placed on probation for delinquency or a child in need of services, or both.
 - e. Make appropriate referrals to other private or public agencies of the community if assistance of the agencies appears to be needed or desirable.
 - f. Issue a temporary custody order concerning a child who is referred to the director's supervision or care as a delinquent or a child in need of services or protection. Except as provided by this chapter, a director does not have the powers of a law enforcement officer.
 - g. Take acknowledgments of instruments for the purpose of this chapter.

- h. Make such temporary order not to exceed ninety-six hours for the custody and control of a child alleged to be in need of services or protection as may be deemed appropriate. The order must be reduced to writing within twenty-four hours, excluding holidays and weekends.
 - i. Perform all other functions designated by this chapter or under section 27-05-30 or by order of the court pursuant to such law, including, if qualified, the order of a referee.
 - j. Issue an order to a law enforcement authority to transport a child to and from a specified location.
 - k. Receive and examine requests for review of a child's placement at a qualified residential treatment program under the federal Family First Prevention Services Act [Pub. L. 115-123; 132 Stat. 64; 42 U.S.C. 675].
 - l. Receive and examine petitions to establish, modify, or terminate a guardianship of a minor under chapter 27-20.1.
2. Any of the foregoing functions may be performed in another state if authorized by the court of this state and permitted by the laws of the other state.

27-20.2-06. Commencement of proceedings.

A proceeding under this chapter may be commenced:

- 1. By transfer of a case from another court as provided in section 27-20.2-07; or
- 2. In other cases by the filing of a petition as provided in this chapter. The petition and all other documents in the proceeding must be entitled "In the interest of _____, a child". If a child is in shelter care, the petition must be filed within thirty days of the shelter care, this is the date on which the child was removed both physically and legally from the parents, legal guardians, or custodians.

27-20.2-07. Transfer from other courts.

If it appears to the court in a criminal proceeding, except for an offense transferred under section 27-20.4-20, that the defendant is a child subject to the jurisdiction of the juvenile court, the court immediately shall transfer the case to the juvenile court together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. The court shall order that the defendant be taken immediately to the juvenile court or to a place of detention designated by the juvenile court, or release the defendant to the custody of the defendant's parent, guardian, custodian, or other person legally responsible for the defendant, to be brought before the juvenile court at a time designated by that court. The accusatory pleading may serve in lieu of a petition in the juvenile court unless that court directs the filing of a petition.

27-20.2-08. Nonjudicial adjustment - Diversion.

Before an informal adjustment is held or a petition filed, the director of juvenile court or designee may impose requirements in lieu of further proceedings for the conduct and control of the child with a diversion.

27-20.2-09. Nonjudicial adjustment - Informal adjustment.

1. Before a petition is filed, the director of juvenile court or designee may give counsel and advice to the parties and impose conditions for the conduct and control of the child in lieu of further proceedings with a view to an informal adjustment if it appears:
 - a. The admitted facts bring the case within the jurisdiction of the court;
 - b. Information, advice, and conditions, if any, for the conduct and control of the child without an adjudication would be in the best interest of the public and the child; and
 - c. The child and the child's parents, guardian, or other custodian consent to the counsel and advice with knowledge that consent is not obligatory.
2. If a victim is identified in the referral, the court must give reasonable written notice of the informal adjustment to the victim.
3. The giving of information and advice and any conditions imposed for the conduct and control of the child may not extend beyond six months from the day commenced unless extended by the court for an additional period not to exceed six months and does not authorize the detention of the child if not otherwise permitted by this chapter. If the child admits to driving or being in actual physical control of a vehicle in violation of section 39-08-01 or an equivalent ordinance, the child may be required to pay a fine as a condition imposed under this section.
4. An incriminating statement made by a child to the juvenile court officer or designee giving information and advice incident to the giving of counsel and advice may not be used against the child over objection in any proceeding or as part of a risk and need screening or assessment process.

27-20.2-10. Venue.

Except as provided in sections 27-20.3-03 and 27-20.4-03, a proceeding in this chapter may be commenced in the county in which the child resides or the county in which the acts constituting the alleged conduct occurred.

27-20.2-11. Transfer to another juvenile court within the state.

If the child resides in a county of the state and the proceeding is commenced in a court of another county, the court, on motion of a party or on motion of the court made before final disposition and in consultation with the court in the other county, may transfer the proceeding to the county of the child's residence for further action. Like transfer may be made if the residence of the child changes pending the proceeding. The proceeding must be transferred if the child has been adjudicated delinquent or a child in need of services and other proceedings involving the child are pending in the juvenile court of the county of the child's residence.

27-20.2-12. Right to counsel.

1. Except as provided in section 27-20.1-09, a child alleged to be within the jurisdiction of the court in an action arising under chapters 27-20.1, 27-20.2, 27-20.3, and 27-20.4 has the right to be represented by counsel in all proceedings in which a petition has been filed. Counsel for the child must be appointed, regardless of income, unless counsel is retained for the juvenile, in any proceeding in which the juvenile is alleged to be:

- a. Delinquent;
 - b. A child in need of services; or
 - c. A child in need of protection if the child is of sufficient age and competency to assist counsel.
2. A child may waive the right to counsel in a juvenile delinquency proceeding if the child, who is fourteen years of age or older and the court has determined the waiver is knowing, voluntary, and intelligent. The waiver must be made on the record. If a child waives counsel for a hearing, the child must be informed of the right to revoke the waiver and request counsel at all subsequent hearings.
 3. The court shall require payment for reimbursement of counsel appointed pursuant to this section from a person that has legal care, custody, or control of the child. The court must include this finding in the findings of fact and order for disposition.
 4. A child's parent, legal guardian, or custodian is entitled to counsel upon the filing of an application for counsel and a determination of indigency. If a party appears without counsel, the court shall determine whether the party knows the party may be represented by counsel and that the party is entitled to counsel at public expense if indigent. The court may continue the proceeding to enable a party to obtain counsel. A child's parent, legal guardian, or custodian determined to be indigent is entitled to counsel:
 - a. At a detention hearing;
 - b. At the dispositional stage of a juvenile delinquency matter;
 - c. At all proceedings in a child in need of services or protection; or
 - d. In a permanency or review of an order entered in any of the proceedings under subdivision a, b, or c.
 5. The child may elect to be represented by counsel for a nonjudicial adjustment.

27-20.2-13. Other basic rights.

1. A party is entitled to the opportunity to introduce evidence and otherwise be heard in the party's own behalf and to cross-examine adverse witnesses.
2. A child charged with a delinquent act need not be a witness against or otherwise incriminate oneself. An extrajudicial statement, if obtained in the course of violation of this chapter or which would be constitutionally inadmissible in a criminal proceeding, may not be used against a child. Evidence illegally seized or obtained may not be received over objection to establish the allegations made against a child. A confession validly made by a child out of court is insufficient to support an adjudication of delinquency unless the confession is corroborated in whole or in part by other evidence.

27-20.2-14. Orders directed to parents or guardians.

Every parent or guardian has an obligation and must participate in any treatment of the parent's or guardian's child as ordered by the juvenile court.

27-20.2-15. Indian child welfare - Active efforts and procedures.**1. As used in this section:**

a. "Active efforts" means affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with the child's family. Active efforts are required if the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 through 1963] applies or may apply, including during the verification process. If an agency is involved in the child-custody proceeding, active efforts must involve assisting the parent or parents or Indian custodian through the steps of a case plan and with accessing or developing the resources necessary to satisfy the case plan. To the maximum extent possible, active efforts should be provided in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe and should be conducted in partnership with the Indian child and the Indian child's parents, extended family members, Indian custodians, and tribe. Active efforts are to be tailored to the facts and circumstances of the case. The term includes:

- (1) Conducting a comprehensive assessment of the circumstances of the Indian child's family, with a focus on safe reunification as the most desirable goal, with ongoing timely assessment to determine if the threat is resolved and placement of the child can be returned to the custodian;
- (2) Identifying appropriate services and helping the parents to overcome barriers, including actively assisting the parents in obtaining such services;
- (3) Identifying, notifying, and inviting representatives of the Indian child's tribe to participate in providing support and services to the Indian child's family and in family team meetings, permanency planning, and resolution of placement issues;
- (4) Conducting or causing to be conducted a diligent search for the Indian child's extended family members, and contacting and consulting with extended family members to provide family structure and support for the Indian child and the Indian child's parents;
- (5) Offering and employing available and culturally appropriate family preservation strategies and facilitating the use of remedial and rehabilitative services provided by the child's tribe;
- (6) Taking steps to keep siblings together whenever possible;
- (7) Supporting regular visits with parents or Indian custodians in the most natural setting possible as well as trial home visits of the Indian child during any period of removal, consistent with the need to ensure the health, safety, and welfare of the child;
- (8) Identifying community resources including housing, financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Indian child's parents or, if appropriate, the child's family, in utilizing and accessing those resources;

(9) Monitoring progress and participation in services;

(10) Considering alternative ways to address the needs of the Indian child's parents and if appropriate, the family, if the optimum services do not exist or are not available; and

(11) Providing post-reunification services and monitoring.

b. "Extended family member" means a relationship defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, means an individual who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

c. "Indian" means an individual who is a member of an Indian tribe, or who is a native and a member of a regional corporation as defined in 43 U.S.C. 1606.

d. "Indian child" means an unmarried individual who is under the age of eighteen and is either a member of an Indian tribe or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

e. "Indian child's tribe" means the Indian tribe in which an Indian child is a member or eligible for membership or, in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts.

f. "Indian custodian" means any Indian individual who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of the child.

g. "Indian tribe" means an Indian tribe, band, nation, or other organized Indian group or community of Indians recognized as eligible for services provided to Indians by the United States secretary of the interior because of their status as Indians, including any Alaska native village as defined in 43 U.S.C. 1602(c).

h. "Parent" means any biological parent or parents of an Indian child or any Indian individual who has lawfully adopted an Indian child, including adoptions under tribal law or custom. The term does not include the unwed father if paternity has not been acknowledged or established.

i. "Termination of parental rights" means any action resulting in the termination of the parent-child relationship. The term does not include a placement based upon an act by an Indian child which, if committed by an adult, would be deemed a crime or a placement upon award of custody to one of the child's parents in a divorce proceeding.

2. Before removal of an Indian child from the custody of a parent or Indian custodian for purposes of involuntary foster care placement or the termination of parental rights over an Indian child, the court shall find that active efforts have been made to provide remedial services and rehabilitative services designed to prevent the breakup of the Indian family and that these efforts

have proved unsuccessful. The court may not order the removal unless evidence of active efforts shows there has been a vigorous and concerted level of casework beyond the level that would constitute reasonable efforts under section 27-20.3-26. Reasonable efforts may not be construed to be active efforts. Active efforts must be made in a manner that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe. Active efforts must utilize the available resources of the Indian child's extended family, tribe, tribal and other relevant social service agencies, and individual Indian caregivers.

3. The court may order the removal of the Indian child for involuntary foster case placement only if the court determines, by clear and convincing evidence, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage or harm to the child. Evidence must show a causal relationship between the particular conditions in the home and the likelihood that continued custody of the child will result in serious emotional or physical damage or harm to the particular child who is the subject of the proceeding. Poverty, isolation, custodian age, crowded or inadequate housing, substance use, or nonconforming social behavior does not by itself constitute clear and convincing evidence of imminent serious emotional or physical damage or harm to the child. As soon as the threat has been removed and the child is no longer at risk, the state should terminate the removal, by returning the child to the parent while offering a solution to mitigate the situation that gave rise to the need for emergency removal and placement.
4. The court may only order the termination of parental rights over the Indian child if the court determines, by evidence beyond a reasonable doubt, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage or harm to the child.
5. In considering whether to involuntarily place an Indian child in foster care or to terminate the parental rights of the parent of an Indian child, the court shall require that a qualified expert witness must be qualified to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage or harm to the child and should be qualified to testify as to the prevailing social and cultural standards of the Indian child's tribe. An individual may be designated by the Indian child's tribe as being qualified to testify to the prevailing social and cultural standards of the Indian child's tribe. The court or any party may request the assistance of the Indian child's tribe or the bureau of Indian affairs office serving the Indian child's tribe in locating individuals qualified to serve as expert witnesses. The social worker regularly assigned to the Indian child may not serve as a qualified expert witness in child-custody proceedings concerning the child. The qualified expert witness should be someone familiar with the particular child and have contact with the parents to observe interaction between the parents, child, and extended family members. The child welfare agency and courts should facilitate access to the family and records to facilitate accurate testimony.

27-20.2-16. Order of adjudication - Noncriminal.

1. An order of disposition or other adjudication in a proceeding under this chapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service

application or appointment. A child may not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of individuals convicted of a crime.

2. The disposition of a child and evidence adduced in a hearing in juvenile court may not be used against the child in any proceeding in any court other than a juvenile court, whether before or after reaching majority, except for impeachment or in dispositional proceedings after conviction of a felony for the purposes of a presentence investigation and report.

27-20.2-17. Rights and duties of legal custodian.

1. As used in this section, "sibling of the child entering foster care" means:
 - a. A brother or sister who has at least one biological or adoptive parent in common;
 - b. A fictive brother or sister with a significant bond as identified by the child or parent; or
 - c. A child who would have been considered a sibling but for the termination or other disruption of parental rights, including a death of a parent.
2. A legal custodian has:
 - a. The right to the physical custody of the child and the right to determine the nature of the care, placement, and treatment of the child, including ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness that in the opinion of a licensed physician requires prompt treatment, except for any limits the court may impose.
 - b. The right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.
 - c. A duty within thirty days after the removal of a child from the custody of the parent or parents of the child for the purpose of placement into foster care, to exercise due diligence to identify and provide notice to the following relatives: all parents of a sibling of the child entering foster care who have legal custody of the sibling, all adult grandparents, and any other adult suggested by the parents, subject to exceptions due to family or domestic violence, that:
 - (1) Specifies that the child has been or is being removed from the custody of the parent or parents of the child;
 - (2) Explains the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;
 - (3) Describes the requirements and standards to become a foster family home and the additional services and supports that are available for children placed in that home; and

- (4) Describes how the relative of the child may enter an agreement with the department of human services and human service zone to receive a subsidized guardianship payment.

27-20.2-18. Guardian ad litem - Immunity.

The court at any stage of a proceeding under this chapter, on application of a party or on motion of the court, shall appoint a guardian ad litem for a child who is a party to the proceeding if the child has no parent, guardian, or custodian appearing on the child's behalf or the interests of the parent, guardian, or custodian conflict with the child's or in any other case in which the interests of the child require a guardian. A party to the proceeding or that party's employee or representative may not be appointed. A guardian ad litem appointed under this section is immune from civil liability for damages for any act or omission arising out of that individual's duties and responsibilities as a guardian ad litem, unless the act or omission constitutes gross or willful negligence or gross or willful misconduct.

27-20.2-19. Costs and expenses for care of child.

1. The following expenses are a charge upon the funds of the county or human service zone upon certification of the expenses by the court:
 - a. The cost of medical and other examinations and treatment of a child ordered by the court.
 - b. The cost of care and support of a child committed by the court to the legal custody of a public agency other than an institution for delinquent children or to a private agency or individual other than a parent.
 - c. The cost of any necessary transportation for medical and other examinations and treatment of a child ordered by the court unless the child is in the legal custody of a state agency.
 - d. The cost of a guardian ad litem under subsection 5 of section 27-20.1-16 or section 30.1-27-06 or the cost of an attorney under subsection 6 of section 27-20.1-16 if the court finds the parent's or child's estate is insufficient to meet the cost.
2. The commission on legal counsel for indigents shall pay reasonable compensation for services and related expenses of counsel provided at public expense for a party and the supreme court shall pay reasonable compensation for a guardian ad litem. The attorney general shall pay the witness fees, mileage, and travel expense of witnesses incurred in the proceedings under this chapter in the amount and at the rate provided for in section 31-01-16, except the commission on legal counsel for indigents shall pay the witness fees, mileage, and travel expenses of witnesses subpoenaed by counsel employed by or contracted with the commission for proceedings under this chapter in the amount and at the rate provided for in section 31-01-16. Expenses of the state include the cost of any necessary transportation for medical and other examinations and treatment of a child ordered by the court if the child is in the legal custody of a state agency in which case the cost must be reimbursed to the county or human service zone by that state agency at the state mileage rate, excluding meals and lodging, plus twenty-nine cents per mile.

3. If, after due notice to the parents or other persons legally obligated to care for and support the child, and to a child over the age of eighteen, and after affording the parents, other persons, and children over eighteen years of age an opportunity to be heard, the court finds that the parents, other persons, or a child over eighteen years of age is financially able to pay all or part of the costs and expenses stated in subsection 1, and expenses payable by the supreme court under subsection 2, the court may order the party to pay the same and prescribe the manner of payment. Unless otherwise ordered, payment shall be made to the clerk of court for remittance to the person to which compensation is due, or if the costs and expenses have been paid by the county, human service zone, or the state to the county treasurer of the county, the county treasurer of the host county, or to the state treasurer.
4. Unless the court finds there is no likelihood the party is or will be able to pay attorney's fees and expenses, the court, in the order or judgment following a hearing under this chapter, shall order the parents or other persons legally obligated to care for and support the child, and the child if over the age of eighteen, to reimburse the presumed amount of indigent defense costs and expenses, as determined by the commission on legal counsel for indigents, and shall notify the party of the right to a hearing on the reimbursement amount. If the party or the state requests a hearing within thirty days of receiving notice under this subsection, the court shall schedule a hearing at which the actual amount of attorney's fees and expenses must be shown. In determining the amount of reimbursement and method of payment, the court shall consider the financial resources of the party and the nature of the burden that reimbursement of costs and expenses will impose.
5. A party who is required to reimburse indigent defense costs and expenses and who is not willfully in default in that reimbursement may at any time petition the court to waive reimbursement of all or any portion of the attorney's fees and expenses. If the court is satisfied reimbursement of the amount due will impose undue hardship on the party or the party's immediate family, the court may waive reimbursement of all or any portion of the amount due or modify the method of payment.

27-20.2-20. Protective order.

At any stage of the proceedings, upon application of a party or on the court's own motion, the court may make an order restraining or otherwise controlling the conduct of a person if:

1. The court finds that the conduct:
 - a. Is or may be detrimental or harmful to the child; or
 - b. Will tend to defeat the execution of an order of disposition; and
2. Notice of the application or motion and the grounds for the appropriate motion and an opportunity to be heard have been given to the person against which the order is directed.

21-20.2-21. Inspection of court files and records - Penalty.

1. Except as provided in this section, all files and records of the juvenile court, whether in the office of the clerk of court or juvenile court, of a proceeding

under this chapter are closed to the public. Juvenile court files and records are open to inspection only by:

- a. The judge and staff of the juvenile court.
 - b. The parties to the proceeding or the parties' counsel or the guardian ad litem of any party.
 - c. A public or private agency or institution providing supervision or having custody of the child under order of the juvenile court which must be given a copy of the findings and order of disposition when the agency or institution receives custody of the child. If a case involves the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 through 1963], the agency or institution having custody of the child shall serve the appropriate Indian Child Welfare Act service agent, tribe or tribal designee, or an Indian Child Welfare Act qualified expert witness with the findings and order of disposition.
 - d. Any court and the court's probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who, before the criminal case, had been a party to the proceeding in juvenile court.
 - e. The professional staff of the uniform crime victims compensation program if necessary for the discharge of the duties of the staff pursuant to chapter 54-23.4.
 - f. A staff member of the division of children and family services of the department of human services or a law enforcement officer if necessary for the performance of that staff member's duties under section 50-11.1-06.2 or the federal National Child Protection Act of 1993 [Pub. L. 103-209; 107 Stat. 2490; 42 U.S.C. 5119 et seq.].
 - g. An employee or agent of the department of human services if necessary for performance of that individual's duty under chapter 50-11 or 50-11.1 to investigate the background of an individual living or working in the facility, home, or residence for which licensure is sought.
 - h. A criminal justice agency if the juvenile is required to register under section 12.1-32-15.
 - i. The staff of a children's advocacy center if the juvenile or a victim of the child has been referred for or has received services at the children's advocacy center.
 - j. A victim of the delinquent child or the victim's guardian. All records including medical, educational, and school information must be redacted before inspection. For purposes of this subdivision, only records pertaining to the specific offense between the victim and the delinquent child may be inspected.
2. Juvenile court files and records are also open to inspection with written leave of a juvenile court judge or judicial referee to whom juvenile court matters have been referred:

- a. Upon a showing in writing of a legitimate interest in a proceeding or in the work of the juvenile court, but only to the extent necessary to respond to the legitimate interest; and
- b. By the principal of any public or private school that is a member of the North Dakota high school activities association, or the superintendent of any school district that has one or more schools involved in the association, but only to the extent necessary to enforce the rules and regulations of the North Dakota high school activities association.
3. In a proceeding under this chapter, if the juvenile court finds a child committed a delinquent act that constitutes a violation of a law or local ordinance governing the operation of a motor vehicle or a delinquent act of manslaughter or negligent homicide caused by the child's operation of a motor vehicle, the juvenile court shall report the finding to the director of the department of transportation within ten days.
4. Following an adjudication of delinquency for an offense that would be a felony if committed by an adult, the child's school principal, chief administrative officer, or designated school guidance counselor, if requested, must be allowed access to the disposition order. Any other juvenile court files and records of a child may be disclosed to a superintendent or principal of the school in which the child is currently enrolled or in which the child wishes to enroll if the child's documented behavior appears to present a danger to self or to the students or staff of the school.
5. Following an adjudication of delinquency for an offense that results in the prohibitions included in subsection 1 or 2 of section 62.1-02-01, if requested, a law enforcement officer must be allowed access to the disposition order.
6. The juvenile court may notify a referring agency of the disposition of a case.
7. Notwithstanding that juvenile court records are closed to the public, nothing in this section may be construed to limit the release upon request of general information not identifying the identity of any juvenile, witness, or victim in any proceeding under this chapter. Files in the clerk of court's office are open to public inspection if the related hearing was open to the public under section 27-20.3-13.
8. To the extent necessary to provide victim services or benefits under chapter 12.1-41, the judge and staff of the juvenile court may disclose information to refer a child, who may be a victim of human trafficking, to a program for runaway and homeless children located in the state and approved by the juvenile court of jurisdiction. Information disclosed under this subsection must remain confidential.
9. An individual with access or authorization to inspect juvenile court files and records under this section may not share the information contained in the files and records with any other person not authorized by law. An individual who violates this subsection is guilty of a class B misdemeanor.

27-20.2-22. Disclosure of information needed to apprehend child.

Notwithstanding any other provision of law, the name, photographs, fingerprints, or other identifying information of a child who is alleged to have committed a delinquent act involving actual or threat of serious bodily injury which would constitute

a felony if committed by an adult or who left without authorization from a secure detention facility may be released by law enforcement, the division of juvenile services, or the juvenile court for purposes of apprehending the child.

27-20.2-23. Law enforcement and correctional facility records.

1. Unless a charge of delinquency is transferred for criminal prosecution under section 27-20.4-20, the interest of national security requires, or the court otherwise orders in the interest of the child, the law enforcement and correctional facility records and files of a child alleged or found to be delinquent or in need of services or protection are not open to public inspection; but inspection of these records and files is permitted by:
 - a. A juvenile court having the child before the court in any proceeding;
 - b. Counsel for a party to the proceeding;
 - c. The officers of public institutions or agencies to whom the child is or may be committed;
 - d. Law enforcement officers of other jurisdictions if necessary for the discharge of official duties of the officers;
 - e. A court in which the child is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of correctional facilities to which the child is detained or committed, or by the parole board, the governor, or the pardon advisory board, if one has been appointed, in considering the child's parole or discharge or in exercising supervision over the child;
 - f. The professional staff of the uniform crime victims compensation program if necessary for the discharge of the duties of the professional staff pursuant to chapter 54-23.4; and
 - g. A superintendent, assistant superintendent, principal, or designee of the school in which the child is currently enrolled or of a school in which the child wishes to enroll.
2. Notwithstanding that law enforcement records and files of a child alleged or found to be delinquent or in need of services or protection are not open to public inspection, this section does not limit the release of general information that does not identify the identity of the child.

27-20.2-24. Children's fingerprints, photographs.

1. A child under fourteen years of age may not be fingerprinted in the investigation of a crime except as provided in this section. Fingerprints of a child who is referred to the court may be taken and filed by law enforcement officers in investigating the commission of the following crimes: murder, manslaughter, gross sexual imposition, robbery, aggravated assault, burglary, theft, forgery, and unlawful possession or use of a handgun.
2. Fingerprint files of children must be kept separate from those of adults. Copies of fingerprints known to be those of a child may be maintained locally and copies may be sent to a central state depository but may not be sent to a federal depository unless needed in the interest of national security.

3. Fingerprint files of children may be inspected by law enforcement officers if necessary for the discharge of official duties of law enforcement officers. Other inspections may be authorized by the court in individual cases upon a showing it is necessary in the public interest.
4. Fingerprints of a child are considered a part of the child's juvenile or adult investigative file and must be removed from the state and local files and destroyed in accordance with section 27-20.2-25.
5. If latent fingerprints are found during the investigation of an offense and a law enforcement officer has probable cause to believe the latent fingerprints are those of a particular child, the officer may fingerprint the child regardless of age or offense for purposes of immediate comparison with the latent fingerprints. If the comparison is negative, the fingerprint card and other copies of the fingerprints taken must be destroyed immediately. If the child is not referred to the court, the fingerprints must be destroyed immediately.
6. A child may be photographed by a law enforcement officer at the time of arrest for the crimes of murder, manslaughter, gross sexual imposition, robbery, aggravated assault, burglary, theft, forgery, or unlawful possession or use of a handgun. The photograph must be destroyed if the child is not referred to the juvenile court. If a court finds facts that would justify a finding that a child at least fourteen years of age at the time of the offense is delinquent and the finding involves the unlawful use or possession of a handgun or the commission of an act proscribed by the criminal laws of this state and punishable as a felony or a class A misdemeanor committed for the benefit of, at the direction of, or in association or affiliation with any criminal street gang, with the intent to promote, further, or assist in the activities of a criminal gang, the juvenile court shall order upon the request of the state's attorney the taking and retention of a photograph of the child for purposes of identification. Photographs of children under this subsection may be maintained on a local basis and sent to a central state depository but must be maintained separate from those of adults and must be destroyed in accordance with section 27-20.2-25.

27-20.2-25. Destruction of juvenile court records.

1. Except as otherwise required under section 25-03.3-04, all juvenile court records must be retained and disposed of pursuant to rules and policies established by the North Dakota supreme court.
2. Upon the final destruction of a file or record, the proceeding must be treated as if the proceeding never occurred. The juvenile court shall notify each agency named in the file or record of the destruction. All index references, except those which may be made by the attorney general and the directors of the department of transportation, the department of human services, the department of corrections and rehabilitation, the commission on legal counsel for indigents and its public defender offices, law enforcement agencies, and human service zones, must be deleted. Each agency, except the attorney general and the directors of the department of transportation, the department of human services, the department of corrections and rehabilitation, the commission on legal counsel for indigents and its public defender offices, law enforcement agencies, and human service zones, upon notification of the destruction of a file or record, shall destroy all files, records, and references to the child's apprehension, detention, and referral to the juvenile court and any record of disposition made by the juvenile court. The attorney general, the

department of human services, the department of corrections and rehabilitation, the commission on legal counsel for indigents and its public defender offices, law enforcement agencies, and human service zones may not keep a juvenile file or record longer than is required by the records retention policy of that official, department, or agency. Upon inquiry in any matter the child, the court, and representatives of agencies, except the attorney general and the directors of the department of transportation, the department of human services, the department of corrections and rehabilitation, law enforcement agencies, and human service zones, properly shall reply that no record exists with respect to the child.

27-20.2-26. Appeals.

1. An aggrieved party, including the state or a subdivision of the state, may appeal from a final order, judgment, or decree of the juvenile court to the supreme court by filing written notice of appeal within thirty days after entry of the order, judgment, or decree, or within any further time the supreme court grants, after entry of the order, judgment, or decree. The appeal must be heard by the supreme court upon the files, records, and minutes or transcript of the evidence of the juvenile court, giving appreciable weight to the findings of the juvenile court. The name of the child may not appear on the record on appeal.
2. The appeal does not stay the order, judgment, or decree appealed from, but the supreme court may otherwise order on application and hearing consistent with this chapter if suitable provision is made for the care and custody of the child. If the order, judgment, or decree appealed from grants the custody of the child to, or withholds custody of the child from, one or more of the parties to the appeal, the appeal must be heard at the earliest practicable time.

27-20.2-27. Rules of court.

The North Dakota supreme court may adopt rules of procedure governing proceedings under this chapter.

27-20.2-28. In-state placement of juveniles - Exception.

Except for cases in which the specific necessary treatment is unavailable in the state or cases in which the appropriate treatment or services cannot be provided in a timely manner in the state, all juveniles in need of residential treatment or residential care placement must be placed in in-state residential facilities.

SECTION 23. Chapter 27-20.3 of the North Dakota Century Code is created and enacted as follows:

27-20.3-01. Definitions.

As used in this chapter:

1. "Abandon" means:
 - a. As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause:
 - (1) To communicate with the child; or
 - (2) To provide for the care and support of the child as required by law; or

- b. As to a parent of a child in that parent's custody:
 - (1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;
 - (2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or
 - (3) Willfully to fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.
- 2. "Abandoned infant" means a child who has been abandoned before reaching the age of one year.
- 3. "Aggravated circumstances" means circumstances in which a parent:
 - a. Abandons, tortures, chronically abuses, or sexually abuses a child;
 - b. Fails to make substantial, meaningful efforts to secure treatment for the parent's addiction, mental illness, behavior disorder, or any combination of those conditions for one year;
 - c. Engages in conduct prohibited under sections 12.1-20-01 through 12.1-20-08 or chapter 12.1-27.2, in which a child is the victim or intended victim;
 - d. Engages in conduct that constitutes one of the following crimes, or of an offense under the laws of another jurisdiction which requires proof of substantially similar elements:
 - (1) A violation of section 12.1-16-01, 12.1-16-02, 12.1-16-03, or 14-09-22 in which the victim is another child of the parent;
 - (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the parent; or
 - (3) A violation of section 12.1-17-02 in which the victim is a child of the parent and has suffered serious bodily injury;
 - e. Engages or attempts to engage in conduct, prohibited under sections 12.1-17-01 through 12.1-17-04, in which a child is the victim or intended victim;
 - f. In the case of a child age nine or older, has been incarcerated under a sentence for which the latest release date is after the child's age of majority;
 - g. Subjects the child to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner; or

- h. Allows the child to be present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2.
- 4. "Attendant care" means a nonsecure holdover site for children in need of services who are in the custody of law enforcement and need constant short-term supervision on a preadjudicatory basis.
- 5. "Child in need of protection" means a child who:
 - a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the need for services or protection is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;
 - b. Has been placed for care or adoption in violation of law;
 - c. Has been abandoned by the child's parents, guardian, or other custodian;
 - d. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent;
 - e. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court;
 - f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner;
 - g. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2; or
 - h. Is a victim of human trafficking as defined in title 12.1.
- 6. "Child in need of services" means a child who:
 - a. Is habitually and without justification truant from school subject to compulsory school attendance and is absent from school without an authorized excuse more than three days during a school year;
 - b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian, including running away, and is ungovernable or who is willfully in a situation dangerous or injurious to the health, safety, or morals of the child or others;
 - c. Has committed an offense applicable only to a child, except for an offense committed by a minor fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution; or

- d. Is under the age of fourteen years and has purchased, possessed, smoked, or used tobacco, a tobacco-related product, an electronic smoking device, or an alternative nicotine product in violation of subsection 2 of section 12.1-31-03. As used in this subdivision, "electronic smoking device" and "alternative nicotine product" have the same meaning as in section 12.1-31-03; and
- e. In any of the foregoing instances is in need of treatment or rehabilitation.
- 7. "Custodian" means a person, other than a parent or legal guardian, which stands in loco parentis to the child and a person to which legal custody of the child has been given by order of a court.
- 8. "Diversion" means an intervention strategy that redirects a child away from formal processing in the juvenile justice system, while still holding the child accountable for that child's actions.
- 9. "Fit and willing relative or other appropriate individual" means a relative or other individual who has been determined, after consideration of an assessment that includes a criminal history record investigation under chapter 50-11.3, to be a qualified individual under chapters 27-20.1 and 30.1-27, and who consents in writing to act as a legal guardian.
- 10. "Home" as used in the phrase "to return home" means the abode of the child's parent with whom the child formerly resided.
- 11. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department of human services.
- 12. "Permanency hearing" means a hearing, conducted with respect to a child who is in foster care, to determine the permanency plan for the child which includes the following:
 - a. Whether and, if applicable, when the child will be returned to the parent.
 - b. Whether and, if applicable, when the child will be placed for adoption and the state will file a petition for termination of parental rights.
 - c. Whether and, if applicable, when a fit and willing relative or other appropriate individual will be appointed as a legal guardian.
 - d. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that the joint placement would be contrary to the safety or well-being of any of the siblings.
 - e. Whether and, if applicable, in the case of siblings removed from the home of the siblings who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is determined to be contrary to the safety or well-being of any of the siblings.
 - f. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing

relative, or to be placed with a legal guardian, whether and, if applicable, when the child, aged sixteen or older, will be placed in another planned permanent living arrangement. The court shall:

- (1) Ask the child whether the child has a desired permanency outcome of another planned permanent living arrangement;
 - (2) Make a judicial determination explaining why another planned permanent living arrangement is the best permanency plan for the child; and
 - (3) Identify the compelling reasons it continues not to be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative.
- g. In the case of a child who has been placed in foster care outside the state in which the home of the parents is located, or if the parents maintain separate homes, outside the state in which the home of the parent who was the child's primary caregiver is located, whether out-of-state placements have been considered. If the child is currently in an out-of-state placement, the court shall determine whether the placement continues to be appropriate and in the child's best interests.
- h. In the case of a child who has attained age fourteen, the services needed to assist the child to make the transition to successful adulthood.
13. "Qualified residential treatment programs" mean residential child care facilities that provide a higher level of care which must use a trauma-informed treatment model and employ registered or licensed nursing staff and other licensed clinical staff to meet the treatment needs of children in out-of-home placement.
14. "Referral" means a written report submitted to the director of juvenile court or the director of the human service zone concerning behavior without an arrest or taking into custody having occurred and the child remains in the parental home to be notified of any action taken by the director or human service zone as authorized in this chapter.
15. "Relative" means:
- a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
 - b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
 - c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or
 - d. The child's stepparent.
16. "Shelter care" means temporary care of a child in physically unrestricted facilities.

27-20.3-02. Jurisdiction.

Jurisdiction as set forth in section 27-20.2-03 is applicable to this chapter.

27-20.3-03. Venue.

Except as otherwise provided by this section, a proceeding under this chapter must be commenced in the county in which the child resides. If the need for services or protection are alleged, the proceeding may be brought in the county in which the child is present at the time the proceeding is commenced, the county in which the child has resided for the majority of the thirty days before the date of the alleged need for services or protection, or the county in which the alleged need for services or protection has occurred. The court shall determine the appropriate venue for a child in need of services or a child in need of protection based on the best interest of the child.

27-20.3-04. Powers and duties of director of juvenile court.

1. For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a director shall:
 - a. Make investigations, reports, and recommendations to the juvenile court.
 - b. Receive and examine referrals of a child in need of services or child in need of protection for the purpose of considering diversion of services.
 - c. Make a determination upon intake of referrals regarding the appropriate manner to handle delinquent conduct, a child in need of services, or a child in need of protection under this chapter.
 - d. Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.
 - e. Issue a temporary custody order concerning a child who is referred to the director's supervision or care as a child in need of services or a child in need of protection. Except as provided by this chapter, a director does not have the powers of a law enforcement officer.
 - f. Take acknowledgments of instruments for the purpose of this chapter.
 - g. Make such temporary order not to exceed ninety-six hours for the custody and control of a child alleged to be in need of services or protection as may be deemed appropriate. The order must be reduced to writing within twenty-four hours, excluding holidays and weekends.
 - h. Perform all other functions designated by this chapter or under section 27-05-30 or by order of the court, including, if qualified, those of a referee.
 - i. Issue an order to a law enforcement authority to transport a child to and from a specified location.
 - j. Receive and examine requests for review of a child's placement at a qualified residential treatment program under the Family First Prevention Services Act [Pub. L. 115-123; 132 Stat. 64; 42 U.S.C. 675].

2. Any of the foregoing functions may be performed in another state if authorized by the court of this state and permitted by the laws of the other state.

27-20.3-05. Method of making a child in need of services referral.

1. A referral alleging a child is a child in need of services may be made by a parent, guardian or other custodian, a law enforcement officer, a school official, or any other person that has knowledge of the facts alleged and believes such facts are true.
2. A referral alleging a child is a child in need of services under section 27-20.2-01 must be sent to the juvenile court.
3. The referral must be set forth in writing and must set forth the following:
 - a. The name, date of birth, and residence address of the child alleged to be a child in need of services;
 - b. The names and residence addresses of the parent, guardian or legal custodian, any other family members, or any other individuals living within the child's home;
 - c. The name of any public institution or agency having the responsibility or ability to supply services alleged to be needed by the child; and
 - d. Whether any of the matters required by this subsection are unknown.
4. If a school official is filing a referral alleging a child is a child in need of services, information must be included which shows:
 - a. The legally responsible school district has sought to resolve the expressed problem through all appropriate and available educational approaches; and
 - b. The school district has sought to engage the parent, guardian, or legal custodian of such child in solving the problem but such person has been unwilling or unable to do so, that the problem remains, and that court intervention is needed.
5. If a school official is filing a complaint alleging a child is a child in need of services involving a child who is eligible or suspected to be eligible for services under the federal Individuals with Disabilities Education Act of 1990 [20 U.S.C. 1400 et seq.] or Section 504 of the federal Rehabilitation Act of 1973 [29 U.S.C. 725], information must be included which demonstrates that the legally liable school district:
 - a. Has determined the child is eligible or suspected to be eligible under the federal Individuals with Disabilities Education Act of 1990 [20 U.S.C. 1400 et seq.] or Section 504 of the federal Rehabilitation Act of 1973 [29 U.S.C. 725]; and
 - b. Has reviewed for appropriateness the child's current individualized education program and placement and has made modifications as appropriate.

27-20.3-06. Taking into protective custody.

1. A child alleged to be in need of protection may be taken into protective custody:
 - a. Pursuant to an order of the court under this chapter;
 - b. By a law enforcement officer or designee if there are reasonable grounds to believe:
 - (1) The child is suffering from illness or injury or is in immediate danger from the child's surroundings, and the child's removal is necessary; or
 - (2) The child has run away from the child's parents, guardian, or other custodian; or
 - c. By order of the director made pursuant to section 27-20.3-04.
2. The taking of a child into protective custody is not an arrest, except for the purpose of determining the validity of the arrest under the Constitution of North Dakota or the United States Constitution.
3. A law enforcement officer may transport a child to and from attendant care.
4. Without a compelling reason to the contrary, a court order transferring a child into custody must provide a reasonable period of time to facilitate a beneficial transition for the child and other parties involved.

27-20.3-07. Shelter care of child.

A child taken into protective custody may not be placed in shelter care before the hearing on the petition unless the child's care is required to protect a person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because the child has no parent, guardian or custodian, or other person able to provide supervision and care for the child and return the child to the court if required, or an order for the child's shelter care has been made by the court pursuant to this chapter.

27-20.3-08. Release or delivery to court.

1. A person taking a child into protective custody, with all reasonable speed and without first taking the child elsewhere, shall:
 - a. Release the child to the child's parent, guardian, custodian, or other responsible adult able and willing to assume custody of the child, upon that person's promise to bring the child before the court if requested by the court, unless the child's shelter care is warranted or required; or
 - b. Bring the child before the court or deliver the child to a shelter care facility designated by the court or to a medical facility if the child is believed to suffer from a serious physical condition or illness that requires prompt treatment. The person taking the child into custody promptly shall give notice of taking the child into custody, together with a statement of the reason for taking the child into custody, to a parent, guardian, or other custodian and to the court. Any questioning of the child necessary to comply with this subdivision must conform to the procedures and conditions prescribed by this chapter and rules of court.

2. If a parent, guardian, or other custodian, when requested, fails to bring the child before the court as provided in subsection 1, the court may issue a temporary custody order directing the child be taken into custody and brought before the court.
3. If the petition is not filed, the child must be released from shelter care.

27-20.3-09. Place of shelter care.

A child alleged to be in need of shelter care may be placed only in:

1. A licensed foster home or a home approved by the court;
2. A facility operated by a licensed child welfare agency; or
3. Any other suitable place or facility, including a medical facility for the treatment of mental illness, alcoholism, or drug addiction, designated by the court.

27-20.3-10. Release from shelter care - Hearing - Conditions of release.

1. If a child is brought before the court or delivered to a shelter care facility designated by the court, the director, an intake officer, or other authorized officer of the court or human service zone immediately shall make an investigation and release the child unless it appears that the child's shelter care is warranted or required under section 27-20.3-07. If there is reason to believe the child may be an Indian child and the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 through 1963] may apply, the judge or referee may order the child be placed under the custody of the human service zone for a maximum of thirty days from the date of the emergency removal upon finding:
 - a. A return of the child to the parent or Indian custodian would subject the child to imminent danger or harm;
 - b. The court has been unable to transfer the proceeding to the appropriate Indian tribe; or
 - c. Holding an adjudicatory hearing is not possible.
2. If the child is not released, a judge or referee shall hold a shelter care hearing promptly and not later than ninety-six hours after the child is placed in shelter care to determine whether there is probable cause to believe that the child is in need of protection and whether the child's shelter care is required under section 27-20.3-07. Reasonable notice, either oral or written, stating the time, place, and purpose of the shelter care hearing must be given to the child and, if able to be found, to the child's parents, guardian, or other custodian. Before the commencement of the hearing, the court shall inform the parties of the rights of the parties to counsel and to counsel at public expense if the parties are indigent.
3. If continued shelter care is required, the judge or referee may order that the child be kept in shelter care for no more than sixty days from the date the child was placed in shelter care.
4. As a condition to the child's release from shelter care, the court may order a parent, guardian, custodian, or any other member of the household in which

the child resides to vacate the child's residence if probable cause exists to believe that the parent, guardian, custodian, or other member of the household has committed a sexual offense with or against the child, pursuant to sections 12.1-20-03 through 12.1-20-07 or section 12.1-20-11, and the presence of the alleged sexual offender in the child's residence presents a danger to the child's life or physical, emotional, or mental health. The court may order that the parent, guardian, or custodian not allow contact with an identified person if the court determines the order is in the best interests of the child.

5. If the child is not released and a parent, guardian, or custodian has not been notified of the hearing, did not appear or waive appearance at the hearing, and files an affidavit showing these facts, the court shall rehear the matter without unnecessary delay and order the child's release, unless it appears from the hearing that the child's shelter care is required under section 27-20.3-07.

27-20.3-11. Diversion.

A child in need of services may be diverted.

27-20.3-12. Petition - Who may prepare and file - Review.

A petition alleging a child in need of protection must be prepared, filed, and served upon the parties by the state's attorney. A petition may also be prepared by any other person, including a law enforcement officer, which has knowledge of the facts alleged or is informed and believes the facts are true. A petition prepared by any person other than a state's attorney may not be filed unless the director or the court has determined the filing of the petition is in the best interest of the public and the child.

27-20.3-13. Conduct of child in need of protection hearings.

1. A hearing under this chapter must be conducted by the court without a jury, in an informal but orderly manner and separately from other proceedings not included in section 27-20.2-03 and in accordance with the rules of North Dakota juvenile procedure.
2. If the hearing has not been held within the time limit, or any extension of the time limit, required by supreme court rule, the petition must be dismissed.
3. The state's attorney shall present the evidence in support of any allegations of the petition not admitted and otherwise conduct the proceedings on behalf of the state.
4. The proceedings must be recorded by stenographic notes or by electronic, mechanical, or other appropriate means.
5. Juvenile court hearings are closed to the public even if the purpose of the hearing is to declare a person in contempt of court. The general public must be excluded from other hearings under this chapter. In hearings from which the general public is excluded, only the parties, counsel of the parties, witnesses, victims, and any other persons the court finds have a proper interest in the proceedings may be admitted by the court. The court may temporarily exclude the child or other person from the hearing if, after being warned by the court that disruptive conduct will cause removal from the

courtroom, the child or other person persists in conduct that justifies removal from the courtroom.

27-20.3-14. Adjudication.

1. If the court finds from clear and convincing evidence that the child is in need of protection, the court shall proceed immediately or at a postponed hearing to make a proper disposition of the case.
2. After hearing the evidence on the petition, the court shall make and file findings as to whether the child is in need of protection. If the court finds the child is not in need of protection, the court shall dismiss the petition and order the child discharged from any restriction previously ordered in the proceeding.
3. In hearings under this section, all evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and relied upon to the extent of the probative value of the evidence even though not otherwise competent in the hearing on the petition. The parties or the counsel of the parties must be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making the reports. Sources of confidential information need not be disclosed.
4. On motion of the court or that of a party, the court may continue the hearings under this section for a reasonable period to receive reports and other evidence bearing on the disposition. In scheduling investigations and hearings the court shall give priority to proceedings in which a child has otherwise been removed from the child's home before an order of disposition has been made.

27-20.3-15. Disposition of a child in need of protection.

1. If a child is found to be a child in need of protection, the court may make any of the following orders of disposition best suited to the protection and physical, mental, and moral welfare of the child:
 - a. Permit the child to reside with the child's parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.
 - b. Subject to conditions and limitations as the court prescribes, transfer temporary legal custody to any of the following:
 - (1) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.
 - (2) The director of the human service zone or other public agency authorized by law to receive and provide care for the child.
 - c. Require the parents, guardian, or other custodian to participate in treatment.
 - d. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian under section 27-20.1-11.

- e. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, establish, by order, some other planned permanent living arrangement.
- 2. Without a compelling reason to the contrary, a court order that transfers the child from the current protective placement to a parent or other biological family must provide a reasonable period of time to facilitate a beneficial transition for the child and other parties involved.
- 3. A child in need of protection may not be placed in a residential facility that houses delinquent children.

27-20.3-16. Disposition of child needing continued foster care services.

- 1. As used in this section, "child" means an individual between the ages of eighteen and twenty-one years who is in need of continued foster care services.
- 2. A petition to commence an action under this section must contain information as required by supreme court rule along with an affidavit either prepared by the administrative human service zone, as determined by the department of human services, or prepared by an agency or tribal council of a recognized Indian reservation in this state.
- 3. The court shall issue a summons upon the filing of a petition and affidavit.
- 4. If a child is in need of continued foster care services as determined by the human service zone or the department of human services and as set forth in a continued foster care agreement, the court shall make the following judicial determination:
 - a. That the child is not in need of services or protection or delinquent, but is in need of continued foster care services;
 - b. That the child will remain in or will return to foster care pursuant to the child's continued foster care agreement;
 - c. That the child's continued foster care agreement has been willfully entered between:
 - (1) The human service zone or the department of human services or its agent, the child, and the foster care provider; or
 - (2) An agency or tribal council of a recognized Indian reservation in the state if the child is not subject to the jurisdiction of the state, the child, and the foster care provider;
 - d. That it is in the best interest of the child to remain in or return to foster care;
 - e. That reasonable efforts were made in accordance with subsection 7 of section 27-20.3-18;

- f. That the child has attained the age of eighteen or older but does not exceed the age of twenty-one years;
 - g. That the child has satisfied the education, employment, or disability requirements under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 [Pub. L. 110-351] and as set forth by the department of human services;
 - h. That the human service zone, as determined by the department of human services, or that an agency or tribal council of a recognized Indian reservation in the state, shall continue foster care case management, unless otherwise agreed to or required by the department of human services;
 - i. That the human service zone or an agency or tribal council of a recognized Indian reservation in the state must have care and placement responsibility of the child;
 - j. That permanency hearing must be as set forth in section 27-20.3-24; and
 - k. That there are no grounds to file a petition to terminate parental rights under section 27-20.3-20.
- 5. Pursuant to rule 16 of the North Dakota Rules of Juvenile Procedure, a court may modify or vacate the judicial determination made under subsection 4.

27-20.3-17. Human service zone to report to committing juvenile court.

- 1. A human service zone shall develop a family case plan and file the plan with the committing juvenile court within sixty days.
- 2. A human service zone shall review each placement of a child found to be in need or protection with custody ordered to a human service zone and shall review the current status of each child every three months to determine whether a change in placement or program is necessary for continued efforts toward reunification and permanency of the child, and shall report the findings to the committing juvenile court.

27-20.3-18. Reasonable efforts to prevent removal or to reunify - When required.

- 1. As used in this section, "reasonable efforts" means the exercise of due diligence, by the agency granted authority over the child under this chapter, to use appropriate and available services to meet the needs of the child and the child's family in order to prevent removal of the child from the child's family or, after removal, to use appropriate and available services to eliminate the need for removal, to reunite the child and the child's family, and to maintain family connections. In determining reasonable efforts to be made with respect to a child under this section, and in making reasonable efforts, the child's health and safety must be the paramount concern.
- 2. Except as provided in subsection 4, reasonable efforts must be made to preserve families, reunify families, and maintain family connections:
 - a. Before the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home;

- b. To make it possible for a child to return safely to the child's home;
 - c. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that such a joint placement would be contrary to the safety or well-being of any of the siblings; and
 - d. In the case of siblings removed from the home of the siblings who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is contrary to the safety or well-being of any of the siblings.
- 3. If the court or the child's custodian determined that continuation of reasonable efforts, as described in subsection 2, is inconsistent with the permanency plan for the child, reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete steps that are necessary to finalize the permanent placement of the child.
 - 4. Reasonable efforts of the type described in subsection 2 are not required if:
 - a. A court of competent jurisdiction has determined a parent has subjected a child to aggravated circumstances; or
 - b. The parental rights of the parent, with respect to another child of the parent, have been involuntarily terminated.
 - 5. Efforts to place a child for adoption, with a fit and willing relative or other appropriate individual as a legal guardian, or in another planned permanent living arrangement, may be made concurrently with reasonable efforts of the type described in subsection 2.
 - 6. Removal of a child from the child's home for placement in foster care must be based on judicial findings stated in the court's order, and determined on a case-by-case basis in a manner that complies with the requirements of titles IV-B and IV-E of the federal Social Security Act [42 U.S.C. 620 et seq. and 42 U.S.C. 6701 et seq.], as amended, and federal regulations adopted under this federal Act, provided that this subsection may not provide a basis for overturning an otherwise valid court order.
 - 7. For the purpose of section 27-20.3-19, reasonable efforts were made under this section to meet the child's needs before a foster care placement for a child remaining in care for continued foster care purposes.

27-20.3-19. Indian child welfare - Active efforts and procedures.

- 1. As used in this section:
 - a. "Active efforts" means affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with the child's family. Active efforts required of the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 through 1963] apply or may apply, including during the verification process. If an agency is involved in the child-custody proceeding, active efforts must involve assisting the parent or parents or Indian custodian through the steps of a case plan and with accessing or developing the resources necessary to satisfy the case plan. To the maximum extent possible, active efforts should be provided in a manner

consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe and should be conducted in partnership with the Indian child and the Indian child's parents, extended family members, Indian custodians, and tribe. Active efforts are to be tailored to the facts and circumstances of the case. The term includes:

- (1) Conducting a comprehensive assessment of the circumstances of the Indian child's family, with a focus on safe reunification as the most desirable goal, with ongoing timely assessment to determine when the threat is resolved and placement of the child can be returned to the custodian.
 - (2) Identifying appropriate services and helping the parents to overcome barriers, including actively assisting the parents in obtaining such services.
 - (3) Identifying, notifying, and inviting representatives of the Indian child's tribe to participate in providing support and services to the Indian child's family and in family team meetings, permanency planning, and resolution of placement issues.
 - (4) Conducting or causing to be conducted a diligent search for the Indian child's extended family members, and contacting and consulting with extended family members to provide family structure and support for the Indian child and the Indian child's parents.
 - (5) Offering and employing available and culturally appropriate family preservation strategies and facilitating the use of remedial and rehabilitative services provided by the child's tribe.
 - (6) Taking steps to keep siblings together, if possible.
 - (7) Supporting regular visits with parents or Indian custodians in the most natural setting possible as well as trial home visits of the Indian child during any period of removal, consistent with the need to ensure the health, safety, and welfare of the child.
 - (8) Identifying community resources, including housing, financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Indian child's parents or, as appropriate, the child's family, in utilizing and accessing those resources.
 - (9) Monitoring progress and participation in services.
 - (10) Considering alternative ways to address the needs of the Indian child's parents and where appropriate, the family, if the optimum services do not exist or are not available.
 - (11) Providing post-reunification services and monitoring.
- b. "Extended family member" means a relationship defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, means an individual who has reached the age of eighteen and who is the

- Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.
- c. "Indian" means an individual who is a member of an Indian tribe, or who is a native and a member of a regional corporation as defined under 43 U.S.C. 1606.
 - d. "Indian child" means any unmarried individual who is under the age of eighteen and is either a member of an Indian tribe or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.
 - e. "Indian child's tribe" means the Indian tribe in which an Indian child is a member or eligible for membership or, in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts.
 - f. "Indian custodian" means any Indian individual who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of the child.
 - g. "Indian tribe" means an Indian tribe, band, nation, or other organized Indian group or community of Indians recognized as eligible for services provided to Indians by the United States secretary of the interior because of their status as Indians, including any Alaska native village as defined in 43 U.S.C. 1602(c).
 - h. "Parent" means any biological parent or parents of an Indian child or any Indian individual who has lawfully adopted an Indian child, including adoptions under tribal law or custom. The term does not include the unwed father if paternity has not been acknowledged or established.
 - i. "Termination of parental rights" means any action resulting in the termination of the parent-child relationship. It does not include a placement based upon an act by an Indian child which, if committed by an adult, would be deemed a crime or a placement upon award of custody to one of the child's parents in a divorce proceeding.
2. Before removal of an Indian child from the custody of a parent or Indian custodian for purposes of involuntary foster care placement or the termination of parental rights over an Indian child, the court shall find that active efforts have been made to provide remedial services and rehabilitative services designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful. The court may not order the removal unless evidence of active efforts shows there has been a vigorous and concerted level of casework beyond the level that would constitute reasonable efforts under section 27-20.3-26. Reasonable efforts may not be construed to be active efforts. Active efforts must be made in a manner that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe. Active efforts must utilize the available resources of the Indian child's extended family, tribe, tribal and other relevant social service agencies, and individual Indian caregivers.

3. The court may order the removal of the Indian child for involuntary foster care placement only if the court determines, by clear and convincing evidence, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. Evidence must show a causal relationship between the particular conditions in the home and the likelihood that continued custody of the child will result in serious emotional or physical damage to the particular child who is the subject of the proceeding. Poverty, isolation, custodian age, crowded or inadequate housing, substance use, or nonconforming social behavior does not by itself constitute clear and convincing evidence of imminent serious emotional or physical damage to the child. As soon as the threat has been removed and the child is no longer at risk, the state should terminate the removal, by returning the child to the parent while offering a solution to mitigate the situation that gave rise to the need for emergency removal and placement.
4. The court may only order the termination of parental rights over the Indian child if the court determines, by evidence beyond a reasonable doubt that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
5. In considering whether to involuntarily place an Indian child in foster care or to terminate the parental rights of the parent of an Indian child, the court shall require that a qualified expert witness must be qualified to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child and should be qualified to testify as to the prevailing social and cultural standards of the Indian child's tribe. An individual may be designated by the Indian child's tribe as being qualified to testify to the prevailing social and cultural standards of the Indian child's tribe. The court or any party may request the assistance of the Indian child's tribe or the bureau of Indian affairs office serving the Indian child's tribe in locating individuals qualified to serve as expert witnesses. The social worker regularly assigned to the Indian child may not serve as a qualified expert witness in child-custody proceedings concerning the child. The qualified expert witness should be someone familiar with the particular child and have contact with the parents to observe interaction between the parents, child, and extended family members. The child welfare agency and courts should facilitate access to the family and records to facilitate accurate testimony.

22-20.3-20. Termination of parental rights.

1. The court by order may terminate the parental rights of a parent with respect to the parent's child if:
 - a. The parent has abandoned the child;
 - b. The child is subjected to aggravated circumstances;
 - c. The child is in need of protection and the court finds:
 - (1) The conditions and causes of the need for protection are likely to continue or will not be remedied and for that reason the child is suffering or will probably suffer serious physical, mental, moral, or emotional harm; or

- (2) The child has been in foster care, in the care, custody, and control of the department or human service zone for at least four hundred fifty out of the previous six hundred sixty nights;
 - d. The written consent of the parent acknowledged before the court has been given; or
 - e. The parent has pled guilty or nolo contendere to, or has been found guilty of engaging in a sexual act under section 12.1-20-03 or 12.1-20-04, the sexual act led to the birth of the parent's child, and termination of the parental rights of the parent is in the best interests of the child.
2. If the court does not make an order of termination of parental rights, it may grant an order under section 27-20.3-15 if the court finds from clear and convincing evidence that the child is in need of protection.

27-20.3-21. Petition for termination of parental rights.

1. As used in this section:
- a. "A finding that the child has been subjected to child abuse or neglect" means:
 - (1) A finding of a child in need of protection made under this chapter; or
 - (2) A conviction of a person, responsible for a child's welfare, for conduct involving the child, under chapter 12.1-16 or sections 12.1-17-01 through 12.1-17-04 or 12.1-20-01 through 12.1-20-08.
 - b. "Compelling reason" means a recorded statement that reflects consideration of:
 - (1) The child's age;
 - (2) The portion of the child's life spent living in the household of a parent of the child;
 - (3) The availability of an adoptive home suitable to the child's needs;
 - (4) Whether the child has special needs; and
 - (5) The expressed wishes of a child age ten or older.
 - c. "Department" means the department of human services.
 - d. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
2. A petition for termination of parental rights must be prepared, filed, and served upon the parties by the state's attorney. A petition may also be prepared by any other person that is not the court, including a law enforcement officer, who has knowledge of the facts alleged or is informed and believes that they are true. A petition prepared by any person other than a state's attorney may not be filed unless the director or the court, has determined the filing of the petition is in the best interest of the public and the child.

3. Except as provided in subsection 4, a petition for termination of parental rights must be filed:
 - a. If the child has been in foster care, in the custody of the department, human service zone, or, in cases arising out of an adjudication by the court of a child in need of services, the division of juvenile services, for at least four hundred fifty out of the previous six hundred sixty nights;
 - b. Within sixty days after the court has found the child to be an abandoned infant; or
 - c. Within sixty days after the court has convicted the child's parent of one of the following crimes, or of an offense under the laws of another jurisdiction which requires proof of substantially similar elements:
 - (1) A violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03, or subsection 1 of section 14-09-22 in which the victim is another child of the parent;
 - (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the parent; or
 - (3) A violation of section 12.1-17-02 in which the victim is a child of the parent and has suffered serious bodily injury.
4. A petition for termination of parental rights need not be filed if:
 - a. The child is being cared for by a relative approved by the department and human service zone;
 - b. The department or human service zone has documented in the case plan a compelling reason for determining that filing such a petition would not be in the child's best interests and has notified the court that the documentation is available for review by the court; or
 - c. The department or the human service zone has determined:
 - (1) Reasonable efforts to preserve and reunify the family are required under section 27-20.3-26 to be made with respect to the child;
 - (2) The case plan provides such services are necessary for the safe return of the child to the child's home; and
 - (3) Such services have not been provided consistent with time periods described in the case plan.
5. For purposes of subsection 3, a child in foster care entered foster care on the earlier of:
 - a. The date of the court's order if the court:
 - (1) Made a finding that the child has been subjected to child abuse or neglect;

- (2) Determined that it is unsafe or contrary to the welfare of the child to remain in the home; and
 - (3) Granted custody of the child to the department or human service zone or, in cases arising out of an adjudication by the court that a child is in need of services, the division of juvenile services; or
 - b. The date that is sixty days after:
 - (1) The date of a hearing under section 27-20.3-10 which results in maintaining a child in shelter care;
 - (2) The date of an order in a dispositional hearing under which a child is placed in foster care; or
 - (3) The date a child is placed in foster care voluntarily and with the consent of the child's parent.
 6. For purposes of subsection 3, a child leaves foster care at the time:
 - a. The court enters an order:
 - (1) Denying a petition to grant care, custody, and control of the child to the human service zone or the division of juvenile services;
 - (2) Terminating an order that granted custody of the child to the human service zone or the division of juvenile services; or
 - (3) Appointing a legal guardian under chapter 27-20.1;
 - b. The court order under which the child entered foster care ends by operation of law;
 - c. The child is placed in a parental home by the court or a legal custodian other than the division of juvenile services and the legal custodian lacks authority to remove the child without further order of the court; or
 - d. The child is placed in a parental home by the division of juvenile services.
 7. For purposes of subsection 3, a child is not in foster care on any night during which the child is:
 - a. On a trial home visit;
 - b. Receiving services at the youth correctional center pursuant to an adjudication of delinquency; or
 - c. Absent without leave from the place in which the child was receiving foster care.

27-20.3-22. Proceeding for termination of parental rights.

1. The petition must contain information required by the North Dakota Rules of Juvenile Procedure and state clearly that an order for termination of parental rights is requested and that the effect will be as stated in section 27-20.3-23.

2. If both of the biological parents of the child are not named in the petition either as petitioner or as respondent, the court shall cause inquiry to be made of the petitioner and other appropriate persons in an effort to identify an unnamed parent. The inquiry must include, to the extent necessary and appropriate, all of the following:
 - a. Whether any man is presumed to be the father of the child under chapter 14-20.
 - b. Whether the biological mother of the child was cohabiting with a man at the time of conception or birth of the child.
 - c. Whether the biological mother of the child has received from any man support payments or promises of support with respect to the child or in connection with the pregnancy.
 - d. Whether any individual has formally or informally acknowledged or declared that individual's possible parentage of the child.
 - e. Whether any individual claims any right to custody of the child.
3. The court shall add as respondent to the petition and cause to be served with a summons any individual identified by the court as an unnamed parent, unless the individual has relinquished parental rights, or parental rights have been previously terminated by a court.
4. If the court, after inquiry, is unable to identify an unnamed parent and no individual has appeared in the proceeding claiming to be an unnamed parent of the child or to have any right of custody of the child, the court shall enter an order terminating all parental rights of the unnamed parent with reference to the child and the parent and child relationship.
5. If a petition for termination of parental rights is made by a parent of the child under this section or if a parent consents to termination of parental rights, that parent is entitled to legal counsel during all stages of a proceeding to terminate the parent and child relationship.
6. Subject to the disposition of an appeal, upon the expiration of thirty days after an order terminating parental rights is issued under this section, the order may not be questioned by any person, including the petitioner, in any manner, or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter, unless the person retained custody of the child.
7. At least ten days before the petition is heard, the clerk of district court or juvenile court shall provide a copy of the petition and summons, if any, to the director of the human service zone.

27-20.3-23. Effect of order terminating parental rights or appointing a legal guardian.

An order terminating parental rights of a parent terminates all the parent's rights and obligations with respect to the child and of the child to or through the parent arising from the parental relationship. Following the order terminating parental rights, the parent is not entitled to notice of proceedings for the adoption of the child by

another nor has the parent any right to object to the adoption or otherwise to participate in the proceedings.

27-20.3-24. Disposition upon termination of parental rights.

1. If, upon entering an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall:
 - a. Commit the child to the custody of the human service zone director or a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption or, in the absence of such an agreement, in a foster home;
 - b. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian; or
 - c. Establish some other planned permanent living arrangement.
2. The custodian has the rights of a legal custodian and authority to consent to the child's adoption, marriage, enlistment in the armed forces of the United States, and surgical and other medical treatment.
3. If the child is not placed for adoption within twelve months after the date of the order and a legal guardianship or other planned permanent living arrangement for the child has not been established by a court of competent jurisdiction, the child must be returned to the court issuing the original termination order for entry of further orders for the care, custody, and control of the child.

27-20.3-25. Court order required for removal of child.

An order of disposition or other adjudication in a proceeding under this chapter, in those cases in which a child is removed from the home of a parent, custodian, or guardian for the reason that continuation in such home would be contrary to the welfare of such child, must specifically state that a continuation of the child in the home of the parent, custodian, or guardian would be contrary to the welfare of the child.

27-20.3-26. Limitations of time on orders of disposition.

1. An order terminating parental rights is without limit as to duration.
2. An order of disposition requiring services for the family without the removal of custody may not exceed twelve months from disposition unless extended by the court. The human service zone may request two extensions of up to four months each for the family to complete the treatment goals of the court order and the case plan.
3. Except as provided in subsection 2, an order of disposition pursuant to which a child is placed in foster care may not continue in force for more than twelve months after the child is considered to have entered foster care. Before the extension of any court order limited under this subsection, a permanency hearing must be conducted. Any other order of disposition may not continue in force for more than twelve months.

4. Except after a termination of parental rights finding, the court may terminate an order of disposition before the expiration of the order or extend its duration for further periods. An order of extension may be made if:
 - a. A hearing is held before the expiration of the order upon motion of a party or on the court's own motion;
 - b. Reasonable notice of the hearing and opportunity to be heard are given to the parties affected;
 - c. The court finds the extension is necessary to accomplish the purposes of the order extended; and
 - d. The extension does not exceed twelve months from the expiration of an order limited by subsection 3 or two years from the expiration of any other limited order.
5. The court may terminate an order of disposition or extension before its expiration, on or without an application of a party, if it appears to the court the purposes of the order have been accomplished. If a party may be affected adversely by the order of termination, the order may be made only after reasonable notice and opportunity to be heard have been given to the party.
6. Except as provided in subsection 1, when the child attains the age of twenty years, all orders affecting the child then in force terminate and the child is discharged from further obligation or control.
7. If an order of disposition is made with respect to a child under the age of ten years pursuant to which the child is placed in foster care without terminating parental rights and the parent and child relationship, the court, before extending the duration of the order, shall determine upon the extension hearing whether the child is adoptable and whether termination of those rights and that relationship is warranted under section 27-20.3-03.1 and is in the best interest of the child. In that case the notice of the extension hearing also must inform the parties affected that the court will determine whether the child is adoptable and whether termination of their parental rights and the parent and child relationship is warranted and in the best interest of the child and that a further order of disposition may be made by the court placing the child with a view to adoption. If the court determines the child is adoptable and termination of parental rights and the parent and child relationship is warranted and is in the best interest of the child, the court shall make a further order of disposition terminating those rights and that relationship and committing the child under section 27-20.3-09.

SECTION 24. Section 27-20.3-05 of the North Dakota Century Code, as created by section 23 of this Act, is amended and reenacted as follows:

27-20.3-05. Method of making a child in need of services referral.

1. A referral alleging a child is a child in need of services may be made by a parent, guardian or other custodian, a law enforcement officer, a school official, or any other person that has knowledge of the facts alleged and believes such facts are true.
2. A referral alleging a child is a child in need of services under section 27-20.2-01 must be sent to the juvenile court.

3. The referral must be set forth in writing and must set forth the following:
 - a. The name, date of birth, and residence address of the child alleged to be a child in need of services;
 - b. The names and residence addresses of the parent, guardian or legal custodian, any other family members, or any other individuals living within the child's home;
 - c. The name of any public institution or agency having the responsibility or ability to supply services alleged to be needed by the child; and
 - d. Whether any of the matters required by this subsection are unknown.
4. If a school official is filing a referral alleging a child is a child in need of services, information must be included which shows:
 - a. The legally responsible school district has sought to resolve the expressed problem through all appropriate and available educational approaches; and
 - b. The school district has sought to engage the parent, guardian, or legal custodian of such child in solving the problem but such person has been unwilling or unable to do so, that the problem remains, and that court intervention is needed.
5. If a school official is filing a complaint alleging a child is a child in need of services involving a child who is eligible or suspected to be eligible for services under the federal Individuals with Disabilities Education Act of 1990 [20 U.S.C. 1400 et seq.] or Section 504 of the federal Rehabilitation Act of 1973 [29 U.S.C. 725], information must be included which demonstrates that the legally liable school district:
 - a. Has determined the child is eligible or suspected to be eligible under the federal Individuals with Disabilities Education Act of 1990 [20 U.S.C. 1400 et seq.] or Section 504 of the federal Rehabilitation Act of 1973 [29 U.S.C. 725]; and
 - b. Has reviewed for appropriateness the child's current individualized education program and placement and has made modifications as appropriate.
6. A referral alleging that a child is a child in need of services under section 27-20.2-01 must be sent to the applicable human service zone.

SECTION 25. Chapter 27-20.4 of the North Dakota Century Code is created and enacted as follows:

27-20.4-01. Definitions.

As used in this chapter:

1. "Accountability" means that after a child is determined to have committed delinquent behavior, by admission or adjudication, the child is held responsible for the behavior through individualized and structured consequences or

- sanctions for the loss, damage, or injury suffered and proportionate to the offense.
2. "Arrest" means a taking into custody of a child by law enforcement in the manner authorized by law to answer for the commission of a delinquent offense.
 3. "Attendant care" is a nonsecure holdover site for delinquent children or children in need of services who have been picked up by law enforcement and need constant short-term supervision on a preadjudicatory basis.
 4. "Child" means an individual who is:
 - a. Under the age of eighteen years and is not married; or
 - b. Under the age of twenty years with respect to a delinquent act committed while under the age of eighteen years and not married.
 5. "Community-based program" means a nonresidential program.
 6. "Custodian" means a person, other than a parent or legal guardian, which stands in loco parentis to the child and a person that has been given legal custody of the child by order of a court.
 7. "Delinquent act" means an act designated a crime under the law, including local ordinances or resolutions of this state, or of another state if the act occurred in that state, or under federal law.
 8. "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation.
 9. "Detention" means a physically secure facility with locked doors. The term does not include shelter care, attendant care, or home confinement.
 10. "Director" means the director of juvenile court services.
 11. "Dispositional stage" means any proceeding after adjudication for a delinquent offense.
 12. "Diversion" means an intervention strategy made by a person with authority which directs the child away from formal court processing to a specifically designed program or activity to hold the child accountable for the actions of the child and prevents further involvement in the formal legal system.
 13. "Division" means the division of juvenile services.
 14. "Evidence-based" means a program or practice that has had multiple randomized control studies demonstrating the program or practice is effective for a specific population, has been researched, and has been rated as effective by a standardized program evaluation tool.
 15. "Facility" means buildings, structures, or systems, including those for essential administration and support, which are used to provide residential treatment for children.

16. "Fit and willing relative or other appropriate individual" means a relative or other individual who has been determined, after consideration of an assessment that includes a criminal history record investigation under chapter 50-11.3, to be a qualified individual under chapters 27-20.1 and 30.1-27, and who consents in writing to act as a legal guardian.
17. "Graduated sanctions" means a calibrated system of sanctions designed to ensure that children face timely and consistent consequences that correspond to the frequency and nature of a child's noncompliant behaviors, public safety risk, and engagement in supervision and services.
18. "Home" when used in the phrase "to return home" means the abode of the child's parent with whom the child formerly resided.
19. "Home confinement" means predisposition or post-disposition temporary placement of a child in the child's home, or a surrogate home with the consent of the child's parent, guardian, or custodian for supervision.
20. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department of human services.
21. "Incentives" means calibrated system of rewards designed so that children receive immediate and consistent feedback that supports appropriate behavior and follow through with probation conditions.
22. "Informal adjustment" means a meeting held by the director of juvenile court or designee to resolve a low-level delinquent referral and is an alternative to the filing of a petition for formal court processing.
23. "Intensive supervision probation program" means a community-based alternative that provides a higher degree of supervision and use of graduated incentives and sanctions over a child, post-adjudication, to ensure public safety and applies to children who are at high risk to reoffend.
24. "Juvenile court" means the district court of this state.
25. "Juvenile drug court" means a program established by the supreme court which is a post-petition or post-adjudication program aimed at intervening in substance use disorders through intense supervision and participation in recovery services.
26. "Pick up and hold order" means an order of the court to take a child into custody based upon an allegation of delinquency or failure to appear for court.
27. "Predisposition assessment" means an investigation, assessment, and written report to the court based on the results of risk and need screening and assessment tools regarding a disposition for a delinquent child.
28. "Proceeding" means any hearing or informal adjustment conducted before a court.
29. "Qualified residential treatment program" means a licensed or approved residence providing an out-of-home treatment placement for children including a trauma-informed model.

30. "Referral" means a written report of alleged delinquent behavior of a child which is received by the director of juvenile court.
31. "Relative" means:
 - a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
 - b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
 - c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or
 - d. The child's stepparent.
32. "Risk factors" means characteristics and behaviors that, when addressed or changed, affect a child's risk for committing delinquent acts.
33. "Shelter care" means temporary care of a child in physically unrestricted facilities.
34. "Treatment" means targeting interventions that focus on risk factors, improved mental health, and improved positive youth outcomes.

27-20.4-02. Jurisdiction.

Jurisdiction as set forth in section 27-20.2-03 is applicable to this chapter.

27-20.4-03. Venue.

A proceeding under this chapter may be commenced in the county in which the child resides. If delinquent conduct is alleged, the proceeding is commenced in the county in which the acts constituting the alleged delinquent conduct occurred. If delinquent conduct is alleged in part in one county and in part in another county, the venue is in either of the counties.

27-20.4-04. Powers and duties of director of juvenile court.

1. For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a director shall:
 - a. Make investigations, reports, and recommendations to the juvenile court.
 - b. Receive and examine complaints, referrals, and charges of delinquency for the purpose of considering the commencement of proceedings under this chapter.
 - c. Make a determination upon intake of referrals regarding the appropriate manner to handle a child in need of services or a child in need of protection by use of nonjudicial commencement of proceedings under this chapter.
 - d. Supervise and assist a child placed on probation for delinquency.

- e. Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.
 - f. Issue a temporary custody order concerning a child who is referred to the director's supervision or care as a delinquent child. Except as provided by this chapter, a director does not have the powers of a law enforcement officer.
 - g. Take acknowledgments of instruments for the purpose of this chapter.
 - h. Perform all other functions designated by this chapter, under section 27-05-30, or by order of the court, including, if qualified, those of a referee.
 - i. Issue an order to a law enforcement authority to transport a child to and from a specified location.
 - j. Receive and examine requests for review of a child's placement at a qualified residential treatment program under the Family First Prevention Services Act [Pub. L. 115-123; 132 Stat. 64; 42 U.S.C. 675].
2. Any of the foregoing functions may be performed in another state if authorized by the court of this state and permitted by the laws of the other state.

27-20.4-05. Taking into custody.

1. A child may be taken into custody:
- a. Pursuant to a pick up and hold order or other order of the court under this chapter;
 - b. Pursuant to the laws of arrest and as authorized after scoring of the detention screening tool; or
 - c. For preadjudicatory supervision in attendant care or shelter care.
2. The taking of a child into custody is not an arrest, except for the purpose of determining the validity of the arrest under the Constitution of North Dakota or the United States Constitution.
3. A law enforcement officer shall transport a child if necessary as determined by the court.

27-20.4-06. Detention - Nonsecure care of child.

1. A child taken into custody may not be detained or placed in nonsecure care before the hearing on the petition unless the child's detention or nonsecure care is required to protect the person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because the child has no parent, guardian, or custodian or other person able to provide supervision and care for the child and return the child to the court if required, or an order for the child's detention or nonsecure care has been made by the court pursuant to this chapter.
2. Law enforcement, juvenile court staff, and division staff shall use a detention screening tool to assure the appropriate use of detention and whether the child is a public safety risk. The juvenile court shall establish the detention

- screening tool, which must include objective factors to aid in the decision of placement of the child. Law enforcement, court records, and division records must include data on detention screening scores and, if the score does not authorize detention, the explanation for the override resulting in placing the juvenile in detention.
3. The court may place a juvenile in detention before adjudication only if the court finds releasing the child would pose an unreasonable risk to public safety and that all less restrictive alternatives have been considered.
 4. A juvenile may be placed in a secure detention facility if one or more of the following conditions are met:
 - a. The child is alleged to have committed an offense that if committed by an adult would constitute a felony against person, felony weapon, or felony drug distribution;
 - b. The child has a record of failure to appear in court or there is probable cause to believe that the child will flee the jurisdiction of the court;
 - c. The child has violated the terms of detention release on home confinement or electronic monitoring;
 - d. There is oral or written verification that the child is an alleged delinquent child sought for an offense in another jurisdiction or that the child left a juvenile detention facility without authorization;
 - e. The child is an out-of-state runaway subject to the rules of the interstate commission on juveniles;
 - f. The child meets criteria for secure detention on the detention screening tool;
 - g. The child meets criteria for an override on the detention screening tool; or
 - h. If a child is participating in a juvenile drug court program as a result of an adjudication for a delinquent offense, the court may order the child detained in a juvenile detention center operated pursuant to chapter 12-44.1. The child may be detained twice during the child's participation in the program with the total period of detention under this section not to exceed four days in a one-year period.
 5. A child may not be placed in detention solely due to lack of supervision alternatives or due to the community's inability to provide appropriate treatment or services.
 6. Alternatives to secure detention may be utilized to include home confinement, electronic monitoring, and parental or guardian supervision if the court determines there is no unreasonable risk to public safety.
 7. A child placed in detention must have a mental health and trauma screening tool completed by the juvenile detention center or by juvenile court upon entry and provide that information to the juvenile court before release or detention hearing.

27-20.4-07. Release or delivery to court.

1. A person taking a child into custody, with all reasonable speed and without first taking the child elsewhere, shall:
 - a. Complete the detention screening instrument and use the results in making a release or hold decision. Release options include allowing a child to return home with parental supervision and a promise to appear for court if notified, or release with limited supervision, such as an electronic monitoring device or conditions for home confinement.
 - b. Release the child to the child's parent, guardian, custodian, or other responsible adult able and willing to assume custody of the child, upon that individual's promise to bring the child before the court if requested by the court, unless the child's detention is warranted or required under section 27-20.4-05; or
 - c. Bring the child before the court or deliver the child to a detention facility designated by the court or to a medical facility if the child is believed to suffer from a serious physical condition or illness that requires prompt treatment. The person taking the child into custody promptly shall give notice of taking the child into custody, together with a statement of the reason for taking the child into custody, to a parent, guardian, or other custodian and to the court. Any temporary detention or questioning of the child necessary to comply with this subdivision must conform to the procedures and conditions prescribed by this chapter and rules of court.
2. If a parent, guardian, or other custodian, if requested, fails to bring the child before the court as provided in subsection 1, the court may issue a pick up and hold order directing that the child be taken into custody and brought before the court.
3. If the petition is not filed within five days after the date of the detention hearing, the child must be released from detention.

27-20.4-08. Place of detention.

A child alleged to be delinquent may be detained only in:

1. A licensed foster home or a home approved by the court;
2. A facility operated by a licensed child welfare agency;
3. A detention home or center for delinquent children which is under the direction or supervision of the court or other public authority or of a private agency approved by the court:
 - a. Any other suitable place or facility, including a medical facility for the treatment of mental illness, alcoholism, or drug addiction, designated by the court; or
 - b. A jail or other facility for the detention of adults only if the facility is not available, the detention is in a room separate and removed from those for adults, it appears to the satisfaction of the court, the director, or designee, that public safety and protection reasonably require detention, and it is so authorized.

27-20.4-09. Release from detention or nonsecure care - Hearing - Conditions of release.

1. If a child is brought before the court or delivered to a detention or nonsecure care facility designated by the court, the director, the intake officer, or other authorized officer of the court immediately shall make an investigation and release the child unless it appears that the child's detention is warranted or required under section 27-20.4-05.
2. Reasonable notice of the release from detention must be provided to any victim as required by subsection 19 of section 12.1-34-02.
3. If the child is not released, reasonable notice, either oral or written, stating the time, place, and purpose of the detention or shelter care must be given to the child and, if able to be found, to the child's parents, guardian, or other custodian. If the child is not represented by counsel at a proceeding, the court shall inform the child of the right to counsel, regardless of income. Before the commencement of the hearing, the court shall inform the child's parents, legal guardian, or custodian of the right to counsel at public expense at the dispositional stage if the parent, guardian, or custodian applies and is determined to be indigent and of the child's right to remain silent with respect to any allegations of delinquent conduct.
 - a. If the child is not released from detention, a judge or referee shall hold a detention hearing within twenty-four hours after the time the child is placed in detention, excluding weekends or legal holidays, to determine whether there is probable cause to believe the child has committed the delinquent act alleged, and whether the child's detention is required under section 27-20.4-05. In determining whether a child requires detention, the court shall consider the results of the detention screening tool.
 - b. If the child is not released from nonsecure care, a judge or referee shall hold a hearing promptly and not later than ninety-six hours after the child is placed in nonsecure care to determine whether there is probable cause to believe the child has committed a delinquent act and whether the child's shelter care is required.
4. If the child is not released and a parent, guardian, or custodian has not been notified of the hearing, did not appear or waive appearance at the hearing, and files an affidavit showing these facts, the court shall rehear the matter without unnecessary delay and order the child's release, unless it appears from the hearing that the child's detention is required under section 27-20.4-05.
5. If the parents cannot be found or fail to appear for the detention or nonsecure care hearing and the child does not pose a substantial risk to the community and needs to be detained, the human service zone is notified and a child in need of protection or services care hearing is held.
6. If it appears that any child being held in detention or shelter care may have an intellectual or developmental disability, the court or detention personnel shall refer the child to the department of human services for an eligibility determination for intellectual or developmental disabilities program management services and a level of care assessment and the results must be filed with the court upon completion. The department of human services shall provide status updates to the court within the time required by the court.

7. If it appears that any child being held in detention or nonsecure care appears to have a serious and persistent mental illness, the detention staff or court intake officer shall request that the court order a diagnostic assessment that includes a recommendation for necessary level of care that must be conducted within forty-eight hours after the court's order. The person conducting the diagnostic assessment shall file the results with the court.
8. If an individual who is or appears to be a child is received at a jail facility or other facility for the detention of adult offenders or individuals charged with a crime, the official in charge of the facility immediately shall inform the court and bring the individual before the court upon request or deliver the individual to a detention or nonsecure facility designated by the court.
9. If a case is transferred to another court for criminal prosecution, the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime.

27-20.4-10. Diversion.

1. Before an informal adjustment is held or a petition is filed, the director of juvenile court or designee may determine that no further action is required or impose conditions in lieu of further proceedings for the conduct and control of the child with a diversion to a community-based program or service.
2. A child referred to the court may be considered for diversion if any of the following criteria are met:
 - a. The referral is for a delinquent act that is not an offense requiring a notification to be sent to the department of transportation;
 - b. The referral is for a delinquent act that has not been previously diverted more than twice by the juvenile court within the last twelve months; or
 - c. The referral is not an offense that could require sex offender registration.
3. Effective August 1, 2023, except for a drug-related offense, simple assault under chapter 12.1-17-01, or domestic violence under chapter 12.1-17-01.2, a child who commits an infraction or misdemeanor offense on school grounds during hours of operation may not be referred to the juvenile court.

27-20.4-11. Informal adjustment.

1. Before a petition is filed, the director of juvenile court, or other officer of the court designated by the court, subject to direction of the court may give counsel and advice to the parties and impose conditions for the conduct and control of the child in lieu of further proceedings with a view to an informal adjustment if it appears:
 - a. The admitted facts bring the case within the jurisdiction of the court;
 - b. Counsel, advice, and conditions, if any, for the conduct and control of the child without an adjudication would be in the best interest of the public and the child; and
 - c. The child and the child's parents, guardian, or other custodian consent to the conditions with knowledge that consent is not obligatory.

2. A child referred to the court may be considered for informal adjustment if any of the following criteria are met:
 - a. The child has no prior formal court adjudications for a similar case type within the last twelve months;
 - b. The referral is for a delinquent act and the child has not been previously diverted more than twice by the juvenile court;
 - c. A formal petition was filed but an informal adjustment has been requested by the state's attorney as part of an agreement with defense counsel or was ordered by the court in dismissing a formal petition;
 - d. The referral is a sex offense referral that could require sex offender registration but both the state's attorney and the victim have agreed to an informal adjustment to address the matter; or
 - e. The referral is from the division.
3. Reasonable written notice of the informal adjustment is given by the court to the victim if one is identified on the referral.
4. Upon an admission to the referred offense, the director of juvenile court or designee will conduct a preliminary risk and needs assessment and the results must be made available to the child and family. The results of the risk and needs assessment are used to inform the outcome of the informal adjustment. Individuals conducting the risk and needs screening tool must receive training on the appropriate delivery and use of the tool.
5. An informal agreement may not extend beyond six months from the day the agreement was agreed upon. An extension may be granted by the court for an additional period not to exceed six months. An extension may not authorize the detention of the child if not otherwise permitted by this chapter. If the child admits to driving or being in actual physical control of a vehicle in violation of section 39-08-01 or an equivalent ordinance, the child may be required to pay a fine as a condition imposed under this section.
6. An incriminating statement made by a child to the juvenile court director or designee giving counsel, advice, or as part of the risk and need screening and assessment process, may not be used against the child over objection in any proceeding.

27-20.4-12. Petition - Preliminary determination.

A petition alleging delinquency under this chapter must be reviewed by the director, the court, or other person designated by the director and authorized by the court to determine whether the filing of the petition is in the best interest of the public and the child.

27-20.4-13. Petition - Who may prepare and file - Review.

A petition alleging delinquent conduct must be prepared, filed, and served upon the parties by the state's attorney. The juvenile court shall conduct an inquiry into and provide the last known addresses of the parents and guardians of the child in the referral to the state's attorney.

27-20.4-14. Conduct of hearings.

1. Hearings under this chapter must be conducted by the court without a jury, in an informal but orderly manner and separately from other proceedings not included in section 27-20.2-03 and in accordance with the North Dakota Rules of Juvenile Procedure.
2. If the hearing has not been held within the time limit, or any extension of the time limit, required by the North Dakota Rules of Juvenile Procedure, the petition must be dismissed.
3. The state's attorney shall present the evidence in support of any allegations of the petition not admitted and otherwise conduct the proceedings on behalf of the state.
4. Except for informal adjustments under section 27-20.4-10, the proceedings must be recorded by stenographic notes or by electronic, mechanical, or other appropriate means.
5. The general public must be excluded from all hearings under this chapter. During hearings, only the parties, the parties' counsel, witnesses, victims, and any other persons the court finds have a proper interest in the proceedings may be admitted by the court. The court may temporarily exclude the child or other person from the hearing if, after being warned by the court that disruptive conduct will cause removal from the courtroom, the child or other person persists in conduct that justifies removal from the courtroom.

27-20.4-15. Predispositional assessment.

1. Before the disposition hearing, the court shall direct the director or designee, to conduct a predisposition assessment and to prepare a written report for the court, unless waived by the court.
2. The predisposition assessment must consist of a risk and needs assessment together with any other appropriate screenings.
3. During the pendency of any proceeding the court may order:
 - a. The child to be examined at a suitable place by a physician, psychologist, or certified addiction counselor;
 - b. The child to be tested by appropriate forensic methods to determine whether the child has been exposed to a controlled substance or other substance considered injurious to the child's health;
 - c. Medical or surgical treatment of a child who is suffering from a serious physical condition or illness, or alcohol or drug abuse, which in the opinion of a licensed physician requires prompt treatment, even if the parent, guardian, or other custodian has not been given notice of a hearing, is not available, or without good cause informs the court of that person's refusal to consent to the treatment;
 - d. An evidence-based risk and needs assessment, mental health screening, or trauma screening; or

- e. The child to be examined to determine the child's competence or criminal responsibility. If the child is found to lack competency or criminal responsibility the court may:
- (1) Dismiss the delinquency proceedings against the child and order the release of the child to the child's parent, guardian, or legal custodian upon conditions considered appropriate by the court;
 - (2) Suspend the delinquency proceedings against the child for a period of up to one year and order services be provided to the child as an outpatient or inpatient, by commitment to an institution for persons with intellectual disabilities or mental illness; or
 - (3) Dismiss the delinquency proceedings and direct that child in need of protection proceedings be initiated.

27-20.4-16. Adjudication.

1. If the court finds by proof beyond a reasonable doubt that the child committed the acts by reason of which the child is alleged to be delinquent, the court shall proceed immediately or at a postponed hearing to hear evidence as to whether the child is in need of treatment or rehabilitation and to make and file findings. In the absence of evidence to the contrary, evidence of the commission of which constitute a felony is sufficient to sustain a finding that the child is in need of treatment or rehabilitation. If the court finds that the child is not in need of treatment or rehabilitation, the court shall dismiss the proceeding and discharge the child from any detention or other restriction previously ordered.
2. After hearing the evidence on the petition, the court shall make and file findings as to whether the child is delinquent and whether the acts ascribed to the child were committed by the child. If the court finds the allegations of delinquent conduct have not been established, the court shall dismiss the petition and order the child discharged from any detention or other restriction previously ordered in the proceeding.
3. In hearings under subsection 1, all evidence helpful in determining the questions presented, including the predisposition assessment and any other oral and written reports, may be received by the court and relied upon to the extent of its probative value even though not otherwise competent in the hearing on the petition. The parties or the counsel of the parties must be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making the reports. Sources of confidential information need not be disclosed.
4. On motion of the court or that of a party, the court may continue the hearings under this section for a reasonable period to receive reports and other evidence bearing on the disposition or the need for treatment or rehabilitation. In this event the court shall make an appropriate order for detention of the child or the child's release from detention subject to supervision of the court during the period of the continuance. In scheduling investigations and hearings the court shall give priority to proceedings in which a child is in detention or has otherwise been removed from the child's home before an order of disposition has been made.

27-20.4-17. Disposition of a delinquent child.

1. If the child is found to be a delinquent child, the court shall make findings and include in the order of disposition any actions or steps necessary to ensure:
 - a. The child receives the treatment or rehabilitation the court deems most appropriate;
 - b. Repairing harm caused to the victim or community; and
 - c. Safety of the community.
2. If the child is found to be a delinquent child, the court may order probation with conditions best suited to the child's individual need for treatment, rehabilitation, and welfare.
3. If the court cannot find a less restrictive alternative, the court may commit a child to the division of juvenile services. A risk and needs assessment must be the basis for the determination of commitment to the division of juvenile services. The court only may commit a child to the division for a new delinquent offense. Unless all probation extensions have been exhausted, the child's risk and treatment needs continue to be high and the child is refusing to comply with the terms of probation, the court may not commit a child for a violation of the terms of probation.
4. The court may:
 - a. Order the child to make monetary restitution to the victim of the offense or to complete a specified number of hours of community service as determined by the court, or both;
 - b. Order the periodic testing for the use of illicit drugs or alcohol; or
 - c. Order the child's participation in a juvenile drug court program.
5. If the delinquent act committed by the child was a sexual offense, the court shall ensure the child is assessed in a timely manner, not to exceed thirty days, with age-appropriate social assessments to determine the appropriate level of required treatment.

27-20.4-18. Probation of a delinquent child.

1. A probation order entered by the court must place the child under the supervision of the director.
2. The conditions of probation must be specifically stated in writing and provided to the child.
3. Probation conditions must relate to the individual child's risk and needs assessment and the adjudicated offense.
4. Violations of probation conditions may be sanctioned by the juvenile director, or designee utilizing graduated sanctions and incentives.
5. Formal probation orders may not exceed twelve months from disposition.
6. The court may release a child from probation or modify the terms and conditions of the probation at any time, but the court shall release a child who

has complied satisfactorily with the terms, conditions, and duration of probation and the court shall terminate the court's jurisdiction.

7. The director of juvenile court shall establish procedures regarding graduated sanctions and incentives. The graduated sanctions program may include a program of home confinement or electronic monitoring but may not include a secure detention stay.
8. The director or assigned probation court officer may request two extensions up to four months each or one extension up to four months for intensive supervised probation programs for failure to comply or meet the treatment goals of the court order and case plan.
9. Probation may not be extended solely to collect restitution. If probation is terminated with restitution owing the victim, court procedure governs continued collection or motion for civil judgment against the parents, if appropriate.

27-20.4-19. Delinquent children - Suspension of driving privileges.

1. If a child is adjudicated delinquent of an offense that would be a class A misdemeanor or a felony if the offense were committed by an adult, the juvenile court may order the suspension of the child's driving privileges for a period of up to six months for the first offense. For a second or subsequent offense, the juvenile court may order the suspension of the child's driving privileges for up to one year. As a condition to the return of driving privileges, the juvenile court may order the successful completion of an appropriate driver's examination.
2. If the juvenile court orders the suspension of a child's driving privileges, the juvenile court immediately shall take possession of the child's driver's license or permit and send copies of the court's order to the director of the department of transportation who shall make notation of the child's suspension of driving privileges.
3. The record of the child's suspension of driving privileges under this section must be kept confidential and may not be released except to law enforcement personnel in connection with law enforcement activities. The record of a child's suspension of driving privileges under this section may not be disclosed to or shared with the licensing officials of any other state or jurisdiction. At the end of the six-month or one-year period, the director shall remove and destroy all record of the child's suspension of driving privileges under this section.
4. This section may not be construed to limit consensual agreements between the juvenile court and the child restricting the driving privileges of the child.

27-20.4-20. Restitution.

1. In addition to a child being ordered to make restitution under section 27-20.4-16, a parent of a child adjudged delinquent may be ordered to make restitution on the child's behalf in an amount not exceeding five thousand dollars.
2. Before ordering parental restitution under this section, the court shall hold a hearing on the matter with notice given to all interested parties as to the

nature and amount of the parental restitution. In determining whether to order parental restitution, the court shall take the following factors into account:

- a. The ability of the parent or parents to pay monetary restitution and the care and control exercised by the parents.
 - b. The ability of the child to pay monetary restitution.
 - c. Whether ordering parental restitution would detract from the child's treatment, rehabilitation, or welfare.
 - d. The number of delinquent acts, if any, previously committed by the child.
3. A parental order of restitution must be limited to those damages directly related to the delinquent act and expenses actually incurred as a result of the delinquent act.
4. Unless the court directs otherwise, any order of restitution under this section or section 27-20.4-16 may be filed, transcribed, and enforced by the juvenile court or person entitled to the restitution in the same manner as civil judgments rendered by the courts of this state may be enforced. A child against whose parents a judgment may be entered under this section is jointly and severally liable with that child's parents for the amounts up to five thousand dollars and solely liable for any amounts over that amount. Any judgment rendered under this section may not be discharged in bankruptcy and is not subject to the statutes of limitation provided for in chapter 28-01 and the judgment may not be canceled under section 28-20-35.

27-20.4-21. Transfer to other courts.

1. After a petition has been filed alleging delinquency based on conduct that is designated a crime or public offense under the laws, including local ordinances or resolutions of this state, the court before hearing the petition on the merits shall transfer the offense for prosecution to the appropriate court having jurisdiction of the offense if:
 - a. The child is over sixteen years of age and requests the transfer;
 - b. The child was fourteen years of age or more at the time of the alleged conduct and the court determines that there is probable cause to believe the child committed the alleged delinquent act and the delinquent act involves the offense of murder or attempted murder; gross sexual imposition or the attempted gross sexual imposition of a victim by force or by threat of imminent death, serious bodily injury, or kidnapping; or
 - c. (1) The child was fourteen or more years of age at the time of the alleged conduct;
 - (2) A hearing on whether the transfer should be made is held in conformity with sections 27-20.2-12, 27-20.2-13, and 27-20.4-14;
 - (3) Notice in writing of the time, place, and purpose of the hearing is given to the child and the child's parents, guardian, or other custodian at least three days before the hearing; and
 - (4) The court finds that there are reasonable grounds to believe:

- (a) The child committed the delinquent act alleged;
 - (b) The child is not amenable to treatment or rehabilitation as a child through available programs;
 - (c) The child is not treatable in an institution for individuals who are intellectually disabled or who are mentally ill;
 - (d) The interests of the community require that the child be placed under legal restraint or discipline; and
 - (e) If the child is fourteen or fifteen years old, the child committed a delinquent act involving the infliction or threat of serious bodily harm.
2. The burden of proving reasonable grounds to believe that a child is amenable to treatment or rehabilitation as a child through available programs is on the child in those cases in which the alleged delinquent act involves the offense of manslaughter, aggravated assault, robbery, arson involving an inhabited structure, or escape involving the use of a firearm, destructive device, or other dangerous weapon or in cases in which the alleged delinquent act involves an offense that if committed by an adult would be a felony and the child has two or more previous delinquency adjudications for offenses that would be a felony if committed by an adult.
3. In determining a child's amenability to treatment and rehabilitation, the court shall consider and make specific findings on the following factors:
- a. Age;
 - b. Mental capacity;
 - c. Maturity;
 - d. Degree of criminal sophistication exhibited;
 - e. Previous record;
 - f. Success or failure of previous attempts to rehabilitate;
 - g. Whether the child can be rehabilitated before expiration of juvenile court jurisdiction;
 - h. Any psychological, probation, or institutional reports;
 - i. The nature and circumstances of the acts for which the transfer is sought;
 - j. The prospect for adequate protection of the public; and
 - k. Any other relevant factors.
4. A child subject to the jurisdiction of the juvenile court, either before or after reaching eighteen years of age, may not be prosecuted for an offense previously committed unless the case has been transferred as provided in this section.

5. Statements made by the child at a hearing under this section are not admissible against the child over objection in the criminal proceedings following the transfer except for impeachment.
6. If the case is not transferred, the judge who conducted the hearing may not over objection of an interested party preside at the hearing on the petition. If the case is transferred to a court of which the judge who conducted the hearing is also a judge, the judge likewise is disqualified over objection from presiding in the prosecution.
7. An individual at least twenty years of age who committed an offense while a child and was not adjudicated for the offense in juvenile court may be prosecuted in district court as an adult, unless the state intentionally delayed the prosecution to avoid juvenile court jurisdiction. The district court has original and exclusive jurisdiction for the prosecution under this subsection.

27-20.4-22. Court order required for removal of child.

An order of disposition or other adjudication in a proceeding under this chapter, in cases in which a child is removed from the home of a parent, custodian, or guardian for the reason that continuation in such home would be contrary to the welfare of the child, must specifically state that a continuation of the child in the home of the parent, custodian, or guardian would be contrary to the welfare of the child.

27-20.4-23. Limitations of orders of disposition.

1. An order of disposition may not exceed twelve months from disposition unless extended by the court. The director or designee may request two extensions up to four months each for the child to complete the treatment goals of the court order and the case plan.
2. An order of disposition committing a delinquent child to the division of juvenile services may not exceed twelve months. The court may extend the order for an additional twelve-month period, if:
 - a. A hearing is held upon motion of the division, or on the court's own motion, prior to the expiration of the order;
 - b. Reasonable notice of the hearing and an opportunity to be heard are given to the child and the parent, guardian, or other custodian;
 - c. The court finds the extension is necessary for the treatment or rehabilitation of the child and has determined that such treatment cannot be provided in their home community; and
 - d. The extension does not exceed twelve months from the expiration of an order limited by subsection 3 or two years from the expiration of any other limited order.
3. Except as provided in subsection 2, an order of disposition pursuant to which a child is placed in foster care may not continue for more than twelve months after the child is considered to have entered foster care. A permanency hearing must be conducted before the extension of any court order limited under this subsection. Any other order of disposition may not continue in force for more than twelve months.

4. The court may terminate an order of disposition before the expiration of the order.
5. Except as provided in subsection 2, the court may terminate an order of disposition or extension before its expiration, on or without an application of a party, if it appears to the court the purposes of the order have been accomplished. If a party may be adversely affected by the order of termination, the order may be made only after reasonable notice and opportunity to be heard have been given to the party.
6. When the child attains the age of twenty years, all orders affecting the child then in force terminate and the child is discharged from further obligation or control.

27-20.4-24. Reasonable efforts to prevent removal or to reunify - When required.

1. As used in this section, "reasonable efforts" means the exercise of due diligence, by the agency granted authority over the child under this chapter, to use appropriate and available services to meet the needs of the child and the child's family in order to prevent removal of the child from the child's family or, after removal, to use appropriate and available services to eliminate the need for removal, to reunite the child and the child's family, and to maintain family connections. In determining reasonable efforts to be made with respect to a child under this section, and in making reasonable efforts, the child's health and safety must be the paramount concern.
2. Except as provided in subsection 4, reasonable efforts must be made to preserve families, reunify families, and maintain family connections:
 - a. Before the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home;
 - b. To make it possible for a child to return safely to the child's home;
 - c. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that such a joint placement would be contrary to the safety or well-being of any of the siblings; and
 - d. In the case of siblings removed from the home of the siblings who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is contrary to the safety or well-being of any of the siblings.
3. If the court or the child's custodian determined that continuation of reasonable efforts, as described in subsection 2, is inconsistent with the permanency plan for the child, reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child.
4. Reasonable efforts of the type described in subsection 2 are not required if:
 - a. A court of competent jurisdiction has determined a parent has subjected a child to aggravated circumstances; or

- b. The parental rights of the parent, with respect to another child of the parent, have been involuntarily terminated.
- 5. Efforts to place a child for adoption, with a fit and willing relative or other appropriate individual as a legal guardian, or in another planned permanent living arrangement, may be made concurrently with reasonable efforts of the type described in subsection 2.
- 6. Removal of a child from the child's home for placement in foster care must be based on judicial findings stated in the court's order, and determined on a case-by-case basis in a manner that complies with the requirements of titles IV-B and IV-E of the federal Social Security Act [42 U.S.C. 620 et seq. and 42 U.S.C. 6701 et seq.], as amended, and federal regulations adopted under those federal laws, provided that this subsection may not provide a basis for overturning an otherwise valid court order.
- 7. For the purpose of section 27-20.3-17, reasonable efforts were made under this section to meet the child's needs before a foster care placement for a child remaining in care for continued foster care purposes.

27-20.4-25. Law enforcement and correctional facility records.

- 1. Unless a charge of delinquency is transferred for criminal prosecution under section 27-20.4-20, the interest of national security requires, or the court otherwise orders in the interest of the child, the law enforcement and correctional facility records and files of a child alleged or found to be delinquent or in need of services or protection are not open to public inspection; but inspection of these records and files is permitted by:
 - a. A juvenile court having the child before the court in any proceeding;
 - b. Counsel for a party to the proceeding;
 - c. The officers of public institutions or agencies to whom the child is or may be committed;
 - d. Law enforcement officers of other jurisdictions if necessary for the discharge of official duties of the officers;
 - e. A court in which the child is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of correctional facilities to which the child is detained or committed, or by the parole board, the governor, or the pardon advisory board, if one has been appointed, in considering the child's parole or discharge or in exercising supervision over the child;
 - f. The professional staff of the uniform crime victims compensation program if necessary for the discharge of the duties of the professional staff pursuant to chapter 54-23.4; and
 - g. A superintendent, assistant superintendent, principal, or designee of the school in which the child is currently enrolled or of a school in which the child wishes to enroll.
- 2. Notwithstanding that law enforcement records and files of a child alleged or found to be delinquent or in need of services or protection are not open to

public inspection, this section does not limit the release of general information that does not identify the identity of the child.

27-20.4-26. Substance use programming.

1. If a child is subject to nonjudicial adjustments under this chapter and is found to be delinquent under section 27-20.4-16, or is found to be in need of services or protection under section 27-20.3-16, the juvenile court may require a substance use screening and subsequent programming to appropriately address:
 - a. A child who is found to have violated section 39-08-01 or equivalent; or
 - b. 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.
2. If a child is subject to informal adjustment under this chapter and is required to participate in the twenty-four seven sobriety program, the period of participation may not exceed six months.
3. If a child required to participate in the twenty-four seven sobriety program under this section fails to comply with program requirements without being excused, the testing site shall notify the juvenile court and refer the child to the juvenile court for further disposition. The child may not be detained or otherwise taken into custody without authorization from the juvenile court.
4. If the juvenile court requires the child to participate in a juvenile drug court program, the juvenile court may waive the participation in the twenty-four seven sobriety program requirements of this section.

SECTION 26. Section 27-20.4-06 of the North Dakota Century Code, as created by section 25 of this Act, is amended and reenacted as follows:

27-20.4-06. Detention - Nonsecure care of child.

1. A child taken into custody may not be detained or placed in nonsecure care before the hearing on the petition unless the child's detention or nonsecure care is required to protect the person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because the child has no parent, guardian, or custodian or other person able to provide supervision and care for the child and return the child to the court if required, or an order for the child's detention or nonsecure care has been made by the court pursuant to this chapter.
2. Law enforcement, juvenile court staff, and division staff shall use a detention screening tool to assure the appropriate use of detention and whether the child is a public safety risk. The juvenile court shall establish the detention screening tool, which must include objective factors to aid in the decision of placement of the child. Law enforcement, court records, and division records must include data on detention screening scores and, if the score does not authorize detention, the explanation for the override resulting in placing the juvenile in detention.

3. The court may place a juvenile in detention before adjudication only if the court finds releasing the child would pose an unreasonable risk to public safety and that all less restrictive alternatives have been considered.
4. A juvenile may be placed in a secure detention facility if one or more of the following conditions are met:
 - a. The child is alleged to have committed an offense that if committed by an adult would constitute a felony against person, felony weapon, or felony drug distribution;
 - b. The child has a record of failure to appear in court or there is probable cause to believe that the child will flee the jurisdiction of the court;
 - c. The child has violated the terms of detention release on home confinement or electronic monitoring;
 - d. There is oral or written verification that the child is an alleged delinquent child sought for an offense in another jurisdiction or that the child left a juvenile detention facility without authorization;
 - e. The child is an out-of-state runaway subject to the rules of the interstate commission on juveniles;
 - f. The child meets criteria for secure detention on the detention screening tool; or
 - g. The child meets criteria for an override on the detention screening tool; or
 - h. ~~If a child is participating in a juvenile drug court program as a result of an adjudication for a delinquent offense, the court may order the child detained in a juvenile detention center operated pursuant to chapter 12-44.1. The child may be detained twice during the child's participation in the program with the total period of detention under this section not to exceed four days in a one-year period.~~
5. ~~A child may not be placed in detention solely due to lack of supervision alternatives or due to the community's inability to provide appropriate treatment or services. A child may not be placed in detention by law enforcement or juvenile court, including drug court solely:~~
 - a. Due to a lack of supervision alternatives, service options, or more appropriate facilities.
 - b. Due to the community's inability to provide treatment or services.
 - c. Due to a lack of supervision in the home or community.
 - d. In order to allow a parent, guardian, or legal custodian to avoid his or her legal responsibility.
 - e. Due to a risk of the juvenile's self-harm.
 - f. In order to attempt to punish, treat, or rehabilitate the child.
 - g. Due to a request by a victim, law enforcement, or the community.

h. In order to permit more convenient administrative access to the juvenile.

6. Alternatives to secure detention may be utilized to include home confinement, electronic monitoring, and parental or guardian supervision if the court determines there is no unreasonable risk to public safety.
7. A child placed in detention must have a mental health and trauma screening tool completed by the juvenile detention center or by juvenile court upon entry and provide that information to the juvenile court before release or detention hearing.

SECTION 27. AMENDMENT. Subsections 2 and 3 of section 27-21-02 of the North Dakota Century Code are amended and reenacted as follows:

2. Placement in the care of the North Dakota youth correctional center ~~or in a career and technical education, training, or other treatment and rehabilitation institution for children or young adults within this state;~~ or
3. Placement in the care of a career and technical education, training, or other treatment and rehabilitation institution for children or young adults within this state ~~or in another state~~ in the event that adequate facilities for the child's treatment and rehabilitation are not available within this state and the committing juvenile court concurs in the placement.

SECTION 28. AMENDMENT. Subsection 3 of section 27-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The division may conduct a permanency hearing, as authorized by section ~~27-20-36~~27-20.4-23, if an appropriate permanency plan may be carried out without exceeding the division's authority.

¹⁶¹ **SECTION 29. AMENDMENT.** Section 27-21-09 of the North Dakota Century Code is amended and reenacted as follows:

27-21-09. Cooperation with other agencies and departments of the state - Right to inspect facilities of state institutions - Right to examine children.

1. The division of juvenile services may enter contracts with service providers as necessary to meet the mission of the division.
2. The division of juvenile services shall cooperate with and receive the cooperation of the department of human services, the department of public instruction, the department of career and technical education, the juvenile courts, the state department of health, and such other agencies and departments of the state as may be necessary to carry out the objectives of this chapter.
3. The division of juvenile services may inspect at all reasonable times the facilities of those institutions within the state it is authorized to utilize under this chapter, and may examine any child it has placed in the care of such institution, and may contract with public and private agencies to provide services for them or to retain from them required services to meet the purpose and objective of this chapter.

¹⁶¹ Section 27-21-09 was also amended by section 337 of House Bill No. 1247, chapter 352.

¹⁶² **SECTION 30. AMENDMENT.** Subsections 2 and 5 of section 27-21-12 of the North Dakota Century Code are amended and reenacted as follows:

2. Notwithstanding any other provisions of law relating to confidentiality, except for the confidentiality requirements of federal drug and alcohol treatment and rehabilitation laws, the division may disclose all or part of a juvenile's files and records, including juvenile court orders, medical, psychological, education, and treatment and counseling records, to individuals employed by the following if the knowledge is reasonably necessary in the best interest of the juvenile and for the protection of others:
 - a. The district court or juvenile court.
 - b. A parent or legal guardian of the juvenile, the parent's or legal guardian's counsel, or the juvenile's counsel, when the juvenile court has committed the juvenile to the custody of the division of juvenile services, and the records are relevant to a proceeding under chapter 27-2027-20.4 or to a placement hearing under section 27-21-02.1, or when disclosure is necessary for the juvenile's treatment and rehabilitation plan. If the juvenile court determines that it is against the best interests of the juvenile to disclose records to a parent or legal guardian, the juvenile court may issue an order prohibiting disclosure and describing the records that may not be disclosed.
 - c. An employee or agent of any division of the department of corrections and rehabilitation when necessary to carry out the duties of the department.
 - d. The department of human services or a human service zone.
 - e. A licensed hospital or medical facility, a public or private treatment facility, or a residential care or treatment facility, when necessary for the evaluation, treatment, or care of a juvenile in the custody of the division of juvenile services.
 - f. A law enforcement agency when the division has reasonable grounds to believe the juvenile has committed a delinquent act or has threatened to commit a delinquent act involving serious bodily injury, or when the juvenile is required to register, or is registered, under section 12.1-32-15.
 - g. A school district or multidistrict special education program in which the juvenile is enrolled.
 - h. The office of the attorney general.
 - i. The risk management division of the office of management and budget and investigators, consultants, or experts retained by the state for the purpose of investigating and defending claims under chapter 32-12.2.
5. The division may disclose the files and records of a juvenile under ~~subdivision f or g of subsection 1 of section 27-20-51~~section 27-20.2-21.

SECTION 31. AMENDMENT. Section 30.1-27-02 of the North Dakota Century Code is amended and reenacted as follows:

¹⁶² Section 27-21-12 was also amended by section 338 of House Bill No. 1247, chapter 352.

30.1-27-02. (5-202) Testamentary appointment of guardian of minor.

The parent of a minor may appoint by will a guardian of an unmarried minor. A testamentary appointment becomes effective upon filing the guardian's acceptance in the court in which the will is probated and remains effective upon approval by the court either after or without a hearing, if, before acceptance, both parents are dead or the surviving parent's rights have been terminated by prior court order. If both parents are dead, an effective appointment by the parent who died later has priority. This state recognizes a testamentary appointment effected by filing the guardian's acceptance under a will probated in another state which is the testator's domicile and upon approval by the court either after or without a hearing. Upon acceptance of appointment, written notice of acceptance must be given by the guardian to the minor and to the person having the minor's care or to the minor's nearest adult relative under section 27-20-02 27-20.3-02. Within forty-five days of the filing of acceptance, the testamentary guardian must file with the court a criminal history record check report and affidavit stating whether the proposed guardian has been investigated for offenses related to theft, fraud, or the abuse, neglect, or exploitation of an adult or child and shall provide a release authorizing access to any record information maintained by an agency in this or another state or a federal agency.

SECTION 32. AMENDMENT. Subsection 3 of section 30.1-27-06 of the North Dakota Century Code is amended and reenacted as follows:

3. The guardian ad litem shall serve a copy of the report on the minor if the minor is fourteen years of age or older, the testamentary guardian, the person having the minor's care or the minor's nearest adult relative under section 27-20-02 27-20.3-02, and the personal representative of the deceased parent's estate.

SECTION 33. AMENDMENT. Section 39-06-32.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-32.1. Suspension of child's driving privileges.

Upon receipt of a copy of an order of a juvenile court ordering the suspension of a child operator's license, the director shall suspend the operator's license and make notation of the length of time of the suspension. During the time of the suspension, an application for a class D instruction permit may not be accepted from the child. For purposes of this section, "child" is defined by section 27-20-02 27-20.4-02.

¹⁶³ **SECTION 34. AMENDMENT.** Subsection 2 of section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

2. The test or tests must be administered at the direction of a law enforcement officer only after placing the individual under arrest for violation of section 39-08-01 or an equivalent offense. For the purposes of this chapter, the taking into custody of a child under section 27-20-13 27-20.4-05 or an individual under twenty-one years of age satisfies the requirement of an arrest. The law enforcement officer shall determine which of the tests is to be used.

SECTION 35. AMENDMENT. Section 39-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

¹⁶³ Section 39-20-01 was also amended by section 24 of House Bill No. 1213, chapter 172.

39-24.1-01. Implied consent to determine alcohol concentration and presence of drugs.

An individual who operates a snowmobile on any public land or private land with public access is deemed to have given consent, and shall consent, subject to 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 definitions in section 39-24-01 apply, and in addition, "chemical test" means any test or tests 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; and "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely operating a snowmobile. The chemical test must be administered at the direction of a law enforcement officer only after placing the individual, except individuals mentioned in section 39-24.1-04, under arrest and informing that individual that the individual is or will be charged with the offense of operating a snowmobile while under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking into custody of a minor under section ~~27-20-13~~27-20.4-05 satisfies the requirement of an arrest. The law enforcement officer shall also inform the individual charged that refusal of the individual to submit to the chemical test determined appropriate will result in that individual being prohibited from operating a snowmobile for up to three years. The law enforcement officer shall determine the chemical test to be used. When a minor is taken into custody for violating subdivision c of subsection 5 of section 39-24-09, the law enforcement officer shall diligently attempt to contact the minor's parent or legal guardian to explain the cause for the custody and the implied consent chemical testing requirements. 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.

¹⁶⁴ **SECTION 36. AMENDMENT.** Subsection 5 of section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

5. To provide for the study, and to promote the well-being, of deprived a child in need of protection, unruly a child in need of services, and delinquent children.

¹⁶⁵ **SECTION 37. AMENDMENT.** Subdivision a of subsection 4 of section 50-06-43.2 of the North Dakota Century Code is amended and reenacted as follows:

- a. Review ~~chapter 27-20~~chapters 27-20.1, 27-20.2, 27-20.3, and 27-20.4;

¹⁶⁶ **SECTION 38. AMENDMENT.** Subsection 1 of section 50-11.3-01 of the North Dakota Century Code is amended and reenacted as follows:

¹⁶⁴ Section 50-06-05.1 was also amended by section 3 of House Bill No. 1416, chapter 358, section 1 of Senate Bill No. 2089, chapter 356, and section 1 of Senate Bill No. 2311, chapter 357.

¹⁶⁵ Section 50-06-43.2 was also amended by section 1 of House Bill No. 1150, chapter 363, and section 405 of House Bill No. 1247, chapter 352, and was repealed by section 2 of House Bill No. 1150, chapter 363.

¹⁶⁶ Section 50-11.3-01 was also amended by section 426 of House Bill No. 1247, chapter 352.

1. Before appointment as a legal guardian under chapter ~~27-2027-20.1~~, the individual to be appointed legal guardian must be subject to an assessment that includes the result of a criminal history record investigation made under this section. In addition, any adult living in the household of the individual to be appointed legal guardian must be subject to a criminal history record investigation made under this section.

¹⁶⁷ **SECTION 39. AMENDMENT.** Section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "A person responsible for the child's welfare" means an individual who has responsibility for the care or supervision of a child and who is the child's parent, an adult family member of the child, any member of the child's household, the child's guardian, or the child's foster parent; or an employee of, or any person providing care for the child in, a public or private school or child care setting.
2. "Abuse of alcohol", "alcohol abuse", or "abused alcohol" means alcohol use disorder as defined in the current edition of the "Diagnostic and Statistical Manual of Mental Disorders" published by the American psychiatric association or a maladaptive use of alcohol with negative medical, sociological, occupational, or familial effects.
3. "Abused child" means an individual under the age of eighteen years who is suffering from abuse as defined in section 14-09-22 caused by a person responsible for the child's welfare and "sexually abused child" means an individual under the age of eighteen years who is subjected by a person responsible for the child's welfare, or by any individual, including a juvenile, who acts in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.3, or chapter 12.1-27.2.
4. "Alternative response assessment" means a child protection response involving substance exposed newborns which is designed to:
 - a. Provide referral services to and monitor support services for a person responsible for the child's welfare and the substance exposed newborn; and
 - b. Develop a plan of safe care for the substance exposed newborn.
5. "Authorized agent" means the human service zone, unless another entity is designated by the department.
6. "Child in need of services" means a child who in any of the following instances is in need of treatment or rehabilitation:

¹⁶⁷ Section 50-25.1-02 was also amended by section 467 of House Bill No. 1247, chapter 352, section 468 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2083, chapter 377.

- a. Is habitually and without justification truant from school or absent from school without an authorized excuse for more than five days during a school year;
 - b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian including runaway and is ungovernable or who is willfully in a situation that is dangerous or injurious to the health, safety, or morals of the child or others;
 - c. Except for an offense committed by a minor who is fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution, has committed an offense applicable only to a child; or
 - d. Is under fourteen years of age and has purchased, possessed, smoked, or used tobacco, a tobacco-related product, an electronic smoking device, or an alternative nicotine product in violation of subsection 2 of section 12.1-31-03. As used in this subdivision, "electronic smoking device" and "alternative nicotine product" have the same meaning as in section 12.1-31-03.
7. "Child protection assessment" means a factfinding process designed to provide information that enables a determination to be made that services are required to provide for the protection and treatment of an abused or neglected child and an evidence-based screening tool.
- 7-8. "Children's advocacy center" means a full or associate member of the national children's alliance which assists in the coordination of the investigation in response to allegations of child abuse by providing a dedicated child-friendly location at which to conduct forensic interviews, forensic medical examinations, and other appropriate services and which promotes a comprehensive multidisciplinary team response to allegations of child abuse. The team response may include forensic interviews, forensic medical examinations, mental health and related support services, advocacy, and case review.
- 8-9. "Citizen review committee" means a committee appointed by the department to review the department's provision of child welfare services.
- 9-10. "Department" means the department of human services or its designee.
- 10-11. "Family services assessment" means a child protection services response to reports of suspected child abuse or neglect in which the child is determined to be at low risk and safety concerns for the child are not evident according to guidelines developed by the department and an evidence-based screening tool.
- 11-12. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect when the institution responsible for the child's welfare is a residential child care facility, a treatment or care center for individuals with intellectual disabilities, a public or private residential educational facility, a maternity home, or any residential facility owned or managed by the state or a political subdivision of the state.

- 42-13.** "Local child protection team" means a multidisciplinary team consisting of the designee of the human service zone director who shall serve as presiding officer, together with such other representatives as that director might select for the team. All team members, at the time of their selection and thereafter, must be staff members of the public or private agencies they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three members. The department may coordinate the organization of local child protection teams on a human service zone basis.
- 43-14.** "Near death" means an act that, as certified by a physician, places a child in serious or critical condition.
- 44-15.** "Neglected child" means a child who, due to the action or inaction of a person responsible for the child's welfare:
- Is without proper care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and is not due primarily to the lack of financial means of a person responsible for the child's welfare;
 - Has been placed for care or adoption in violation of law;
 - Has been abandoned;
 - Is without proper care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of a person responsible for the child's welfare, and that such lack of care is not due to a willful act of commission or act of omission, and care is requested by a person responsible for the child's welfare;
 - Is in need of treatment and a person responsible for the child's welfare has refused to participate in treatment as ordered by the juvenile court;
 - Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner;
 - Is present in an environment subjecting the child to exposure of a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2; or
 - Is a victim of human trafficking as defined in title 12.1.
- 45-16.** "Prenatal exposure to a controlled substance" means use of a controlled substance as defined in chapter 19-03.1 by a pregnant woman for a nonmedical purpose during pregnancy as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.

- 46-17.** "Protective services" includes services performed after an assessment of a report of child abuse or neglect has been conducted, such as social assessment, service planning, implementation of service plans, treatment services, referral services, coordination with referral sources, progress assessment, monitoring service delivery, and direct services.
- 47-18.** "State child protection team" means a multidisciplinary team consisting of the designee of the department and, where possible, of a physician, a representative of a child-placing agency, a representative of the state department of health, a representative of the attorney general, a representative of the superintendent of public instruction, a representative of the department of corrections and rehabilitation, one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must be staff members of the public or private agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three persons.
- 48-19.** "Substance exposed newborn" means an infant younger than twenty-eight days of age at the time of the initial report of child abuse or neglect and who is identified as being affected by substance abuse or withdrawal symptoms or by a fetal alcohol spectrum disorder.

¹⁶⁸ **SECTION 40. AMENDMENT.** Section 50-25.1-06 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-06. Protective and other services to be provided.

- 1.** The department shall provide protective services for the abused or neglected child and other children under the same care as may be necessary for their well-being and shall provide other appropriate social services, as the circumstances warrant, to the parents, custodian, or other persons serving in loco parentis with respect to the child or the other children. The department may discharge the duties described in this section through an authorized agent.
- 2.** The department shall provide appropriate services to a child referred as a child in need of services and shall provide appropriate services to the person responsible for the child's welfare and the children under the same care as may be necessary for the well-being and safety of the children.

¹⁶⁹ **SECTION 41. AMENDMENT.** Subsection 4 of section 50-25.1-15 of the North Dakota Century Code is amended and reenacted as follows:

- 4.** If an infant is left at a hospital, the hospital shall provide the parent or the agent with a numbered identification bracelet to link the parent or the agent to the infant, unless due to birth of the infant, the infant and parent currently have

¹⁶⁸ Section 50-25.1-06 was also amended by section 15 of Senate Bill No. 2083, chapter 377.

¹⁶⁹ Section 50-25.1-15 was also amended by section 470 of House Bill No. 1247, chapter 352, and section 21 of Senate Bill No. 2083, chapter 377.

an identification bracelet. Possession of an identification bracelet does not entitle the bracelet holder to take custody of the infant on demand. If an individual possesses a bracelet linking the individual to an infant left at a hospital under this section and parental rights have not been terminated, possession of the bracelet creates a presumption that the individual has standing to participate in a protection services action brought under this chapter or chapter ~~27-2027-20.3~~. Possession of the bracelet does not create a presumption of maternity, paternity, or custody.

¹⁷⁰ **SECTION 42. AMENDMENT.** Subsection 2 of section 54-12-34 of the North Dakota Century Code is amended and reenacted as follows:

2. The criminal justice data information sharing system may be accessed only in accordance with rules adopted under this section. Any law enforcement record in the possession of the attorney general through the criminal justice data information sharing system is an exempt record. Criminal justice data information about an offense committed by a child if the offense has not been transferred under section ~~27-20-34~~27-20.4-21 to another court having jurisdiction of the offense and information about a child victim or witness is confidential.

SECTION 43. AMENDMENT. Section 54-23.4-17 of the North Dakota Century Code is amended and reenacted as follows:

54-23.4-17. Confidentiality of records.

Juvenile or law enforcement records obtained under chapter ~~27-2027-20.4~~ may be released to the parties, their counsel, and representatives of the parties in proceedings before the division and must be sealed at the conclusion of the proceedings. All other records of the division concerning the application for or award of compensation under this chapter are confidential and are not open to public disclosure. Inspection of these records, however, must be permitted by:

1. Law enforcement officers when necessary for the discharge of their official duties.
2. Representatives of a claimant, whether an individual or an organization, who may review a claim file or receive specific information from the file upon the presentation of the signed authorization of the claimant.
3. Physicians or health care providers treating or examining persons claiming benefits under this title, or physicians giving medical advice to the division regarding any claim, at the discretion of the division.
4. Any person who is rendering assistance to the division at any stage of the proceedings on any matter pertaining to the administration of this chapter.
5. Juvenile or law enforcement records obtained under chapter ~~27-2027-20.4~~ may be released to the parties, their counsel, and representatives in proceedings before the division and must be sealed at the conclusion of the proceedings.

¹⁷⁰ Section 54-12-34 was also amended by section 8 of Senate Bill No. 2283, chapter 175.

SECTION 44. AMENDMENT. Section 62.1-02-01 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-01. Persons who are not to possess firearms - Penalty.

1. a. A person who has been convicted anywhere of a felony offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent felony offense of another state or the federal government is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of ten years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.
 - b. A person who has been convicted anywhere of a felony offense of this or another state or the federal government not provided for in subdivision a or who has been convicted of a class A misdemeanor offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another state or the federal government and the offense was committed while using or possessing a firearm, a dangerous weapon, or, as defined in section 12.1-01-04, a destructive device or an explosive, is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of five years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.
 - c. A person who is or has ever been diagnosed and confined or committed to a hospital or other institution in this state or elsewhere by a court of competent jurisdiction, other than a person who has had the petition that provided the basis for the diagnosis, confinement, or commitment dismissed under section 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or as a mentally deficient individual, is prohibited from purchasing a firearm or having one in possession or under control. This limitation does not apply to a person who has not suffered from the disability for the previous three years or who has successfully petitioned for relief under section 62.1-02-01.2.
 - d. A person under the age of eighteen years may not possess a handgun except that such a person, while under the direct supervision of an adult, may possess a handgun for the purposes of firearm safety training, target shooting, or hunting.
- A person who violates subdivision a or b is guilty of a class C felony, and a person who violates subdivision c or d is guilty of a class A misdemeanor.
2. For the purposes of this section, "conviction" means a determination that the person committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty, or a plea of nolo contendere even though:
 - a. The court suspended execution of sentence in accordance with subsection 3 of section 12.1-32-02;
 - b. The court deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02;
 - c. The court placed the person on probation;

- d. The person's conviction has been reduced in accordance with subsection 9 of section 12.1-32-02 or section 12.1-32-07.1;
 - e. Sentence dispositions, sentence reductions, or offense determinations equivalent to this section were imposed or granted by a court, board, agency, or law of another state or the federal government; or
 - f. The person committed an offense equivalent to an offense described in subdivision a or b of subsection 1 when that person was subject to juvenile adjudication or proceedings and a determination of a court under chapter 27-2027-20.4 or of a court of another state or the federal government was made that the person committed the delinquent act or offense.
3. A felon who is not sentenced under section 12.1-32-09.1 may possess a rifle that has a barrel sixteen inches [40.72 centimeters] or longer or a shotgun that has a barrel eighteen inches [45.72 centimeters] or longer and which is one of the following:
 - a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured before 1899.
 - b. A replica of any firearm described in subdivision a, if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.
 - c. A muzzleloading rifle or muzzleloading shotgun designed to use black powder or a black powder substitute and which cannot use fixed ammunition.

SECTION 45. REPEAL. Chapter 27-20 and section 27-21-03 of the North Dakota Century Code are repealed.

SECTION 46. APPROPRIATION - LEGISLATIVE MANAGEMENT REPORT - LEGAL COUNSEL SERVICES FOR JUVENILES. 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 commission on legal counsel for indigents for the purpose of providing legal counsel for juveniles, for the biennium beginning July 1, 2021, and ending June 30, 2023. During the 2021-22 interim, the commission on legal counsel for indigents shall report to the legislative management by July 1, 2022, regarding:

1. Actual costs incurred to date and expected costs to be incurred for the 2021-23 biennium to provide legal counsel and related services to indigent juveniles;
2. Actual costs incurred to date and expected costs to be incurred for the 2021-23 biennium to provide legal counsel and related services to nonindigent juveniles; and
3. Any amounts collected from those financially able to pay all or part of the cost of providing legal counsel and related services for juveniles.

SECTION 47. EFFECTIVE DATE. Sections 24 and 26 of this Act become effective on August 1, 2022.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 246

SENATE BILL NO. 2055

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact section 27-08.1-02 of the North Dakota Century Code, relating to commencement of a small claims action.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-08.1-02 of the North Dakota Century Code is amended and reenacted as follows:

27-08.1-02. Commencement of action - Claim affidavit.

Actions in the small claims court are commenced whenever any person executes and files with the court a claim affidavit, and causes the affidavit to be served by a person of legal age, not a party to or interested in the action, on the defendant or mails it to the defendant by certified mail with restricted delivery along with a form upon which the defendant must indicate whether a hearing is requested and whether the defendant elects to remove the action to district court. If, within twenty days of service of the affidavit and form, the court has not received a request for a hearing or an election to remove to district court, or if the defendant indicates that a hearing is not requested, a hearing will not be scheduled and judgment may be entered against the defendant by default. If the defendant requests a hearing in small claims court, the hearing must be not less than ten days and not more than thirty days after receipt of the request. Except for an action under subdivision e of subsection 2 of section 27-08.1-01, the mailing or personal service may be made anywhere within the state. Forms used in small claims court actions must be approved by the state court administrator and obtained from, or at the direction of, the clerk of district court or in electronic form from the supreme court.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 247

HOUSE BILL NO. 1047

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact subsection 1 of section 27-20-51 of the North Dakota Century Code, relating to inspection of juvenile court files and records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷¹ **SECTION 1. AMENDMENT.** Subsection 1 of section 27-20-51 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in this section, all files and records of the juvenile court, whether in the office of the clerk of district court or juvenile court, of a proceeding under this chapter are closed to the public. Juvenile court files and records are open to inspection only by:
 - a. The judge and staff of the juvenile court.
 - b. The parties to the proceeding or their counsel or the guardian ad litem of any party.
 - c. A public or private agency or institution providing supervision or having custody of the child under order of the juvenile court, which must be given a copy of the findings and order of disposition when it receives custody of the child.
 - d. Any court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who, prior to the criminal case, had been a party to the proceeding in juvenile court.
 - e. The professional staff of the uniform crime victims compensation program when necessary for the discharge of their duties pursuant to chapter 54-23.4.
 - f. A staff member of the division of children and family services of the department of human services or a law enforcement officer when necessary for the performance of that person's duties under section 50-11.1-06.2 or the National Child Protection Act of 1993 [Pub. L. 103-209; 107 Stat. 2490; 42 U.S.C. 5119 et seq.].
 - g. An employee or agent of the department of human services when necessary for performance of that individual's duty under chapter 50-11 or 50-11.1 to investigate the background of an individual living or working in the facility, home, or residence for which licensure is sought.

¹⁷¹ Section 27-20-51 was also amended by section 335 of House Bill No. 1247, chapter 352.

- h. A criminal justice agency if the juvenile is required to register under section 12.1-32-15.
- i. The staff of a children's advocacy center if the juvenile or a victim of the juvenile has been referred for or has received services at the children's advocacy center.
- j. A victim of the delinquent child or the victim's guardian. All records including medical, educational, and school information must be redacted before inspection. For purposes of this subdivision, only records pertaining to the specific offense between the victim and the delinquent child may be inspected.
- k. The information technology department to the extent authorized by the supreme court for use in the statewide longitudinal data system.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 248

HOUSE BILL NO. 1052

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact section 27-20-61 of the North Dakota Century Code, relating to cooperative agreements to provide services to juveniles adjudicated in tribal court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-61 of the North Dakota Century Code is amended and reenacted as follows:

27-20-61. Tribal juvenile services cooperative agreement - Report to legislative management. (Effective through July 31, 2024~~2023~~)

1. The department of corrections and rehabilitation, through the division of juvenile services; the supreme court, through the office of the state court administrator; and the Indian affairs commission may negotiate and enter a memorandum of understanding with the tribal government of a federally recognized Indian tribe in the state for the purpose of accepting and providing for, in accordance with this chapter, the treatment and rehabilitation of tribal juveniles who have been adjudicated in tribal court under tribal or federal laws. Under the pilot program and terms of a memorandum of understanding:
 - a. The tribal government, the department of corrections and rehabilitation, and the juvenile court may exchange information relevant to the treatment and rehabilitation needs of a tribal juvenile and the juvenile's family, including tribal court orders, medical and psychiatric reports, law enforcement reports, and other information pertinent to the referral;
 - b. The juvenile court and the department of corrections and rehabilitation shall provide services based on the individualized need of each tribal juvenile referred to and accepted by both the tribal and court, juvenile court, and department of corrections and rehabilitation;
 - c. The juvenile court and the department of corrections and rehabilitation shall maintain regular contact with the tribe regarding each tribal juvenile who has been placed in the supervision of the juvenile court and shall provide quarterly case plans and more frequent reports if the juvenile's behavior warrants respective agency; and
 - d. The juvenile court and the department of corrections and rehabilitation may limit the number of tribal juveniles accepted based on criteria developed by the juvenile court and the availability of state resources and services.
2. Before July first of each even-numbered year, the department of corrections and rehabilitation, the juvenile court, and the Indian affairs commission shall report and make recommendations to the legislative management on the

status, effectiveness, performance, and sustainability of a memorandum of understanding established under this section.

Approved March 8, 2021

Filed March 9, 2021

JUDICIAL PROCEDURE, CIVIL

CHAPTER 249

HOUSE BILL NO. 1396

(Representatives Louser, Becker, B. Koppelman, Lefor, Nathe, Porter, M. Ruby,
Toman)
(Senators Meyer, Patten, Vedaa)

AN ACT to create and enact a new section to chapter 28-01.3 of the North Dakota Century Code, relating to immunity from civil actions for firearm or ammunition manufacturers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 28-01.3 of the North Dakota Century Code is created and enacted as follows:

Product liability actions and immunity for a firearm or ammunition manufacturer.

A firearm or ammunition manufacturer, importer, or dealer may not be held civilly liable for any physical or emotional injury, physical damage, or death as a third party for the acts of another person.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 250

HOUSE BILL NO. 1251

(Representatives Dockter, Lefor)
(Senator Dwyer)

AN ACT to amend and reenact sections 28-20-13, 28-20-21, 28-20-22, 28-20-23, and 28-20-35 of the North Dakota Century Code, relating to actions having twenty-year limitations, docketing judgments, renewal of judgments by affidavit, and cancellation of judgment of record; to repeal sections 28-20-21, 28-20-22, and 28-20-23 of the North Dakota Century Code, relating to renewal of judgments by affidavit; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28-20-13 of the North Dakota Century Code is amended and reenacted as follows:

28-20-13. Docketing judgment - Transcript to other counties - Lien on real property.

1. On filing a judgment roll upon a judgment that directs the payment of money, the clerk of the district court in which the judgment was rendered shall docket the judgment in a separate record to be known as the "judgment docket". The judgment may be docketed in any other county upon filing with the clerk of the district court of that county a transcript of the original judgment docket. The
2. For a judgment docketed before the effective date of this Act, the judgment is a lien on all the real property, except the homestead, of every person against whom the judgment is rendered, which the person may have in any county in which the judgment is docketed at the time of docketing or which the person thereafter acquires in the county, for ten years from the time of docketing the judgment in the county in which it was rendered.
3. For a judgment docketed after the effective date of this Act, the judgment is a lien on all the real property, except the homestead, of every person against whom the judgment is rendered, which the person may have in any county in which the judgment is docketed at the time of docketing or which the person thereafter acquires in the county, for ~~ten~~twenty years from the time of docketing the judgment in the county in which it was rendered.
4. When a judgment is docketed in a county to which unorganized territory is attached for judicial purposes, the judgment is a lien upon any real property of the judgment debtor situated in the unorganized territory to the same extent as though the real property were situated in the organized county. If the unorganized territory thereafter is organized as a county, a transcript of the judgment docket must be filed in the office of the clerk of the district court of the county within ninety days after the organization of the county, or it ceases to be a lien upon any real property in the county.

SECTION 2. AMENDMENT. Section 28-20-21 of the North Dakota Century Code is amended and reenacted as follows:

28-20-21. Renewal of judgments by affidavit.

Any

1. For judgments initially docketed before the effective date of this Act, any judgment which~~that~~ in whole or in part directs the payment of money and which may be docketed in the office of the clerk of any district court in this state may be renewed by the affidavit of the judgment creditor or of the judgment creditor's personal representative, agent, attorney, or assignee at any time within ninety days preceding the expiration of ten years from the first docketing of such judgment.
2. The affidavit must be verified positively by the person making it and not on information and belief. The affidavit must be entitled as in the original judgment and must set forth:
 - 1- a. The names of the parties plaintiff and defendant;
 - 2- b. The name of the court in which docketed;
 - 3- c. The date and amount of the original judgment;
 - 4- d. The file number of the case in the county in which the judgment was originally entered;
 - 5- e. The name of the owner of said judgment, and, if not the party in whose name the judgment was entered, the source of that person's title thereto and a statement of each assignment of said judgment necessary to trace the title thereof from the original judgment creditor;
 - 6- f. If the judgment was entered upon a certified transcript from any other court, a statement of this fact;
 - 7- g. A statement of each county in which a transcript of said judgment has been filed;
 - 8- h. A statement that no execution is outstanding and unreturned upon said judgment, or, if any execution is outstanding, that fact must be stated;
 - 9- i. The date and amount of each payment upon said judgment, whether collected under execution or otherwise, and that all payments have been duly credited upon said judgment, and whether any amount has been realized that has not been credited upon the judgment and upon the records in the court in which the judgment was originally rendered, or in any other court to which it has been transcribed;
 - 10- j. That there are no offsets or counterclaims against the person for whose benefit the renewal is sought and in favor of the judgment debtor or debtors, or, if a counterclaim or offset does exist in favor of the judgment debtor, a statement of the amount, if ascertained or certain, and an offer to allow the same as a credit pro tanto upon the amount due from the judgment debtor, or, if the counterclaim or offset is unsettled or undetermined, an offer that when the same is settled or determined, by suit or otherwise, the same may be allowed as a payment or credit upon said judgment to the full amount which subsequently may be adjudged due the judgment debtor thereon;

- 44- k. The exact amount due upon said judgment, after allowing all offsets and counterclaims known to the affiant; and
- 42- l. Any other facts or circumstances necessary to a complete disclosure as to the exact condition of said judgment.

~~The affidavit must be verified positively by the person making it and not on information and belief.~~

SECTION 3. AMENDMENT. Section 28-20-22 of the North Dakota Century Code is amended and reenacted as follows:

28-20-22. Affidavit of renewal - Where filed - Entry.

~~For judgments initially docketed before the effective date of this Act, if the~~ judgment was rendered in a court of this state, the affidavit for renewal must be filed with the clerk of court where the judgment was first docketed and the clerk of court shall file a copy of the affidavit for renewal in each county where the judgment was transcribed as requested by the judgment creditor. If the judgment filed and docketed was a foreign judgment, the affidavit for renewal may be filed with the clerk of any court where the same has been docketed and the clerk of court shall file a copy of the affidavit for renewal in each county where the judgment was transcribed as requested by the judgment creditor. The clerk of court shall immediately enter in the judgment docket the fact of renewal, the date of renewal, and the amount for which the judgment is renewed.

SECTION 4. AMENDMENT. Section 28-20-23 of the North Dakota Century Code is amended and reenacted as follows:

28-20-23. Lien extended for ten years by renewal.

~~The~~For judgments initially docketed before the effective date of this Act, the entry and docketing of an affidavit of renewal of a judgment operates to continue the lien of the judgment to the extent of the balance due on said judgment as shown by the affidavit on all real property, except the homestead, of the judgment debtor or debtors in the county where the same is docketed which the judgment debtor or debtors may have at the time of such docketing or may acquire subsequently in such county, for a period of ten years from the time of the docketing of such affidavit. The filing of a certified copy of such affidavit of renewal and the docket entries thereon in a county wherein a transcript of the original judgment was docketed likewise continues and extends the lien of said judgment in such county. An execution may issue upon said judgment as renewed under the same conditions and with the same force and effect within such renewal period as upon a judgment originally rendered and entered at the date of such renewal, and all other remedies for the enforcement of judgments apply to the enforcement of such renewed judgment.

SECTION 5. AMENDMENT. Section 28-20-35 of the North Dakota Century Code is amended and reenacted as follows:

28-20-35. Cancellation of judgment of record.

After ten

1. For judgments initially docketed before the effective date of this Act, after ten years after the entry of a judgment that has not been renewed, or after twenty years after the entry of a judgment that has been renewed, the judgment must be canceled of record.

2. For judgments initially docketed on or after the effective date of this Act, after twenty years after the entry of a judgment that has not been renewed, or after twenty years after the entry of a judgment that has been renewed is docketed, the judgment must be canceled of record.

SECTION 6. REPEAL. Sections 28-20-21, 28-20-22, and 28-20-23 of the North Dakota Century Code are repealed.

SECTION 7. EFFECTIVE DATE. Section 6 of this Act becomes effective ten years from the effective date of this Act.

Approved March 25, 2021

Filed March 26, 2021

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 251

HOUSE BILL NO. 1302

(Representatives Becker, Christensen, Cory, Kempenich, Nehring)
(Senators Dwyer, Heitkamp, D. Larsen)

AN ACT to amend and reenact section 29-01-19 of the North Dakota Century Code, relating to the compromise of misdemeanors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-01-19 of the North Dakota Century Code is amended and reenacted as follows:

29-01-19. Compromise limited.

A public offense may not be compromised, nor may any proceeding for the prosecution or punishment thereof of a public offense, upon a compromise, be stayed except as is provided in sections 29-01-16 and 29-01-17 ~~and with the consent of the state.~~

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 252

SENATE BILL NO. 2182

(Senators Hogue, Dwyer, Myrdal)
(Representatives Fegley, Roers Jones, D. Ruby)

AN ACT to amend and reenact section 29-05-20 of the North Dakota Century Code, relating to attorney visitation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-05-20 of the North Dakota Century Code is amended and reenacted as follows:

29-05-20. Unnecessary delay after arrest prohibited - Attorney visitation.

The accused in all cases must be taken before a magistrate without unnecessary delay, and any attorney at law entitled to practice in the courts of record of this state, at the attorney's request of the attorney or the accused, may visit such personthe accused after ~~that person's~~the accused's arrest.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 253

HOUSE BILL NO. 1110

(Representatives Heinert, Mock, Nathe, M. Ruby)
(Senators Dever, Larson, K. Roers)

AN ACT to amend and reenact subsection 1 of section 29-06-05.2 of the North Dakota Century Code, relating to the jurisdiction of federal agents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 29-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

1. "Federal agent" means an employee of the federal bureau of investigation; the federal drug enforcement administration; the bureau of alcohol, tobacco, firearms and explosives; the homeland security investigations unit of the department of homeland security; the bureau of Indian affairs police; the United States marshals service; or the United States customs and border protection who is authorized to arrest, with or without a warrant, any individual for a violation of the United States Code and carry a firearm in the performance of the employee's duties as a federal law enforcement officer.

Approved March 16, 2021

Filed March 16, 2021

UNIFORM PROBATE CODE

CHAPTER 254

HOUSE BILL NO. 1048

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to create and enact a new subsection to section 30.1-28-04 of the North Dakota Century Code, relating to the requirement of a guardian to obtain a bond.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 30.1-28-04 of the North Dakota Century Code is created and enacted as follows:

The court may require a guardian to furnish a bond in the amount and with sureties as the court specifies.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 255

SENATE BILL NO. 2057

(Human Services Committee)
(At the request of the Supreme Court)

AN ACT to create and enact a new section to chapter 30.1-28 and a new subsection to section 30.1-29-09 of the North Dakota Century Code, relating to the sale of real or personal property of a ward and protective arrangements and single transactions; and to amend and reenact subsection 7 of section 30.1-28-12 of the North Dakota Century Code, relating to powers and duties of a guardian.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 30.1-28-12 of the North Dakota Century Code is amended and reenacted as follows:

7. If no conservator for the estate of the ward has been appointed and if the guardian has been granted authority to make financial decisions on behalf of the ward, the guardian may:
 - a. Institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that duty.
 - b. Receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward; but, the guardian may not use funds from the ward's estate for room and board which the guardian or the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the ward, if notice is possible. The guardian shall exercise care to conserve any excess for the ward's needs.
 - c. Move the court under section 2 of this Act for authority to sell, mortgage, or otherwise encumber or transfer ownership or beneficiary of:
 - (1) The real property of the ward; or
 - (2) The personal property of the ward valued over two thousand five hundred dollars upon such terms as the court may order, for the purpose of paying the ward's debts; providing for the care, maintenance, rehabilitation, training, or education of the ward or the ward's dependents; or for any other purpose which is in the best interests of the ward. The sale, mortgage, or other encumbrance or transfer of ownership of personal property of the ward valued at two thousand five hundred dollars or less does not require a court order.
 - d. Move the court under section 2 of this Act for authority to lease the real or personal property of the ward.

- e. A guardian may not purchase, lease, or obtain ownership or become the beneficiary of property of the ward unless the price and manner of the sale are approved by the court.

SECTION 2. A new section to chapter 30.1-28 of the North Dakota Century Code is created and enacted as follows:

Authorization of a single transaction to sell, encumber, or transfer ownership of real or personal property of the ward.

1. A guardian may move the court for authorization to sell, mortgage, lease, or otherwise encumber or transfer ownership of the real or personal property of the ward, valued at over two thousand five hundred dollars, upon such terms as the court may order, for the purpose of paying the ward's debts; providing for the care, maintenance, rehabilitation, training, or education of the ward or the ward's dependents; or for any other purpose which is in the best interests of the ward.
2. The motion must contain:
 - a. The type of property;
 - b. A description of the property;
 - c. The type of transaction;
 - d. The details of the transaction;
 - e. The reason for the transaction;
 - f. The current fair market value of the property:
 - (1) For real property, an appraisal must be provided unless good cause is shown;
 - (2) For personal property, a description of how the guardian arrived at the fair market value must be provided;
 - g. An explanation of why the transaction is in the best interests of the ward; and
 - h. A notice that any person interested in the ward's property that opposes the transaction shall file an objection within ten days of the notice and demand a hearing.
3. The motion must be served upon the ward, the ward's spouse, and all interested persons.
4. Any consents of the ward's spouse or interested persons must be filed with the motion. If the motion is unopposed, the court may authorize the transaction without a hearing or may conduct a hearing and require proof of the matters necessary to support the authorization of the transaction.
5. The court's order must include specific findings regarding whether the transaction is in the best interests of the ward.

SECTION 3. A new subsection to section 30.1-29-09 of the North Dakota Century Code is created and enacted as follows:

This section does not apply to a guardian or conservator.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 256

HOUSE BILL NO. 1049

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to create and enact a new section to chapter 30.1-28 of the North Dakota Century Code, relating to restrictions on visitation, communication, and interaction with the ward.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 30.1-28 of the North Dakota Century Code is created and enacted as follows:

Restrictions on visitation, communication, and interaction with the ward - Removal of restriction.

1. If it is in the best interests of the ward, a guardian may restrict visitation, communication, and interaction with the ward.
2. A family member, friend, the ward, clergy member, attorney, agency charged with the protection of vulnerable adults, or other interested person may move the court to remove the restriction on visitation, communication, and interaction with the ward.
3. The motion must state:
 - a. The movant's relationship to the ward;
 - b. Whether the guardian is unreasonably or arbitrarily denying or restricting visitation, communication, or interaction between the restricted party and the ward; and
 - c. The facts supporting the movant's allegation that the guardian is unreasonably or arbitrarily denying or restricting visitation, communication, or interaction between the restricted party and the ward.
4. The movant shall serve the motion on the guardian, the ward, the ward's spouse, and any other interested person.
5. The court shall set a hearing on the motion and provide notice of the hearing to the movant, the guardian, the ward, the ward's spouse, and any other interested person.
6. The court shall take into consideration the ward's wishes, and may conduct an in-camera interview with the ward and appoint a visitor or guardian ad litem.
7. If the court grants the motion for visitation, communication, or interaction, the court may impose conditions on visitation, communication, and interaction between the restricted party and the ward.

8. If the visitation, communication, or interaction is not in the best interests of the ward, the court may prohibit visitation, communication, or interaction between the restricted party and the ward.
9. The court may award reasonable costs and attorney's fees to the prevailing party if the court finds:
 - a. The guardian unreasonably, arbitrarily, or in bad faith denied or restricted visitation, communication, or interaction between the restricted party and the ward; or
 - b. The motion was frivolous.
10. Costs and attorney's fees awarded against the guardian may not be paid from the ward's estate.
11. If a movant for visitation, communication, and interaction states the ward's health is in significant decline or the ward's death may be imminent, the court shall conduct an emergency hearing on the motion as soon as practicable but not later than fourteen days after the date the motion is filed or at a later date upon a showing of good cause.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 257

HOUSE BILL NO. 1077

(Judiciary Committee)

(At the request of the Commission on Uniform State Laws)

AN ACT to create and enact chapter 30.1-37 of the North Dakota Century Code, relating to the Uniform Electronic Wills Act; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 30.1-37 of the North Dakota Century Code is created and enacted as follows:

30.1-37-01. Definitions.

As used in this chapter:

1. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
2. "Electronic will" means a will executed electronically in compliance with subsection 1 of section 30.1-37-04.
3. "Record" means information inscribed on a tangible medium or stored in an electronic or other medium and is retrievable in perceivable form.
4. "Sign" means, with present intent to authenticate or adopt a record to:
 - a. Execute or adopt a tangible symbol; or
 - b. Affix to or logically associate with the record an electronic symbol or process.
5. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.
6. "Will" includes a codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.

30.1-37-02. Law applicable to electronic will - Principles of equity.

An electronic will is a will for all purposes of the law of this state. The law of this state applicable to wills and principles of equity apply to an electronic will, except as modified by this chapter.

30.1-37-03. Choice of law regarding execution.

A will executed electronically but not in compliance with subsection 1 of section 30.1-37-04 is an electronic will under this chapter if executed in compliance with the law of the jurisdiction where the testator is:

1. Physically located when the will is signed; or
2. Domiciled or resides when the will is signed or when the testator dies.

30.1-37-04. Execution of electronic will.

1. Subject to subsection 4 of section 30.1-37-06, an electronic will must be:
 - a. A record that is readable as text at the time of signing as provided under subdivision b;
 - b. Signed by:
 - (1) The testator; or
 - (2) Another individual in the testator's name, in the testator's conscious presence, and by the testator's direction; and
 - c. Either:
 - (1) Signed by at least two individuals, each of whom signed within a reasonable time after witnessing:
 - (a) The signing of the will as provided under subdivision b; or
 - (b) The testator's acknowledgment of the signature as provided under subdivision b or acknowledgment of the will; or
 - (2) Acknowledged by the testator before a notary public or other individual authorized by law to take acknowledgments.
2. Intent of a testator that the record under subdivision a of subsection 1 be the testator's electronic will may be established by extrinsic evidence.

30.1-37-05. Revocation.

1. An electronic will may revoke all or part of a previous will.
2. All or part of an electronic will is revoked by:
 - a. A subsequent will that revokes all or part of the electronic will expressly or by inconsistency; or
 - b. A physical act, if it is established by a preponderance of the evidence that the testator, with the intent of revoking all or part of the will, performed the act or directed another individual who performed the act in the testator's physical presence.

30.1-37-06. Electronic will attested and made self-proving at time of execution.

1. An electronic will may be simultaneously executed, attested, and made self-proving by acknowledgment of the testator and affidavits of the witnesses.
2. The acknowledgment and affidavits under subsection 1 must be:
 - a. Made before an officer authorized to administer oaths under law of the state in which execution occurs; and
 - b. Evidenced by the officer's certificate under official seal affixed to or logically associated with the electronic will.
3. The acknowledgment and affidavits under subsection 1 must be in substantially the following form:

STATE OF _____

COUNTY OF _____

I, _____, the testator, sign my name to this instrument this _____ day of _____, and being first sworn, declare to the undersigned authority that I sign and execute this instrument as my electronic will and that I sign it willingly or willingly direct another to sign for me, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

Testator

We, _____, the witnesses, sign our names to this instrument, and being first sworn, declare to the undersigned authority that the testator signs and executes this instrument as the testator's electronic will and that the testator signs it willingly or willingly directs another to sign for the testator, and that each of us, in the presence and hearing of the testator, signs this electronic will as witness to the testator's signing, and that to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Witness

Witness

Subscribed, sworn to, and acknowledged before me by _____, the testator, and subscribed and sworn to before me by _____ and _____, witnesses, this _____ day of _____.

(SEAL)

(Signed) _____

(Official capacity of officer)

4. A signature physically or electronically affixed to an affidavit that is affixed to or logically associated with an electronic will under this chapter is deemed a signature of the electronic will under subsection 1 of section 30.1-37-04.

30.1-37-07. Certification of paper copy.

An individual may create a certified paper copy of an electronic will by affirming under penalty of perjury that a paper copy of the electronic will is a complete, true, and accurate copy of the electronic will. If the electronic will is made self-proving, the certified paper copy of the will must include the self-proving affidavits.

SECTION 2. APPLICATION. This Act applies to the will of a decedent who dies after July 31, 2021.

Approved March 9, 2021

Filed March 10, 2021

JUDICIAL REMEDIES

CHAPTER 258

HOUSE BILL NO. 1057

(Political Subdivisions Committee)
(At the request of the Office of Management and Budget)

AN ACT to amend and reenact subsection 2 of section 32-12.1-03 and subsection 2 of section 32-12.2-02 of the North Dakota Century Code, relating to the statutory caps for liability of political subdivisions and the state; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷² **SECTION 1. AMENDMENT.** Subsection 2 of section 32-12.1-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The liability of political subdivisions under this chapter is limited to a total of ~~two~~three hundred ~~fifty~~seventy-five thousand dollars per person and one million dollars for any number of claims arising from any single occurrence regardless of the number of political subdivisions, or employees of such political subdivisions, which are involved in that occurrence. A political subdivision may not be held liable, or be ordered to indemnify an employee held liable, for punitive or exemplary damages. The liability limits under this subsection must be adjusted annually as follows:
 - a. On July 1, 2023, a total of four hundred six thousand two hundred and fifty dollars per person and one million six hundred twenty-five thousand dollars for any single occurrence.
 - b. On July 1, 2024, a total of four hundred thirty-seven thousand five hundred dollars per person and one million seven hundred fifty thousand dollars for any single occurrence.
 - c. On July 1, 2025, a total of four hundred sixty-eight thousand seven hundred fifty dollars per person and one million eight hundred seventy-five thousand dollars per occurrence.
 - d. On July 1, 2026, a total of five hundred thousand dollars per person and two million dollars per occurrence.

SECTION 2. AMENDMENT. Subsection 2 of section 32-12.2-02 of the North Dakota Century Code is amended and reenacted as follows:

2. The liability of the state under this chapter is limited to a total of ~~two~~three hundred ~~fifty~~seventy-five thousand dollars per person and one million dollars

¹⁷² Section 32-12.1-03 was also amended by section 1 of Senate Bill No. 2067, chapter 259.

for any number of claims arising from any single occurrence. The state may not be held liable, or be ordered to indemnify a state employee held liable, for punitive or exemplary damages. Any amount of a judgment against the state in excess of the one million dollar limit imposed under this subsection may be paid only if the legislative assembly adopts an appropriation authorizing payment of all or a portion of that amount. A claimant may present proof of the judgment to the director of the office of management and budget who shall include within the proposed budget for the office of management and budget a request for payment for the portion of the judgment in excess of the limit under this section at the next regular session of the legislative assembly after the judgment is rendered. The liability limits under this subsection must be adjusted annually as follows:

- a. On July 1, 2023, a total of four hundred six thousand two hundred and fifty dollars per person and one million six hundred twenty-five thousand dollars for any single occurrence.
- b. On July 1, 2024, a total of four hundred thirty-seven thousand five hundred dollars per person and one million seven hundred fifty thousand dollars for any single occurrence.
- c. On July 1, 2025, a total of four hundred sixty-eight thousand seven hundred fifty dollars per person and one million eight hundred seventy-five thousand dollars per occurrence.
- d. On July 1, 2026, a total of five hundred thousand dollars per person and two million dollars per occurrence.

SECTION 3. EFFECTIVE DATE. This Act becomes effective July 1, 2022.

SECTION 4. EXPIRATION DATE. This Act is effective through July 31, 2027, and after that date is ineffective.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 259

SENATE BILL NO. 2067

(Judiciary Committee)

(At the request of the Office of Management and Budget)

AN ACT to create and enact a new subsection to section 32-12.1-03 and a new subsection to section 32-12.2-11 of the North Dakota Century Code, relating to compliance with rules of civil procedure in actions brought against political subdivisions, employees of political subdivisions, the state, or a state employee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷³ **SECTION 1.** A new subsection to section 32-12.1-03 of the North Dakota Century Code is created and enacted as follows:

Any party to an action against a political subdivision or a political subdivision employee acting within the scope of employment as defined in this chapter shall comply with applicable rules of civil procedure when requesting documents or other information in the possession or control of the political subdivision.

SECTION 2. A new subsection to section 32-12.2-11 of the North Dakota Century Code is created and enacted as follows:

Any party to an action against the state or a state employee acting within the scope of employment as defined in this chapter shall comply with applicable rules of civil procedure when requesting documents or other information in the possession or control of the state.

Approved March 31, 2021

Filed April 1, 2021

¹⁷³ Section 32-12.1-03 was also amended by section 1 of House Bill No. 1057, chapter 258.

CHAPTER 260

HOUSE BILL NO. 1316

(Representatives Mock, Bosch, Lefor, Roers Jones, Toman, Vigesaa, Weisz)
(Senators Davison, Piepkorn, Wanzek)

AN ACT to amend and reenact section 32-12.2-15 of the North Dakota Century Code, relating to contracts limiting liability to the state; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-12.2-15 of the North Dakota Century Code is amended and reenacted as follows:

32-12.2-15. Contracts limiting liability to the state.

1. Notwithstanding any provision in this chapter to the contrary, an agency may agree to limit the liability of a contractor to the state if the agency determines such services or products cannot be effectively obtained without such limitation and the limitation does not pose any significant risk of loss to the state and is in the best interests of the state. The agency, in consultation with the office of management and budget and the attorney general's office, shall prepare a written documentation before agreeing to any liability limitation. An agency's authority to agree to a limitation of liability is limited to contracts for the purchase or lease of, or services related to, software, communication, or electronic equipment, and economic forecasting and ~~may only limit the agency's~~.
2. ~~An agency may limit its~~ ability to recover indirect consequential damages.
3. ~~If the extent of potential direct loss is unknown, an agency may agree to limit direct damages to a reasonably estimated amount commensurate with the foreseeable risk of loss to the state. The amount must be equal to twice the total value of the contract, unless all parties to the contract agree to an alternative amount. Any agreed upon amount that is less than twice the value of the contract must be approved by the director of the office of management and budget. The liquidated damages and retainage provisions for delay, missed deadlines, and other breaches are not subject to a general limitation on direct or indirect damages authorized under this section.~~
4. A contract under this section may not limit any ~~direct~~ loss to the state ~~resulting from fraud or other intentional or willful misconduct, breach of confidentiality obligations,~~ or loss resulting from tangible property damage or personal injury.

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

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 261

SENATE BILL NO. 2191

(Senator Holmberg)

AN ACT to amend and reenact section 32-19-41 of the North Dakota Century Code, relating to the disposal of abandoned personal property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-19-41 of the North Dakota Century Code is amended and reenacted as follows:

32-19-41. Abandoned personal property - Disposal by record title owner.

The

1. If real property is adjudicated to be abandoned by an affidavit under section 32-19-23.1 or by a petition under section 32-19-19, the grantee in a sheriff's deed that has been recorded, or after receipt and recording of a deed in lieu of foreclosure, may retain and dispose of, without legal process, any personal property left on the real property.
2. If the real property is not adjudicated to be abandoned by an affidavit under section 32-19-23.1 or by a petition under section 32-19-19, the grantee may retain and dispose of, without legal process, any personal property left on the real property thirty days after the issuance of a sheriff's deed.
3. If the total estimated value of the personal property under subsection 2 is five hundred dollars or more, the record title owner shall make reasonable efforts to notify in writing the mortgagor or person who was entitled to possession of the real property during the redemption period by certified mail at least fifteen days before disposing of the personal property. Service by mail is complete upon mailing.
4. The record title owner is entitled to the proceeds from the sale of the personal property, after all costs incidental to removal, storage, disposal, and sale of the property have been deducted.
5. This section applies only to tracts of land not exceeding forty acres [16.19 hectares].
6. If the record title owner cannot be located, any remainder from the proceeds of a sale must be delivered to the administrator of the state abandoned property office in accordance with chapter 47-30.1.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 262

HOUSE BILL NO. 1207

(Representatives K. Koppelman, Jones, Magrum)
(Senators Dwyer, Larson)

AN ACT to create and enact chapter 32-46.2 of the North Dakota Century Code, relating to civil actions involving asbestos; to amend and reenact subsection 2 of section 28-01.3-04 of the North Dakota Century Code, relating to liability of nonmanufacturing sellers; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 28-01.3-04 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~After the plaintiff has filed a complaint against the manufacturer and the manufacturer has or is required to have answered or otherwise pleaded,~~
the court shall order the dismissal of the claim against the certifying seller, unless the plaintiff can show any of the following:
 - a. That the certifying seller exercised some significant control over the design or manufacture of the product, or provided instructions or warnings to the manufacturer relative to the alleged defect in the product which caused the personal injury, death, or damage to property.
 - b. That the certifying seller had actual knowledge of the defect in the product which caused the personal injury, death, or damage to property.
 - c. That the certifying seller created the defect in the product which caused the personal injury, death, or damage to property.

SECTION 2. Chapter 32-46.2 of the North Dakota Century Code is created and enacted as follows:

32-46.2-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "AMA guides" means the "Guides to the Evaluation of Permanent Impairment", American medical association. (6th edition).
2. "Asbestos action" means the same as that term is defined in section 32-46.1-01.
3. "Asbestosis" means bilateral diffuse interstitial fibrosis of the lungs caused by inhalation of asbestos fibers.
4. "Board-certified in internal medicine" means a licensed physician who is certified by the American board of internal medicine or the American osteopathic board of internal medicine.

5. "Board-certified in occupational medicine" means a licensed physician who is certified in the specialty of occupational medicine by the American board of preventive medicine or the specialty of occupational/environmental medicine by the American osteopathic board of preventive medicine.
6. "Board-certified in oncology" means a licensed physician who is certified in the subspecialty of medical oncology by the American board of internal medicine or the American osteopathic board of internal medicine.
7. "Board-certified in pathology" means a licensed physician who holds primary certification in anatomic pathology or clinical pathology from the American board of pathology or the American osteopathic board of pathology and whose professional practice is principally in the field of pathology and involves regular evaluation of pathology materials obtained from surgical or postmortem specimens.
8. "Board-certified in pulmonary medicine" means a licensed physician who is certified in the specialty of pulmonary medicine by the American board of internal medicine or the American osteopathic board of internal medicine.
9. "Certified B-reader" means an individual who is certified as a national institute for occupational safety and health final or B-reader of x-rays under title 42, Code of Federal Regulations, part 37.51(b).
10. "Chest x-ray" means chest films taken in accordance with all applicable state and federal regulatory standards and taken in the posterior-anterior view.
11. "DLCO" means diffusing capacity of the lung for carbon monoxide, which is the measurement of carbon monoxide transfer from inspired gas to pulmonary capillary blood.
12. "Exposed individual" means an individual whose exposure to asbestos is the basis for an asbestos action.
13. "FEV1" means forced expiratory volume in the first second, which is the maximal volume of air expelled in one second during performance of simple spirometric tests.
14. "FEV1/FVC" means the ratio between the actual values for FEV1 over FVC.
15. "FVC" means forced vital capacity, which is the maximal volume of air expired with maximum effort from a position of full inspiration.
16. "ILO system" and "ILO scale" mean the radiological ratings and system for the classification of chest x-rays of the international labour office provided in "Guidelines for the Use of ILO International Classification of Radiographs of Pneumoconioses" (2011).
17. "Nonmalignant condition" means any condition that may be caused by asbestos other than a diagnosed cancer.
18. "Official statements of the American thoracic society" means the lung function testing standards set forth in the technical standards of the American thoracic society, including "Standardization of Spirometry" (2019), "Standardisation of the Measurement of Lung Volumes" (2005), "Standards for Single-breath

Carbon Monoxide Uptake in the Lung" (2017), and "Interpretive Strategies for Lung Function Tests" (2005).

19. "Pathological evidence of asbestosis" means a statement by a board-certified pathologist that more than one representative section of lung tissue uninvolved with any other disease process demonstrates a pattern of peribronchiolar or parenchymal scarring in the presence of characteristic asbestos bodies graded 1(B) or higher under the criteria published in "Asbestos-Associated Diseases", 106 Archive of Pathology and Laboratory Medicine 11, Appendix 3 (October 8, 1982).
20. "Plaintiff" means the same as that term is defined in section 32-46.1-01.
21. "Plethysmography" means the test for determining lung volume in which the exposed individual is enclosed in a chamber equipped to measure pressure, flow, or volume change.
22. "Predicted lower limit of normal" means the test value that is the calculated standard convention lying at the fifth percentile, below the upper ninety-five percent of the reference population, based on age, height, and gender, according to the recommendations by the American thoracic society and as referenced in the AMA guides.
23. "Product liability action" means the same as defined in section 28-01.3-01.
24. "Pulmonary function test" means spirometry, lung volume testing, and diffusion capacity testing, including appropriate measurements, quality control data, and graphs, performed in accordance with the methods of calibration and techniques provided in the AMA guides and all standards provided in the official statements of the American thoracic society.
25. "Qualified physician" means a licensed physician who is board-certified in internal medicine, pathology, pulmonary medicine, occupational medicine, or oncology, as may be appropriate to the diagnostic specialty in question, and who:
 - a. Conducted a physical examination of the exposed individual and has taken a detailed occupational, exposure, medical, smoking, and social history from the exposed individual, or if the exposed individual is deceased, has reviewed the pathology material and has taken a detailed history from the individual most knowledgeable about the information forming the basis of the asbestos action;
 - b. Treated or is treating the exposed individual, and has a doctor-patient relationship with the exposed individual at the time of the physical examination, or in the case of a board-certified pathologist, examined tissue samples or pathological slides of the exposed individual at the request of the treating physician;
 - c. Has not relied on any examinations, tests, radiographs, reports, or opinions of any doctor, clinic, laboratory, or testing company that performed an examination, test, radiograph, or screening of the exposed individual in violation of any law, regulation, licensing requirement, or medical code of practice of the state in which the examination, test, or screening was conducted; and

- d. Prepared or directly supervised the preparation and final review of any medical report under this chapter.
- 26. "Radiological evidence of asbestosis" means a quality 1 chest x-ray under the ILO system, or a quality 2 chest x-ray in a death case when no pathology or quality 1 chest x-ray is available, showing bilateral small, irregular opacities (s, t, or u) occurring primarily in the lower lung zones graded by a certified B-reader as at least 1/1 on the ILO scale.
- 27. "Radiological evidence of diffuse bilateral pleural thickening" means a quality 1 chest x-ray under the ILO system, or a quality 2 chest x-ray in a death case when no pathology or quality 1 chest x-ray is available, showing diffuse bilateral pleural thickening of at least b2 on the ILO scale and blunting of at least one costophrenic angle as classified by a certified B-reader.
- 28. "Spirometry" means a test of air capacity of the lung through a spirometer to measure the volume of air inspired and expired.
- 29. "Supporting test results" means B-reading and B-reader reports, reports of x-ray examinations, diagnostic imaging of the chest, pathology reports, pulmonary function tests, and all other tests reviewed by the diagnosing physician or a qualified physician in reaching the physician's conclusions.
- 30. "Timed gas dilution" means a method for measuring total lung capacity in which the subject breathes into a spirometer containing a known concentration of an inert and insoluble gas for a specific time, and the concentration of that inert and insoluble gas in the lung is compared to the concentration of that type of gas in the spirometer.
- 31. "Total lung capacity" means the volume of gas contained in the lungs at the end of a maximal inspiration.

32-46.2-02. Sworn information form requirement for asbestos action.

- 1. In addition to any requirements for asbestos actions under chapter 32-46.1, a plaintiff in an asbestos action shall file, within forty-five days after any complaint is filed in an asbestos action, a sworn information form signed by the plaintiff and plaintiff's counsel specifying the evidence that provides the basis for each claim against each defendant. The sworn information form must include the following with specificity:
 - a. The name, address, date of birth, marital status, occupation, smoking history, current and past worksites, and current and past employers of the exposed individual, and any person through whom the exposed person was exposed to asbestos;
 - b. Each individual through whom the exposed individual was exposed to asbestos and the exposed individual's relationship to each individual;
 - c. Each asbestos-containing product to which the individual was exposed and each physical location at which the exposed individual was exposed, or if the plaintiff was exposed through another individual, to which that other individual was exposed;
 - d. The specific location and manner of each exposure, including for any individual through whom the exposed individual was exposed to asbestos;

- e. The beginning and ending dates of each exposure, the frequency and length of each exposure, and the proximity of the asbestos-containing product or its use to the exposed person and any person through whom the exposed person was exposed to asbestos;
 - f. The identity of the manufacturer or seller of the specific asbestos product for each exposure;
 - g. The specific asbestos-related disease claimed to exist; and
 - h. Any supporting documentation relating to the information required under this section.
- 2. The plaintiff has a continuing duty to supplement the information required to be disclosed in subsection 1.
 - 3. The court shall dismiss the asbestos action without prejudice as to any defendant whose product or premises is not identified in the required disclosures in subsection 1.
 - 4. The court shall dismiss the asbestos action without prejudice as to all defendants if the plaintiff and plaintiff's counsel fail to comply with this section.

32-46.2-03. Requirements for asbestos action.

- 1. In addition to any requirements for asbestos actions under chapter 32-46.1 and the required sworn information form required by section 32-46.2-02, a plaintiff in an asbestos action shall include with any complaint a detailed narrative medical report, signed by a qualified physician and accompanied by supporting test results, which constitute prima facie evidence the exposed individual meets the requirements of this chapter. The report may not be prepared by a lawyer or other individual working for or on behalf of a lawyer or law firm.
- 2. A defendant shall have a reasonable opportunity to challenge the adequacy of the prima facie evidence. The court shall dismiss the action without prejudice if the plaintiff fails to comply with the requirements of this section or fails to make the prima facie showing required by this section.
- 3. Until a court enters an order determining the exposed individual has established prima facie evidence of impairment, an asbestos action is not subject to discovery, except discovery related to establishing or challenging the prima facie evidence.

32-46.2-04. Elements of proof for asbestos action involving nonmalignant conditions.

An asbestos action related to an alleged nonmalignant asbestos-related condition may not be brought or maintained in the absence of prima facie evidence the exposed individual has a physical impairment for which asbestos exposure was a substantial contributing factor. The prima facie showing must be made as to each defendant and include a detailed narrative medical report signed by a qualified physician that includes the following:

1. Radiological or pathological evidence of asbestosis or radiological evidence of diffuse bilateral pleural thickening or a high-resolution computed tomography scan showing evidence of asbestosis or diffuse pleural thickening;
2. A detailed occupational and exposure history from the exposed individual or, if the individual is deceased, from the individual most knowledgeable about the exposures that form the basis of the action, including identification of all of the exposed individual's places of employment and exposures to airborne contaminants and whether each place of employment involved exposures to airborne contaminants, including asbestos fibers or other disease-causing dusts, that may cause pulmonary impairment, and the nature, duration, and level of any exposure;
3. A detailed medical, social, and smoking history from the exposed individual or, if the individual is deceased, from the individual most knowledgeable, including a thorough review of the past and present medical problems of the exposed individual;
4. Evidence verifying at least fifteen years have elapsed between the exposed individual's date of first exposure to asbestos and the date of diagnosis;
5. Evidence from an individual medical examination and pulmonary function testing of the exposed individual or, if the exposed individual is deceased, based upon the individual's medical records, the exposed individual has or the deceased individual had a permanent respiratory impairment rating of at least class 2 as defined by the AMA guides or reported significant changes year to year in lung function for FVC, FEV1, or DLCO as defined by the American thoracic society's "Interpretative Strategies for Lung Function Tests", 26 European Respiratory Journal 948-68, 961-62, table 12 (2005);
6. Evidence that asbestosis or diffuse bilateral pleural thickening, rather than chronic obstructive pulmonary disease, is a substantial contributing factor to the exposed individual's physical impairment, based on a determination the exposed individual has any of the following:
 - a. FVC below the predicted lower limit of normal and FEV1/FVC ratio (using twenty actual values) at or above the predicted lower limit of normal;
 - b. Total lung capacity, by plethysmography or timed gas dilution, below the predicted lower limit of normal; or
 - c. A chest x-ray showing bilateral small, irregular opacities (s, t, or u) graded by a twenty-four certified B-reader as at least 2/1 on the ILO scale; and
7. A statement that the qualified physician signing the detailed narrative medical report has concluded exposure to asbestos was a substantial contributing factor to the exposed individual's physical impairment and not more probably the result of other causes. An opinion that the medical findings and impairment are consistent with or compatible with exposure to asbestos, or words to that effect, does not satisfy this subsection.

32-46.2-05. Elements of proof for asbestos action involving malignant conditions.

1. An asbestos action related to an alleged asbestos-related malignant condition may not be brought or maintained in the absence of prima facie evidence that

the exposed individual has a malignant condition for which asbestos exposure was a substantial contributing factor. The prima facie showing must be made as to each defendant and include a detailed narrative medical report signed by a qualified physician that includes all of the following:

- a. A diagnosis that the exposed person has a malignant asbestos-related condition; and
 - b. A statement that exposure to asbestos was a substantial contributing factor to the exposed individual's malignant condition and not more probably the result of other causes, and a detailed explanation for that opinion. An opinion that the malignant condition is consistent with or compatible with exposure to asbestos, or words to that effect, does not satisfy this subdivision.
2. The court shall hold an evidentiary hearing and determine if the exposed person has established a prima facie showing of cancer to which exposure to asbestos was a substantial contributing factor.

32-46.2-06. Evidence of physical impairment - Procedures - Limitation.

1. Evidence relating to the prima facie showings required under this chapter does not create a presumption the exposed individual has an asbestos-related impairment and is not conclusive as to the liability of any defendant.
2. Evidence may not be offered at trial and the jury may not be informed of:
 - a. The grant or denial of a motion to dismiss an asbestos action under this chapter; or
 - b. The provisions of this chapter with respect to what constitutes a prima facie showing of asbestos impairment.
3. Evidence relating to physical impairment offered in an asbestos action governed by this chapter:
 - a. Must comply with the quality controls, equipment requirements, methods of calibration, and techniques set forth in the AMA guides and all standards set forth in the official statements of the American thoracic society;
 - b. May not be obtained under the condition the plaintiff or exposed individual retains the legal services of an attorney or law firm.
4. In the absence of consent from all parties, a court may consolidate for trial only asbestos actions relating to the exposed individual and members of that individual's household.
5. A product liability defendant in an asbestos action may not be liable for exposures from a later-added asbestos-containing product made or sold by a third party.

32-46.2-07. Statute of limitations.

1. The period of limitations for an asbestos action that is not barred as of the effective date of this chapter may not accrue, nor may the running of limitations commence, before the earlier of the date:

- a. The exposed individual received a medical diagnosis of an asbestos-related impairment;
 - b. The exposed individual discovered facts that would have led a reasonable individual to obtain a medical diagnosis with respect to the existence of an asbestos-related impairment; or
 - c. The date of death of the exposed individual having an asbestos-related impairment.
2. This section does not revive or extend limitations with respect to any claim for asbestos-related impairment that was time-barred on the effective date of this chapter.

SECTION 3. APPLICATION. This Act applies to all asbestos claims filed on or after August 1, 2021.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 263

HOUSE BILL NO. 1175

(Representatives Howe, Bosch, Devlin, Lefor, Mock, Stemen)
(Senators Burckhard, Klein, Bell)

AN ACT to create and enact a new chapter to title 32 of the North Dakota Century Code, relating to business immunity from COVID-19 liability claims; to provide for retroactive application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 32 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter:

1. "COVID-19" means:
 - a. Severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2; and
 - b. Any disease or condition caused by severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2.
2. "Disinfecting or cleaning supplies" includes hand sanitizers, disinfectants, disinfecting sprays, and disinfecting wipes.
3. "Health care facility" means any facility in which health care services are provided and includes a hospital, special care unit, skilled nursing facility, intermediate care facility, basic care facility, assisted living facility, ambulatory surgical center, freestanding emergency department, rural primary care hospital, critical access hospital, inpatient hospice facility, including a clinic not located on a hospital's primary campus, health maintenance organization, home health agency, any field hospital, modular field-treatment facility, or other alternative care facility designated by the state department of health for temporary use related to the COVID-19 state of emergency, and a diagnostic, examination, treatment, imaging, or rehabilitation center.
4. "Health care provider" means an individual or entity licensed, certified, or otherwise authorized to provide health care services in this state whether paid or unpaid. The term includes:
 - a. The employer or agent of a health care provider that provides or arranges a health care service;
 - b. A person engaged in telemedicine or telehealth; and

- c. A volunteer or military member who is approved by or works under the direction of the state department of health and who provides health care services in response to the COVID-19 state of emergency.
- 5. "Intentional" means when engaging in the conduct, it is the person's purpose to do so.
- 6. "Personal protective equipment" means equipment worn to prevent or minimize exposure to hazards that cause injuries or illnesses.
- 7. "Premises" means any real property, any appurtenant building or structure, and any vehicle serving a residential, agricultural, commercial, industrial, educational, religious, governmental, cultural, charitable, or health care purpose.
- 8. "Qualified product" means:
 - a. Personal protective equipment used to protect the wearer from COVID-19 or to prevent the spread of COVID-19.
 - b. A medical device or equipment used to treat COVID-19, including a medical device or equipment used or modified for an unapproved use to treat COVID-19 or to prevent the spread of COVID-19.
 - c. A medical device or equipment used outside its normal use to treat COVID-19 or to prevent the spread of COVID-19.
 - d. Medication or treatment used to treat or prevent COVID-19, including medication or treatment prescribed or dispensed for off-label use to treat or prevent COVID-19.
 - e. A test to diagnose or determine immunity to COVID-19.
- 9. "Reckless" means conduct engaged in a conscious and clearly unjustifiable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct.
- 10. "Unapproved" means not authorized, accredited, or certified by a federal or state agency for any other use, purpose, or design.
- 11. "Willful" means the conduct is engaged in intentionally, knowingly, or recklessly.

Actual injury requirement in civil actions alleging COVID-19 exposure.

A person may not bring or maintain a civil action alleging exposure or potential exposure to COVID-19 unless the civil action involves an act intended to cause harm or an act that constitutes actual malice.

Premises owner's duty of care - Limited liability.

A person that possesses, owns, or is in control of premises, including a tenant, lessee, or occupant of a premises, which directly or indirectly invites or permits an individual onto the premises is immune from civil liability for any act or omission

resulting in damage or injury sustained from the individual's exposure to COVID-19, unless the person that possesses, owns, or is in control of the premises:

1. Exposes the individual to COVID-19 through an act that constitutes actual malice; or
2. Intentionally exposes the individual to COVID-19 with the intent to cause harm.

Safe harbor for compliance with statutes, regulations, or executive orders.

A person is immune from civil liability for an act or omission resulting in damage or injury sustained from exposure or potential exposure to COVID-19 if the act or omission was in substantial compliance or was consistent with a federal or state statute, regulation, or order related to COVID-19 which was applicable to the person or activity at issue at the time of the alleged exposure or potential exposure.

Liability of health care providers and health care facilities.

1. A health care provider or health care facility is immune from civil liability for any act or omission in response to COVID-19 that causes or contributes, directly or indirectly, to the death or injury of an individual. The immunity provided under this subsection includes:
 - a. Injury or death resulting from screening, assessing, diagnosing, caring for, triaging, or treating an individual with a suspected or confirmed case of COVID-19.
 - b. Prescribing, administering, or dispensing a pharmaceutical for off-label use to treat or prevent a suspected or confirmed case of COVID-19.
 - c. An act or omission while providing a health care service to an individual unrelated to COVID-19 if the act or omission supports the state's response to COVID-19, including:
 - (1) Delaying or canceling a nonurgent or elective dental, medical, or surgical procedure; delaying the diagnosis of an individual; or altering the treatment of an individual.
 - (2) Conducting a test or providing treatment to an individual outside the premises of a health care facility.
 - (3) An act or omission undertaken by a health care provider or a health care facility because of a lack of staff, facility, medical device, treatment, equipment, or other resource, attributable to COVID-19 which renders the health care provider or health care facility unable to provide the level or manner of care to an individual which otherwise would have been required in the absence of COVID-19.
 - (4) An act or omission undertaken by a health care provider or a health care facility relating to use or nonuse of personal protective equipment.
 - (5) An act or omission undertaken by a health care provider or a health care facility relating to the administration, delivery, distribution, allocation, prioritization, or dispensing of scarce resources among individuals such as medical devices, treatment, and equipment.

2. The immunity provided under subsection 1 does not apply to an act or omission that constitutes:
 - a. Willful and wanton misconduct;
 - b. Reckless infliction of harm; or
 - c. Intentional infliction of harm.

Supplies, equipment, and products designed, manufactured, labeled, sold, distributed, and donated in response to COVID-19.

1. A person that designs, manufactures, labels, sells, distributes, or donates disinfecting or cleaning supplies, personal protective equipment, or a qualified product in response to COVID-19 is immune from civil liability for any personal injury, death, or property damage caused by or resulting from the design, manufacturing, labeling, selling, distributing, or donating of the disinfecting or cleaning supplies, personal protective equipment, or a qualified product.
2. A person that designs, manufactures, labels, sells, distributes, or donates disinfecting or cleaning supplies, personal protective equipment, or a qualified product in response to COVID-19 is immune from civil liability for any personal injury, death, or property damage caused by or resulting from a failure to provide proper instruction or sufficient warning.
3. The immunity provided under subsections 1 and 2 does not apply:
 - a. To a person that designs, manufactures, labels, sells, distributes, or donates disinfecting or cleaning supplies, personal protective equipment, or a qualified product:
 - (1) With actual knowledge of a defect in the disinfecting or cleaning supplies, personal protective equipment, or a qualified product when put to the use for which the disinfecting or cleaning supplies, personal protective equipment, or a qualified product was designed, manufactured, sold, distributed, or donated; and
 - (2) If the person recklessly disregarded a substantial and unnecessary risk the disinfecting or cleaning supplies, personal protective equipment, or a qualified product would cause serious personal injury, death, or serious property damage; or
 - b. If the person that designs, manufactures, labels, sells, distributes, or donates disinfecting or cleaning supplies, personal protective equipment, or a qualified product acts with actual malice.

Construction.

This chapter may not be construed to:

1. Create, recognize, or ratify a liability claim or cause of action.
2. Eliminate or satisfy a required element of a liability claim or cause of action.
3. Amend, repeal, affect, or supersede any other immunity protection that may apply under state or federal law.

Exception.

This chapter does not apply to enforcement actions under chapters 50-24.8, 51-08.1, and 51-15.

SECTION 2. RETROACTIVE APPLICATION. This Act applies retroactively to January 1, 2020.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 23, 2021

Filed April 23, 2021

LABOR AND EMPLOYMENT

CHAPTER 264

HOUSE BILL NO. 1398

(Representatives O'Brien, Lefor, D. Ruby, Strinden, Thomas)
(Senators Kreun, J. Roers, Sorvaag)

AN ACT to create and enact a new section to chapter 34-01 of the North Dakota Century Code, relating to prohibitions on political subdivisions regulating paid family leave.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 34-01 of the North Dakota Century Code is created and enacted as follows:

Paid family leave - Political subdivision prohibition.

1. As used in this section:
 - a. "Employee" means an individual employed in this state by an employer.
 - b. "Employer" means a person that does business in this state. The term does not include a public employer.
 - c. "Paid family leave" includes employment benefits for an employee to take time off work to care for an ill family member or to bond with a new child entering the family.
 - d. "Public employer" means the state and each political subdivision of the state.
2. A political subdivision may not adopt or enforce an ordinance that requires an employer to provide to an employee paid family leave that exceeds the requirements of federal or state laws and rules.

Approved March 16, 2021

Filed March 16, 2021

LIENS

CHAPTER 265

SENATE BILL NO. 2292

(Senators Meyer, Holmberg, Patten)
(Representative O'Brien)

AN ACT to create and enact section 35-03-15.1 of the North Dakota Century Code, relating to mortgage modifications; and to amend and reenact sections 35-03-14 and 35-03-15 of the North Dakota Century Code, relating to the expiration and extension of real estate mortgages.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 35-03-14 of the North Dakota Century Code is amended and reenacted as follows:

35-03-14. Expiration of real estate mortgages.

1. Unless extended or modified as specified in ~~section~~sections 35-03-15 and 35-03-15.1, the lien created by a mortgage of North Dakota real estate and all notice from the record ~~thereof~~ of the lien expires as to all persons and for all purposes as follows:
 1. a. If the final maturity date is ascertainable from the record of the mortgage, the lien of the mortgage expires ten years after ~~that~~ the final maturity date.
 2. b. If the final maturity date of the mortgage is not ascertainable from the record, the lien of the mortgage expires ten years after the date the mortgage is filed for record in the office of the recorder.
2. Expiration of a mortgage lien under ~~the provisions of~~ this section is equivalent for all purposes to proper discharge of the mortgage of record, and execution or recordation of a discharge instrument is not necessary to terminate a mortgage lien ~~which that~~ has so expired. Satisfaction of mortgage in the common form may be recorded at any time.
3. Expiration of a mortgage lien as provided ~~herein~~ in this section occurs notwithstanding that the right to foreclose the mortgage has not been or might not be barred by the defense of limitations, whether tolled by nonresidence, disability, death, part payment, acknowledgment, extension, new promise, or waiver, and occurs notwithstanding any provisions of the Federal Soldiers' and Sailors' Civil Relief Act.

SECTION 2. AMENDMENT. Section 35-03-15 of the North Dakota Century Code is amended and reenacted as follows:

35-03-15. Extension of mortgage - Expiration delayed - Retroactivity.

1. ~~Expiration of a real estate mortgage lien as provided in sections 35-03-14 and 35-03-15.1 does not occur if prior to the date such~~the expiration otherwise would become effective:
 1. ~~a.~~ An action or proceeding to foreclose is timely and properly commenced and the summons and complaint in such~~the~~ action are duly filed with the clerk of the court having jurisdiction, and there is duly recorded in the office of the recorder a special notice of the pendency of such~~the~~ action, or of the pendency of a proceeding to foreclose by advertisement;
 2. ~~b.~~ A proceeding to foreclose by advertisement is commenced and a special notice of the pendency of the proceeding is recorded in the office of the recorder.
 - ~~c.~~ There is duly recorded in the office of the recorder the statutory notice of intention to foreclose with proof of service;
 3. ~~d.~~ A deed in lieu of foreclosure purporting to continue the mortgage lien unmerged in the fee title is duly recorded in the office of the recorder;
 4. ~~e.~~ Actual possession of the mortgaged property is taken and held by the owner of the mortgage, or the owner of the mortgage recorded a notice of enforcement of an assignment of rents related to the mortgaged property;
or
 5. ~~f.~~ An instrument by or on behalf of an interested party~~the owner of the mortgage or the owner's authorized agent~~ in affidavit form asserting extension and continuation of the mortgage lien is duly recorded in the office of the recorder of the county in which the affected mortgaged real estate or some portion thereof of the affected mortgaged real estate is situated, provided that no such instrument is effective to postpone expiration of a mortgage lien under this section for more than ten years beyond the date expiration would have become effective under section 35-03-14, unless the lien was modified under section 35-03-15.1.
2. ~~The provisions of section 35-03-14 and this section apply to all mortgages, including those executed or recorded before the effective date of said sections~~section 35-03-14 and this section. The provisions of said sections~~section 35-03-14 and this section do not bar any action, preclude~~except foreclosure or enforcement of any lien, or cause any mortgage lien to expire, until January 1, 1964.

SECTION 3. Section 35-03-15.1 of the North Dakota Century Code is created and enacted as follows:

35-03-15.1. Modification of mortgage - Expiration delayed.

1. Expiration of a real estate mortgage under section 35-03-14 does not occur if before the date the expiration would become effective a mortgage modification is recorded in the office of the recorder. A modified mortgage expires as provided under section 35-03-14, unless the modified mortgage is extended under section 35-03-15 or subsequently modified. If a modified mortgage is extended or subsequently modified, the mortgage expires as follows:

- a. If the final maturity date is ascertainable from the record of the mortgage modification, the lien of the mortgage expires ten years after the final maturity date.
 - b. If the final maturity date of the mortgage is not ascertainable from the record of the original mortgage or a mortgage modification, the lien of the mortgage expires ten years after the date the last mortgage modification is filed for record in the office of the recorder.
2. As used in this section, "mortgage modification" means a written instrument amending at least one term of an original mortgage which:
- a. References the original mortgage by recording date and document number; and
 - b. Is signed by the mortgagor, or the mortgagor's successor in interest, and the owner of the mortgage.

Approved April 1, 2021

Filed April 1, 2021

CHAPTER 266

HOUSE BILL NO. 1366

(Representatives Vigesaa, D. Ruby, Weisz, Westlind)
(Senators Bakke, Clemens, Dwyer)

AN ACT to create and enact a new section to chapter 35-13 of the North Dakota Century Code, relating to the nonjudicial disposition of property by lienholders; and to amend and reenact sections 35-13-01, 35-13-04, 35-13-05, and 35-13-06 of the North Dakota Century Code, relating to repairman's liens, priority of liens, notice requirements, and assignments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 35-13-01 of the North Dakota Century Code is amended and reenacted as follows:

35-13-01. Repairman's lien authorized.

Any blacksmith, machinist, farm equipment dealer, construction equipment dealer, welder, garage keeper, mechanic, or aviation operator, having an established place of business in this state who makes, alters, or repairs any automobile, truck, engine, combine, tractor, farm equipment, construction equipment, well machine, aircraft, or watercraft at the request of the owner or legal possessor of the property has a lien on that property, and on any accessories and parts placed upon the property, for reasonable charges for work done and, materials furnished, storage fees, and transportation costs, until the charges are paid. If the cost of repair would exceed four~~six~~ thousand dollars or thirty percent or, nine~~fifteen~~ thousand dollars or thirty percent for property used for agricultural or construction purposes, of the value of the property, in the property's repaired condition, whichever is greater, and the repairman intends to have the entire repair bill constitute a lien with priority over ~~the mortgage or financing statement~~any liens of record, the repairman shall give notice by registered or certified mail to the ~~recordholder of the mortgage or financing statement~~lienholders of record of the proposed repair, the estimated cost of repair, and the estimated value of the property in its repaired condition. Storage fees under this chapter may not begin to accrue until fifteen days after the owner is requested to take possession of the property.

SECTION 2. AMENDMENT. Section 35-13-04 of the North Dakota Century Code is amended and reenacted as follows:

35-13-04. Priority of lien.

A lien obtained under this chapter has priority over all other liens, chattel mortgages, or encumbrances against the personal property upon which the lien is secured, but if the repairman has failed to notify the ~~recordholder of the mortgage or financing statement~~lienholder of record as provided in section 35-13-01, or if such notice was given and the ~~holder of the mortgage or financing statement~~lienholder of record, within five days after receiving such notice, communicated in writing to the repairman an objection to all the proposed repair costs becoming a lien against the property with priority over the ~~mortgage or financing statement~~existing liens of record, then only that portion of the repairman's lien up to four~~six~~ thousand dollars or thirty

percent, or ~~ninefifteen~~ thousand dollars or thirty percent for property used for agricultural or construction purposes, of the retail value, whichever is greater, in the property's repaired condition, has priority over the ~~mortgage or financing statement~~ existing lien of record.

SECTION 3. AMENDMENT. Section 35-13-05 of the North Dakota Century Code is amended and reenacted as follows:

35-13-05. Notice before foreclosure ~~to prior mortgagee~~.

1. A person holding a lien under this chapter on property ~~which has been encumbered previously by mortgage, by prior liens of record or~~ before beginning any action or proceeding for the foreclosure of the lien, shall give ~~twentyten~~ days' notice in writing of the lienholder's intention to foreclose the lien to the ~~recordholder of the mortgage~~ lienholders of record and the owner of the property. The notice may be served by registered or certified mail addressed to the ~~recordholder~~ lienholders of record and property owner at the ~~recordholder's~~ lienholders and property owner's last-known post-office address.
2. The notice before foreclosure must include:
 - a. A description of the property subject to the lien;
 - b. The grounds for the lien;
 - c. The name, address, and telephone number of the lienholder;
 - d. The amount owed;
 - e. The date after which the property subject to the lien will be offered for sale; and
 - f. A statement that the lienholder of record or property owner may reclaim the property subject to the lien before the property is offered for sale by paying the amount owed.

SECTION 4. AMENDMENT. Section 35-13-06 of the North Dakota Century Code is amended and reenacted as follows:

35-13-06. ~~Mortgagee~~ Lienholder may pay amount of lien - Assignment of lien.

~~The holder of any mortgage~~ record lienholder of any lien against property on which a lien has been filed under the provisions of this chapter may pay the amount due on the lien at any time ~~previous to~~ before a sale upon the foreclosure ~~thereof of the property~~. Upon payment of the lien by a ~~mortgageholder~~ lienholder, the holder of the lien shall assign it to such ~~mortgageholder~~ the lienholder, and thereafter the ~~mortgageholder~~ lienholder ~~then~~ is entitled to all the rights which the person filing the lien had before the lien was paid.

SECTION 5. A new section to chapter 35-13 of the North Dakota Century Code is created and enacted as follows:

Nonjudicial disposition of property.

The person holding a lien under this chapter has the rights of a secured party under article nine of the Uniform Commercial Code for purposes of nonjudicial

disposition of the property. A person holding a lien under this chapter who chooses to use nonjudicial disposition of the property shall dispose of the property in the manner prescribed for security interests under article nine of the Uniform Commercial Code.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 267

SENATE BILL NO. 2330

(Senators Burckhard, Klein, Lemm)
(Representatives Keiser, Lefor)

AN ACT to create and enact a new section to chapter 35-33 of the North Dakota Century Code, relating to the rights of owners of self-service storage facilities; and to amend and reenact sections 35-33-01, 35-33-02, 35-33-03, 35-33-04, 35-33-05, 35-33-07, 35-33-09, and 35-33-10 of the North Dakota Century Code, relating to self-service storage facility liens.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 35-33-01 of the North Dakota Century Code is amended and reenacted as follows:

35-33-01. Definitions.

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

1. "Default" means failure of the occupant to ~~pay the rent and other charges~~perform any obligation or duty at the time and in the manner set forth in the rental agreement or under this chapter.
2. "Last-known address" means the postal or electronic mail address provided by the occupant in the latest rental agreement or the postal or electronic mail address provided by the occupant in a subsequent written notice of a change of address.
3. "Occupant" means the person who rents storage space at a self-service storage facility under a rental agreement, or a sublessee, successor, or assignee.
4. "Owner" means any person who owns, leases, subleases, manages, or operates a self-service storage facility and, or the owner's designee, who receives rent from an occupant under a rental agreement.
5. "Personal property" means movable property not affixed to land, including merchandise and household goods.
6. "Rental agreement" means a written agreement between the owner and the occupant which establishes or modifies the terms and conditions of the occupant's use of storage space at a self-service storage facility.
7. "Self-service storage facility" means any real property used for renting or leasing individual storage spaces in which occupants customarily store and remove their personal property. The term does not include a garage used principally for parking motor vehicles; any property of a financial institution which contains vaults, safe deposit boxes, or other receptacles for the purposes and benefits of the financial institution's customers; or a warehouse

or a public warehouse where warehouse receipts, bills of lading, or other documents of title are issued for the personal property stored.

8. ~~"Storage space" means an enclosure, cubicle, or room that is fully enclosed and equipped with a door designed to be locked for security.~~ individual space at a self-service storage facility which is rented or leased by the occupant under a rental agreement.
9. "Verified mail" means any method of mailing offered by the United States postal service or a private delivery service which includes evidence of mailing.

SECTION 2. AMENDMENT. Section 35-33-02 of the North Dakota Century Code is amended and reenacted as follows:

35-33-02. Lien against property - Value limit - Late fee.

1. The owner of a self-service storage facility has a lien on all personal property stored under a rental agreement in a storage space at the self-service storage facility for rent, labor, late fees, and other charges, and for expenses reasonably incurred in the sale or other disposition of the property under law. This lien is superior to other security interests except those perfected before the date the lien attaches. The lien attaches upon default by the occupant as stated in the notice of default ~~served on~~ delivered to the occupant as provided in this chapter.
2. If the rental agreement specifies a limit on the value of personal property the occupant may store in the storage space, the limit is deemed to be the maximum value of the personal property in the occupant's storage space.
3. The owner of a self-service storage facility may charge a late fee of twenty dollars or twenty percent of a delinquent monthly rent payment due under the rental agreement, whichever is greater, for each delinquent payment of rent, fees, or other charges due under the rental agreement.

SECTION 3. AMENDMENT. Section 35-33-03 of the North Dakota Century Code is amended and reenacted as follows:

35-33-03. Denial of access - Disposal of property.

If the occupant is in default, the owner may deny the occupant access to the ~~leased storage~~ space and enforce the lien by selling the property stored in the ~~leased storage~~ space. Sale of the property may be by public or private proceeding and may also be as a unit or in parcels. After the proceeding, the owner may dispose of any property that was offered for sale but which remained unsold.

SECTION 4. AMENDMENT. Section 35-33-04 of the North Dakota Century Code is amended and reenacted as follows:

35-33-04. Custody and control of property.

Unless the rental agreement provides otherwise, until a sale under this chapter, the occupant is responsible for the care, custody, and control of all property stored in the ~~leased storage~~ space, unless the owner secures the property elsewhere during the sale proceedings.

SECTION 5. AMENDMENT. Section 35-33-05 of the North Dakota Century Code is amended and reenacted as follows:

35-33-05. Notice of proceedings.

Before conducting a sale, the owner shall:

1. Deliver in person or send by ~~certified~~verified mail or electronic mail a notice of default to prior lienholders and to the occupant at the occupant's last-known address. A notice under this section sent by verified mail is ~~presumed~~deemed delivered if it is deposited with the United States postal service or a private delivery service and properly addressed with postage prepaid. A notice under this section sent by electronic mail is deemed delivered if it is sent to the occupant's last-known electronic mail address. The notice must include:
 - a. A statement that the contents of the occupant's ~~leased~~storage space are subject to the owner's lien and that the occupant is denied access to the property until the owner's claim is satisfied;
 - b. The address of the self-service storage facility, the number of the space where the personal property is located, and the name of the occupant;
 - c. A statement of the charges due, the date of default, and a demand for payment of the charges due within a specified time, not less than ten days after the date of notice;
 - d. A statement in bold type providing that, unless the claim is paid within the time stated, the contents of the occupant's ~~leased~~storage space will be sold; and
 - e. The name, address, and telephone number of the owner or a designated agent whom the occupant may contact to respond to the notice.
2. ~~Publish, once a week for two consecutive weeks, with the first publication not more than thirty days before the sale and the last publication at~~At least seven days before the sale, advertise the time, place, and terms of the sale in a newspaper of general circulation in the county where the self-service storage facility is located commercially reasonable manner. An advertisement satisfies the requirements of this subsection if at least three independent bidders attend the sale in person or online at the time and place advertised.

SECTION 6. AMENDMENT. Section 35-33-07 of the North Dakota Century Code is amended and reenacted as follows:

35-33-07. Protection of purchaser in good faith.

A purchaser in good faith of any property sold under this chapter takes the property clear of any rights of persons against whom the lien was valid, ~~subject to the rights of prior lienholders.~~

SECTION 7. AMENDMENT. Section 35-33-09 of the North Dakota Century Code is amended and reenacted as follows:

35-33-09. Validity of certain rental agreements.

Any rental agreement entered before August 1, ~~1997~~2021, remains valid and may be enforced or terminated in accordance with its terms or as permitted by any other law of this state.

SECTION 8. AMENDMENT. Section 35-33-10 of the North Dakota Century Code is amended and reenacted as follows:

35-33-10. Sale proceedings - Titled vehicles - Towing.

1. The sale proceedings in this chapter are sufficient to provide the instruments or documents of authority necessary to obtain a transfer of title to vehicles under section 39-05-19.
2. If the personal property subject to a lien under section 35-33-02 is a motor vehicle, watercraft, or trailer, and rent or other charges under the rental agreement remain unpaid for sixty days, the owner may have the motor vehicle, watercraft, or trailer towed from the self-service storage facility property by a commercial towing service as defined in section 23.1-15-01. An owner may not be held liable for damage incurred to an occupant's motor vehicle, watercraft, or trailer after the owner relinquishes possession of the personal property and the personal property is removed from the self-service storage facility property. Removal of personal property from a self-service storage facility does not release the owner's lien under section 35-33-02.

SECTION 9. A new section to chapter 35-33 of the North Dakota Century Code is created and enacted as follows:

Owner rights - Chapter construction.

This chapter may not be construed as impairing or affecting the right of an owner and an occupant to create additional rights, duties, or obligations under a rental agreement. In addition to the rights and remedies under this chapter, an owner has the same rights and remedies available to creditors and landlords under the laws of this state.

Approved March 23, 2021

Filed March 24, 2021

MILITARY

CHAPTER 268

SENATE BILL NO. 2115

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact section 37-01-03 and 37-01-43, and subsection 8 of section 37-26-01 of the North Dakota Century Code, relating to the operation of the North Dakota national guard.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-01-03 of the North Dakota Century Code is amended and reenacted as follows:

37-01-03. Articles of uniform code of military justice applicable in state - Regulations governing - Punishment for offenses while on duty.

The articles of uniform code of military justice governing the armed forces of the United States as codified in the Manual for Courts-Martial, United States, 2016~~2019~~ edition, are a part of this title so far as the ~~same~~articles are applicable and not modified by any provision of this title. ~~A person~~An individual who commits an offense while on military duty ~~status, to include~~including state active duty, may be tried by a court-martial lawfully appointed even after ~~such~~the duty has terminated, and if found guilty, the accused must be punished according to the articles of uniform code of military justice and the rules and regulations governing the armed forces of the United States ~~and,~~ within the limits prescribed in this title and by federal law for the courts-martial in the national guard. In any case in which the ~~person~~individual alleged to have committed the offense could be charged either under the code of military justice or the civil law of this state, the officer whose duty it is to approve ~~such~~the charge, in the officer's discretion, may order the person charged or subject to being charged to be turned over to the civil authorities for trial. Commanders may administer nonjudicial punishment for offenses while on military duty ~~status, to include~~including state active duty, in accordance with part V, Manual for Courts-Martial, except that the service member may not demand a trial by courts-martial. ~~Whenever~~When reference is made to the articles of uniform code of military justice, to the military service, or to the armed forces of the United States, ~~such~~the reference ~~shall~~must be deemed to include the military service of this state. ~~The intent of this title and of all laws~~Laws of this state affecting the military forces ~~is~~must be construed to conform to all acts and regulations of the United States affecting the same subjects, ~~and all laws of this state shall be construed to effect this purpose.~~

SECTION 2. AMENDMENT. Section 37-01-43 of the North Dakota Century Code is amended and reenacted as follows:

37-01-43. North Dakota military civil relief act.

~~A person~~An individual called or ordered to active service for thirty consecutive days or longer has all of the protections afforded to persons in the military service of the United States under the Servicemembers Civil Relief Act [50 U.S.C. 3901-4043] in effect on December 31, ~~2018~~2020.

SECTION 3. AMENDMENT. Subsection 8 of section 37-26-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Veteran" means a member of the national guard or reserve component who was activated under 10 U.S.C. 12301, in effect on December 31, ~~2011~~2004, or 10 U.S.C. 12302, in effect on ~~October 28, 2004~~December 31, 2011, and who completed honorable and faithful service of more than thirty days on active duty in the armed forces of the United States at any time during the period of service, who was a resident of the state of North Dakota, and who has not received bonus or adjusted compensation from another state for the period of service.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 269

SENATE BILL NO. 2117

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to create and enact a new section to chapter 37-01 of the North Dakota Century Code, relating to death benefits for national guard members; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-01 of the North Dakota Century Code is created and enacted as follows:

Payment of death benefits.

The national guard may pay a death benefit to a designated beneficiary, or to the next of kin, of a national guard service member who died while serving in a state active duty status under this chapter. The payment of a death benefit may not exceed fifteen thousand dollars and is subject to available funds. The adjutant general may adopt rules to implement this section.

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

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 270

SENATE BILL NO. 2114

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact section 37-07.3-03 of the North Dakota Century Code, relating to the use of the funds in the national guard training area and facility development trust fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-07.3-03 of the North Dakota Century Code is amended and reenacted as follows:

37-07.3-03. Trust fund use.

The principal, interest, and income from the national guard training area and facility development trust fund must be used by the adjutant general solely for training area acquisition and facility development; provided, that the principal, and any interest and income which the fund accrues from July 1, ~~1985~~2019, through June 30, ~~1989~~2023, must be used solely for the acquisition or lease of land for national guard training purposes at Camp Gilbert C. Grafton training center and the expenditure, in conjunction with federal matching funds, for the construction of a new national guard armory on or adjacent to the military reservation known as Fraine Barracks~~armories~~.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 271

HOUSE BILL NO. 1211

(Representatives Magrum, Hoverson, Kasper, B. Koppelman, Louser, Schauer,
Vetter)
(Senators Meyer, Vedaa)

AN ACT to amend and reenact sections 37-14-03 and 37-14-14 of the North Dakota Century Code, relating to the veterans' aid fund and veterans' postwar trust fund; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-14-03 of the North Dakota Century Code is amended and reenacted as follows:

37-14-03. Veterans' aid fund.

The state treasurer shall keep in the state treasury the separate trust fund known as the veterans' aid fund and shall have full authority to invest the fund only in accordance with chapter 21-10. Disbursements from ~~such~~the fund must be made as provided in this chapter.

SECTION 2. AMENDMENT. Section 37-14-14 of the North Dakota Century Code is amended and reenacted as follows:

37-14-14. Veterans' postwar trust fund.

The veterans' postwar trust fund is a permanent trust fund of the state of North Dakota and consists of moneys transferred or credited to the fund under this chapter and other laws. Investment of the fund is the responsibility of the state treasurer who shall have full authority to invest the fund only in these legal investments authorized by section 21-10-07 ~~accordance with chapter 21-10.~~ All income received from investments is to be utilized only for programs of benefit and service to veterans or their dependents, and all income earned in a biennium is appropriated to the administrative committee on veterans' affairs on a continuing basis in the following biennium and not in the biennium the income is earned for expenditure on these programs as authorized by law. Investment of all income received from investments is the responsibility of the state treasurer who has full authority to invest the income received only in accordance with chapter 21-10.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 16, 2021

Filed March 16, 2021

CHAPTER 272

HOUSE BILL NO. 1180

(Representative Becker)

AN ACT to amend and reenact subsection 6 of section 37-17.1-05 of the North Dakota Century Code, relating to the governor's authority during a declared state of disaster or emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁴ **SECTION 1. AMENDMENT.** Subsection 6 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

6. In addition to any other powers conferred upon the governor by law, the governor may:
 - a. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in managing a disaster or emergency.
 - b. Utilize all available resources of the state government as reasonably necessary to manage the disaster or emergency and of each political subdivision of the state.
 - c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.
 - d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if the governor finds this necessary to manage the disaster or emergency.
 - e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary for the preservation of life or other disaster or emergency mitigation, response, or recovery.
 - f. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.
 - g. Control ingress and egress in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.

¹⁷⁴ Section 37-17.1-05 was also amended by section 2 of House Bill No. 1118, chapter 191, section 3 of House Bill No. 1118, chapter 191, section 5 of House Bill No. 1410, chapter 92, and section 2 of Senate Bill No. 2181, chapter 192.

- h. Suspend or limit the sale, dispensing, or transportation of ~~alcoholic beverages~~, explosives; and combustibles, not including ammunition.
- i. Make provision for the availability and use of temporary emergency housing.
- j. Make provisions for the control, allocation, and the use of quotas for critical shortages of fuel or other life and property sustaining commodities.
- k. Designate members of the highway patrol, North Dakota national guard, or others trained in law enforcement, as peace officers.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 273

SENATE BILL NO. 2344

(Senators Dwyer, Larson, Meyer)
(Representatives Devlin, K. Koppelman)

AN ACT to amend and reenact section 37-17.1-29 of the North Dakota Century Code, relating to governmental regulation of firearms and ammunition; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-17.1-29 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-29. Firearms in emergencies.

1. ~~Notwithstanding any other law, a person acting on behalf or under the authority of the state or a political subdivision may not do any of the following during a declared emergency: a state agency, political subdivision, or elected or appointed official or employee of this state or of a political subdivision may not, under governmental authority or color of law, including any other statutorily authorized responses to disaster, war, acts of terrorism, or emergencies of whatever kind or nature:~~
 - a. Close or limit the operating hours of:
 - (1) Any government-owned or government-operated indoor or outdoor shooting range, unless the closure or limitation is required for maintenance, law enforcement training, military training, hunter education, or other special activities associated with the shooting sports or the closing or limitation of hours applies equally to all forms of commerce, use, recreation, enjoyment, or general activity within the jurisdiction;
 - (2) Any private indoor or outdoor shooting range, unless the closing or limitation of hours applies equally to all forms of commerce, use, recreation, enjoyment, or general activities within the jurisdiction; or
 - (3) Any entity engaged in the lawful selling or servicing of any firearm, including any component or accessory; ammunition, including any component or accessory; ammunition-reloading equipment and supplies; or personal weapons other than firearms, unless the closing or limitation of hours applies equally to all forms of commerce, use, recreation, enjoyment, or general activity within the jurisdiction;
 - b. Prohibit, regulate, or restrict~~curtail~~ the otherwise lawful possession, defensive use, carrying, transfer, transportation, storage, or display, or other lawful use of a firearm or ammunition;
 - b. ~~Seize; or~~ seize, commandeer, ~~confiscate,~~ confiscate, or authorize the seizure or confiscation of, any otherwise lawfully possessed firearm or ammunition

unless the person acting on behalf of or under the authority of the state or political subdivision is defending that person or another from an assault, arresting an individual in actual possession of a firearm or ammunition for a violation of law, or seizing or confiscating the firearm or ammunition as evidence of a crime; or

- c. ~~Require registration of any firearm or ammunition for which~~When registration is not otherwise required by law, require registration of any firearm, including any component or accessory; ammunition, including any component or accessory; ammunition-reloading equipment and supplies; or personal weapons other than firearms;
- d. Suspend or revoke a permit to carry a concealed pistol issued pursuant to chapter 62.1-04, except as expressly authorized in that chapter; or
- e. Refuse to accept an application for a permit to carry a concealed pistol, provided the application has been completed properly in accordance with chapter 62.1-04.
- 2. ~~Subdivision a of subsection 1 as it relates to transfer of a firearm or ammunition does not apply to the commercial sale of firearms or ammunition if an authorized authority has ordered an evacuation or general closure of businesses in the affected area.~~
- 3. Any individual aggrieved by a violation of this section may commence a civil action against any person who subjects the individual, or causes the individual to be subjected, to an action prohibited by this section.
- 4.3. In addition to any other remedy, an individual aggrieved by the seizure or confiscation of a firearm or ammunition in violation of this section may bring an action for the return of the firearm or ammunition, or the value of the firearm or ammunition, if the firearm or ammunition is no longer available, in the district court of the county in which that individual resides, in which the firearm or ammunition is located, or in which the seizure or confiscation occurred.
- 5.4. In any action to enforce this section, the court shall award a prevailing plaintiff costs and reasonable attorney's fees.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 274

HOUSE BILL NO. 1146

(Representatives Bosch, Heinert, Nathe)
(Senators Davison, Larson)

AN ACT to amend and reenact subsection 4 of section 37-17.3-02.2 and section 37-17.3-03 of the North Dakota Century Code, relating to rulemaking authority of the statewide interoperability executive committee and eligibility for statewide interoperable radio network access; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 37-17.3-02.2 of the North Dakota Century Code is amended and reenacted as follows:

4. The committee may adopt rules governing the connection or integration of public safety answering points to the statewide interoperable radio network and shall adopt rules governing eligibility for access to the network.

SECTION 2. AMENDMENT. Section 37-17.3-03 of the North Dakota Century Code is amended and reenacted as follows:

37-17.3-03. ~~Political subdivisions may furnish receiving and transmitting sets for enforcement purposes - State cost-share.~~

1. ~~Each county and organized city~~Subject to the rules of the statewide interoperability executive committee, a political subdivision within the state or a nongovernmental emergency services provider operating within the state may furnish to its ~~law enforcement, firefighters, and emergency medical personnel~~ the appropriate personal and vehicular radios that can access the statewide interoperable radio network. Each radio ~~that is~~ programmed to access the statewide interoperable radio network must be approved by the statewide interoperability executive committee. The chief information officer shall establish a process to register and audit users of the statewide interoperable radio network.
2. The information technology department may provide a state cost-share for each radio purchased under this section. The state cost-share for each radio is one thousand five hundred dollars unless the cost of the radio is less than one thousand five hundred dollars in which case the state cost-share is the cost of the radio.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 17, 2021

Filed March 18, 2021

MINING AND GAS AND OIL PRODUCTION

CHAPTER 275

HOUSE BILL NO. 1055

(Energy and Natural Resources Committee)
(At the request of the Industrial Commission)

AN ACT to amend and reenact subsection 4 of section 38-08-11 of the North Dakota Century Code, relating to service of signed commission orders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 38-08-11 of the North Dakota Century Code is amended and reenacted as follows:

4. The commission may act upon its own motion or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the commission, the commission ~~must~~shall fix a date for a hearing and give notice. Upon the filing of a petition of any interested party, the commission ~~must~~shall enter and serve its order ~~within thirty days after a hearing. A copy of any order of the commission must be mailed to all the persons filing written appearances at the hearing upon all parties to the proceeding as required in section 28-32-39.~~

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 276

HOUSE BILL NO. 1061

(Energy and Natural Resources Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact subsection 1 of section 38-14.1-19 and subsection 3 of section 38-14.1-22 of the North Dakota Century Code, relating to extending time for scheduling an informal conference and application for a permit renewal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 38-14.1-19 of the North Dakota Century Code is amended and reenacted as follows:

1. If written objections or comments are filed and an informal conference is requested as provided in section 38-14.1-17, 38-14.1-18, or 38-14.1-28, the commission shall schedule such informal conference within ~~thirty~~thirty-four days of the receipt of such request but in no event prior to the expiration of the thirty-day period allowed for submission of comments, objections, and requests in subsection 2 of section 38-14.1-17 or subsections 3, 4, and 5 of section 38-14.1-18.

SECTION 2. AMENDMENT. Subsection 3 of section 38-14.1-22 of the North Dakota Century Code is amended and reenacted as follows:

3. Any permit renewal must be for a term not to exceed the period of the original permit established by this chapter. Application for permit renewal must be made at least one hundred ~~twenty~~eighty days prior to the expiration of the valid permit.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 277

SENATE BILL NO. 2065

(Energy and Natural Resources Committee)
(At the request of the Industrial Commission)

AN ACT to create and enact chapter 38-25 of the North Dakota Century Code, relating to the jurisdiction of the industrial commission to regulate the permitting and amalgamation of the underground storage of oil or gas; and to amend and reenact sections 15-05-09 and 15-05-10 of the North Dakota Century Code, relating to oil and gas leases and royalties from oil leases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-05-09 of the North Dakota Century Code is amended and reenacted as follows:

15-05-09. Leases for oil, gas, and other products.

The board of university and school lands may lease any lands under its control believed to contain oil, gas, coal, cement materials, sodium sulfate, sand and gravel, road material, building stone, chemical substances, metallic ores, or colloidal or other clays, or other naturally occurring elements and their compounds, and may make and establish rules and regulations for development and, drilling, and mining operations.

¹⁷⁵ **SECTION 2. AMENDMENT.** Section 15-05-10 of the North Dakota Century Code is amended and reenacted as follows:

15-05-10. Royalties from oil and gas leases - Rents from other leases - Rules.

Oil and gas leases must be made by the board of university and school lands at such annual minimum payments as are determined by the board, but the royalty shall be not less than twelve and one-half percent of the gross output of oil from the lands leased. Oil and gas leases made by the board may authorize a royalty of less than twelve and one-half percent for production from stripper well properties or individual stripper wells and qualifying secondary recovery and qualifying tertiary recovery projects as defined in section 57-51.1-01. Leases for gas, coal, cement materials, sodium sulfate, sand and gravel, road material, building stone, chemical substances, metallic ores, or colloidal or other clays issued by the board under section 15-05-09 for products other than oil and gas must be made by the board in such annual payments provide for adequate rental payments and other provisions as are determined by the board. The board may adopt rules regarding annual rental payments and royalties under this section.

SECTION 3. Chapter 38-25 of the North Dakota Century Code is created and enacted as follows:

38-25-01. Definitions.

¹⁷⁵ Section 15-05-10 was also amended by section 1 of House Bill No. 1080, chapter 119.

As used in this chapter:

1. "Commission" mean the industrial commission.
2. "Gas" includes all natural gas, including hydrogen, and all other fluid hydrocarbons not defined as oil.
3. "Geological storage" means the underground storage of oil or gas in a storage reservoir or salt cavern.
4. "Oil" includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas.
5. "Permit" means a permit issued by the commission allowing a person to operate an underground storage facility.
6. "Pore space" has the same meaning as in section 47-31-02.
7. "Prevent waste" means the locating, spacing, drilling, equipping, operating, or producing of any oil or gas storage well or facility in a manner that increases the quantity of oil or gas stored, or which decreases unnecessary loss or destruction of oil or gas.
8. "Reservoir" means a subsurface sedimentary stratum, formation, aquifer, or void, whether natural or artificially created, including oil and gas reservoirs and saline formations suitable for or capable of being made suitable for injecting, storing, and withdrawing oil or gas. The term does not include salt caverns.
9. "Salt cavern" means a natural occurring cavity contained within a salt formation or a cavity created in a salt formation by solution mining, suitable for injecting, storing, and withdrawing oil or gas.
10. "Solution mining" means the process of injecting fluid into a well to dissolve rock salt or other readily soluble rock to create a salt cavern for underground storage of oil or gas.
11. "Storage facility" means the reservoir, salt cavern, underground equipment, and surface facilities and equipment used or proposed to be used in an underground storage operation. The term does not include a pipeline used to transport oil or gas to the storage facility.
12. "Storage operator" means a person holding or applying for a permit.
13. "Waste" means the inefficient storing of oil or gas.

38-25-02. Commission authority.

The commission has authority:

1. Over all persons and property necessary to administer and enforce this chapter when necessary to prevent waste, to protect correlative rights of the mineral and surface estate, or to effect greater ultimate storage and recovery of oil and gas.

2. To regulate activities relating to an underground storage facility, including construction, solution mining to create salt caverns, operation, and closure.
3. To enter an underground storage facility at a reasonable time and manner to inspect equipment and facilities, to observe, monitor, and investigate operations, and to inspect records required to be maintained at the facility.
4. To require storage operators provide financial assurance, including bonds, to ensure money is available to fulfill the storage operator's duties.
5. To exercise continuing jurisdiction over storage operators and storage facilities, including the authority to amend or revoke a permit after notice and hearing.
6. After notice and hearing, to dissolve or change the boundaries of any commission established oil or gas field or unit within or near a storage reservoir's or salt cavern's boundaries.
7. After notice and hearing, to adopt reasonable rules and issue reasonable orders to implement the policies of this chapter.
8. After notice and hearing, to grant exceptions to this chapter's requirements and implementing rules if required to comply with applicable federal law.

38-25-03. Permit required - Permit transfer.

Geologic storage is allowed if permitted by the commission. A permit may be transferred if the commission consents.

38-25-04. Permit hearing - Hearing notice.

1. The commission shall hold a public hearing before issuing any storage permit.
2. Notice of the hearing must be published for two consecutive weeks in the official newspaper of the county or counties where the storage reservoir or salt cavern is proposed to be located and in any other newspaper the commission requires. Publication deadlines must comply with commission requirements.
3. Written notice of hearing must be mailed to each surface owner of record of land overlying the storage reservoir or salt cavern and within one-half mile [0.80 kilometer] of the reservoir's or salt cavern's boundaries. The notice of hearing must be mailed to an owner's last known address.
4. If the proposed storage facility contemplates storage of oil or gas in an oil and gas reservoir, notice of the hearing also must be mailed to each mineral lessee, mineral owner of record, and pore space owner of record within the storage reservoir and within one-half mile [0.80 kilometer] of the storage reservoir's boundaries.
5. If the proposed storage facility contemplates storage of oil or gas in a salt cavern, notice of the hearing must be mailed to each salt mineral lessee, salt mineral owner of record, and pore space owner of record within the salt cavern outer boundaries and within one-half mile [0.80 kilometer] of the outer boundaries of the salt cavern, or as otherwise may be required by the commission.

6. If the storage facility contemplates storage of oil or gas in a saline formation or aquifer, notice of hearing must be mailed to each pore space owner of record within the storage reservoir and within one-half mile [0.80 kilometer] of the storage reservoir's boundaries.
7. Hearing notices required by this section must comply with the deadlines set by the commission and must contain the information the commission requires.

38-25-05. Permit requirements - Storage in oil and gas reservoir.

Before issuing a permit for storage in an oil and gas reservoir, the commission shall find:

1. The storage operator has or will obtain the consent by lease, purchase, or other agreement from all surface owners where surface disturbance activities are necessary and surface facilities will be located.
2. The storage operator has complied with all requirements set by the commission.
3. The storage facility is suitable and feasible for the injection, storage, and withdrawal of oil or gas.
4. The storage operator has made a good-faith effort to get the consent of all persons that own the storage reservoir's pore space.
5. The storage operator has made a good-faith effort to obtain the consent of all persons that own oil and gas minerals and oil and gas leases.
6. The storage operator has obtained the consent of persons that own at least fifty-five percent of the storage reservoir's pore space unless the percentage required to unitize the oil and gas unit is otherwise provided for by order of the commission before August 1, 2021, in which case the percentage in the order required to pool the mineral interests prevails as to the percentage of pore space owners from whom the storage operator must obtain consent.
7. The storage operator has obtained the consent of persons that own at least fifty-five percent of the storage reservoir's oil and gas minerals and oil and gas leases unless the percentage required to unitize the oil and gas unit is otherwise provided for by order of the commission before August 1, 2021, in which case the percentage in the order prevails.
8. Whether the storage reservoir contains any commercially valuable oil, gas, or other minerals and, if it does, a permit may be issued only if the commission is satisfied the interests of the mineral owners or mineral lessees will not be affected adversely or have been addressed in an arrangement entered by the mineral owners or mineral lessees and the storage operator.
9. The proposed storage facility will not affect adversely surface waters or formations containing fresh water.
10. The injected oil or gas will not escape from the storage reservoir.
11. The storage facility will not endanger health or unduly endanger the environment.

12. The storage facility is in the public interest.
13. The vertical boundaries of the storage reservoir are defined to include any necessary or reasonable buffer zones for the purpose of ensuring the safe operations of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of oil or gas therefrom.
14. The horizontal extent of the injected gas within the storage reservoir, as estimated by reasonable means and confirmed through appropriate monitoring methods, are defined to include any necessary or reasonable buffer zones for the purpose of ensuring the safe operations of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of oil or gas therefrom.
15. The storage operator will establish monitoring facilities and protocols to assess the location and migration of oil and gas, if any, injected for storage and to ensure compliance with all permit, statutory, and administrative requirements.
16. The method of underground storage is reasonably necessary to effectively carry on the joint effort, will prevent waste, protect correlative rights of the mineral and surface estate, and, with reasonable probability, will result in the increased storage and recovery of more oil and gas.
17. The time, conditions, and method by which the storage facility must be dissolved and the facility's affairs wound up. A storage facility may be dissolved ten years after the storage facility permit is issued upon a petition to the commission by the pore space owners and mineral owners that are credited with at least the percentage of interest of the pore space required to ratify the storage facility amalgamation agreement, and a subsequent hearing and order by the commission.
18. All nonconsenting owners are or will be compensated equitably.

38-25-06. Permit requirements - Storage in saline reservoir or aquifer.

Before issuing a permit for storage in a saline reservoir or aquifer, the commission shall find:

1. The storage operator has or will obtain the consent by lease, purchase, or other agreement from all surface owners where surface disturbance activities are necessary and surface facilities will be located.
2. The storage operator has complied with all requirements set by the commission.
3. The storage facility is suitable and feasible for the injection, storage, and withdrawal of oil or gas.
4. The storage operator has made a good-faith effort to obtain the consent of all persons that own the storage reservoir's pore space.
5. The storage operator has obtained the consent of persons that own at least sixty percent of the storage reservoir's pore space.

6. The proposed storage facility will not affect adversely surface waters or formations containing fresh water.
7. The injected oil or gas will not escape from the storage reservoir.
8. The storage facility will not endanger health or unduly endanger the environment.
9. The storage facility is in the public interest.
10. The vertical boundaries of the storage reservoir are defined to include any necessary or reasonable buffer zones for the purpose of ensuring the safe operations of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of oil or gas therefrom.
11. The horizontal extent of the injected gas within the storage reservoir, as estimated by reasonable means and confirmed through appropriate monitoring methods, are defined to include any necessary or reasonable buffer zones for the purpose of ensuring the safe operations of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of oil or gas therefrom.
12. The storage operator will establish monitoring facilities and protocols to assess the location and migration of oil and gas, if any, injected for storage and to ensure compliance with all permit, statutory, and administrative requirements.
13. The method of underground storage is reasonably necessary to effectively carry on the joint effort, will prevent waste, protect correlative rights of the mineral and surface estate, and, with reasonable probability, will result in the increased storage and recovery of more oil and gas.
14. The time, conditions, and method by which the storage facility must be dissolved and the facility's affairs wound up. A storage facility may be dissolved ten years after the storage facility permit is issued upon a petition to the commission by the pore space owners and mineral owners that are credited with at least the percentage of interest of the pore space required to ratify the storage facility amalgamation agreement, and a subsequent hearing and order by the commission.
15. All nonconsenting pore space owners are or will be compensated equitably.

38-25-07. Permit requirements - Storage in salt cavern.

Before issuing a permit for storage in a salt cavern, the commission shall find:

1. The storage operator has or will obtain the consent by lease, purchase, or other agreement from all surface owners where surface disturbance activities are necessary and surface facilities will be located.
2. The storage operator has complied with all requirements set by the commission, including all necessary permits to conduct solution mining, if applicable.
3. The storage facility is suitable and feasible for the injection, storage, and withdrawal of oil or gas.

4. The storage operator has made a good-faith effort to obtain the consent of all persons that own the salt cavern's pore space.
5. The storage operator has made a good-faith effort to obtain the consent of all persons that own the salt cavern's salt minerals and salt leases.
6. The storage operator has obtained the consent of persons that own at least sixty percent of the salt cavern's pore space.
7. The storage operator has obtained the consent of persons that own at least fifty-five percent of the salt cavern's salt minerals and salt leases.
8. The proposed storage facility will not affect adversely surface waters or formations containing fresh water.
9. The injected oil or gas will not escape from the salt cavern.
10. The storage facility will not endanger health or unduly endanger the environment.
11. The storage facility is in the public interest.
12. The horizontal and vertical boundaries of the salt cavern are defined to include a buffer zone from the outer walls of the cavern for the purpose of ensuring the safe operation of the storage facility and to protect the storage facility against pollution, invasion, and escape or migration of gas therefrom.
13. The storage operator will establish monitoring facilities and protocols to assess the location and migration of oil and gas, if any, injected for storage, and to ensure compliance with all permit, statutory, and administrative requirements.
14. The method of underground storage is reasonably necessary to effectively carry on the joint effort, will prevent waste, protect correlative rights of the mineral and surface estate, and, with reasonable probability, will result in the increased storage and recovery of more oil and gas.
15. The time, conditions, and method by which the storage facility must be dissolved and the facility's affairs wound up. A storage facility may be dissolved ten years after the storage facility permit is issued upon a petition to the commission by the pore space owners and mineral owners that are credited with at least the percentage of interest of the pore space required to ratify the storage facility amalgamation agreement, and a subsequent hearing and order by the commission.
16. That all nonconsenting owners are or will be equitably compensated.

38-25-08. Amalgamating property interests.

If a storage operator does not obtain the consent of all persons owning a pore space and of mineral interest owners when required by this chapter, the commission may require the interest owned by the nonconsenting owners be included in an approved storage facility and subject to geologic storage if the minimum percentage of consent is obtained as specified in this chapter. Any pore space owner who does not have responsibility over the construction, management, supervision, or control of

the storage facility operations is not liable for money damages for personal or other property damages proximately caused by the operations.

38-25-09. Ownership of oil and gas.

All oil or gas previously reduced to possession and subsequently injected into underground storage facilities must be deemed the property of the storage operator subject to the obligation to pay royalties as set forth in section 38-25-10.

38-25-10. Injection of produced gas - When royalties owed.

1. Unless otherwise expressly agreed by the storage operator, mineral owners, and lease owners, royalties on gas produced but not sold and which is injected into a storage facility instead of flaring or for lack of market, are not due on the produced and stored gas until gas volumes actually are withdrawn from the storage facility, sold, and proceeds received from the sale.
2. Prior to gas being withdrawn and sold from a storage facility under this section, the storage operator, after notice and hearing, shall obtain approval from the commission evidencing a reasonable and equitable method of allocation of the stored gas sale proceeds to the rightful mineral, royalty, and leasehold owners of the gas injected into storage. The commission may adopt such rules and orders as necessary to implement the purposes of this section.

38-25-11. Application.

This chapter does not apply to applications filed with the commission which propose to use produced gas for an enhanced oil or gas recovery project. Those applications must be processed under chapter 38-08.

Approved April 19, 2021

Filed April 20, 2021

VOLUME II
CHAPTERS 278 THROUGH 547

LAWS

PASSED AT
The Sixty-seventh Session
OF THE
Legislative Assembly
OF THE
STATE OF NORTH DAKOTA

BEGUN AND HELD AT BISMARCK, THE CAPITAL, ON
TUESDAY, JANUARY 5, 2021, AND
ADJOURNING THURSDAY, APRIL 29, 2021

AUTHENTICATION

STATE OF NORTH DAKOTA Department of State, Bismarck

I, Alvin A. Jaeger, Secretary of State, certify that the laws contained herein are true and correct copies, except clerical errors, of the laws and resolutions passed at the Sixty-seventh Session of the Legislative Assembly of the State of North Dakota, beginning Tuesday, January 5, 2021, and concluding Thursday, April 29, 2021; and also of the constitutional measures submitted at the general election held November 3, 2020.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of North Dakota, this first day of July 2021.

(SEAL)

ALVIN A. JAEGER
Secretary of State

John Bjornson, Vonette J. Richter, and Emily L. Thompson of the Legislative Council certify that we have prepared the contents of these volumes and that the measures, laws, and resolutions contained herein are true and correct copies of the original measures, laws, and resolutions on file in the office of the Secretary of State in the State Capitol at Bismarck, North Dakota, clerical errors excepted.

JOHN BJORNSON
EMILY L. THOMPSON

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MOTOR VEHICLES

CHAPTER 278

HOUSE BILL NO. 1148

(Representatives D. Ruby, Marschall, Meier, Mock, Westlind)
(Senators Clemens, Kreun, Rust)

AN ACT to create and enact a new section to chapter 39-10.1 of the North Dakota Century Code, relating to electric bicycle regulations, manufacturing, and operations; to amend and reenact sections 39-01-01, 39-05-02.2, and 39-10.1-08, subsection 5 of section 39-16-01, subsection 2 of section 39-29-01, and subsection 2 of section 57-40.3-01 of the North Dakota Century Code, relating to the requirements for electric bicycles distributed, manufactured, and operated in the state; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁶ **SECTION 1. AMENDMENT.** Section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

39-01-01. Definitions.

In this title, unless the context or subject matter otherwise requires:

1. "Appropriate licensed addiction treatment program" means an addiction treatment program conducted by an addiction facility licensed by the department of human services or conducted by a licensed individual specifically trained in addiction treatment.
2. "Authorized emergency vehicles":
 - a. "Class A" authorized emergency vehicles means:
 - (1) Vehicles of a governmentally owned fire department.
 - (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles.

¹⁷⁶ Section 39-01-01 was also amended by section 351 of House Bill No. 1247, chapter 352, section 1 of Senate Bill No. 2097, chapter 280, and section 1 of Senate Bill No. 2329, chapter 279.

- (3) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation.
- (4) Ambulances and other vehicles authorized by licensure granted under chapter 23-27.
- (5) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the game and fish department.
- (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
- (7) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency.
- (8) Vehicles operated by or under the control of the director of the parks and recreation department.
- (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.
- (10) Vehicles operated by or under the control of the state forester.
- (11) Vehicles operated by or under the control of the bureau of criminal investigation and used for law enforcement purposes.
- (12) Vehicles operated by or under the state department of health in cases of emergencies.
- b. "Class B" authorized emergency vehicles means wreckers and such other emergency vehicles as are authorized by the local authorities.
- c. "Class C" authorized emergency vehicles means:
 - (1) Vehicles used by the state division of homeland security or local division of emergency management organizations.
 - (2) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
 - (3) Vehicles, other than ambulances, used by emergency medical services personnel.
3. "Bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels ~~either of which is more than twenty inches [50.8 centimeters] in diameter or two parallel wheels and one forward or rearward wheel. The term includes an electric bicycle.~~
4. "Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. Provided, every motor vehicle designed for

carrying not more than fifteen persons and used for a ridesharing arrangement, as defined in section 8-02-07, is not a "bus".

5. "Business district" means the territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet [91.44 meters] or more is occupied by buildings in use for business.
6. "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
7. "Cancellation" means a license is annulled and terminated because of an error or defect or because the licensee is no longer entitled to the operator's license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after the cancellation.
8. "Child restraint system" means a specifically designed device, built-in seating system, or belt-positioning booster that meets the federal motor vehicle safety standards and is permanently affixed to a motor vehicle, is affixed to the vehicle by a safety belt or universal attachment system, or is combined with a federally compliant safety belt system.
9. "Commercial freighting" means the carriage of things other than passengers, for hire, except that such term does not include:
 - a. The carriage of things other than passengers within the limits of the same city;
 - b. Carriage by local dray lines of baggage or goods to or from a railroad station from or to places in such city or in the immediate vicinity thereof, in this state, and not to exceed two miles [3.22 kilometers] from the corporate or recognized limits of said city; or
 - c. Hauling done by farmers for their neighbors in transporting agricultural products to or from market.
10. "Commercial passenger transportation" means the carriage of passengers for hire, except that the term does not include:
 - a. The carriage of passengers within the limits of a city.
 - b. The carriage by local buslines of passengers to or from a railroad station from or to places within any city or within two miles [3.22 kilometers] of the limits of the city.
 - c. The carriage of passengers under a ridesharing arrangement, as defined in section 8-02-07.
11. "Commissioner" means the director of the department of transportation of this state, acting directly or through authorized agents as provided by section 24-02-01.3.
12. "Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons

have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

13. "Conviction" means a final order or judgment or conviction by the North Dakota supreme court, any lower court having jurisdiction, a tribal court, or a court in another state if an appeal is not pending and the time for filing a notice of appeal has elapsed. Subject to the filing of an appeal, the term includes:
 - a. An imposed and suspended sentence;
 - b. A deferred imposition of sentence under subsection 4 of section 12.1-32-02; or
 - c. A forfeiture of bail or collateral deposited to secure a defendant's appearance in court and the forfeiture has not been vacated.
14. "Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
15. "Dealer" means every person, partnership, corporation, or limited liability company engaged in the business of buying, selling, or exchanging motor vehicles, or who advertises, or holds out to the public as engaged in the buying, selling, or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, limited liability company, or association doing business in several cities or in several locations within a city must be considered a separate dealer in each such location.
16. "Department" means the department of transportation of this state as provided by section 24-02-01.1.
17. "Director" means the director of the department of transportation of this state as provided by section 24-02-01.3.
18. "Driver" means every person who drives or is in actual physical control of a vehicle.
19. "Electric bicycle" means a bicycle equipped with fully operable pedals, a saddle or seat for the rider, and an electric motor of seven hundred fifty or fewer watts which meets the requirements of one of the following three classes:
 - a. A class 1 electric bicycle if the motor provides assistance only when the individual is pedaling and the motor ceases to provide assistance when a speed of twenty miles [32 kilometers] per hour is achieved.
 - b. A class 2 electric bicycle if the motor is capable of propelling the bicycle without the individual pedaling and the motor ceases to provide assistance when a speed of twenty miles [32 kilometers] per hour is achieved.

- c. A class 3 electric bicycle if the motor provides assistance only when the individual is pedaling and the motor ceases to provide assistance when a speed of twenty-eight miles [45 kilometers] per hour is achieved.
20. "Electronic communication device" means an electronic device, including a wireless telephone, personal digital assistant, a portable or mobile computer or other device, and video display equipment. The term does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.
- 20-21. "Essential parts" means all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation and includes all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.
- 21-22. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or by destroying life or limb.
- 22-23. "Farm tractor" includes every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines, and other implements of husbandry.
- 23-24. "Farm trailer" includes those trailers and semitrailers towed by a bona fide resident farmer hauling the farmer's own agricultural, horticultural, dairy, and other farm products if the gross weight, not including the towing vehicle, does not exceed twenty-four thousand pounds [10886.22 kilograms].
- 24-25. "Fifth-wheel travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.
- 25-26. "Flammable liquid" means any liquid which has a flash point of seventy degrees Fahrenheit [21.11 degrees Celsius], or less, as determined by a tagliabue or equivalent closed-cup test device.
- 26-27. "Foreign vehicle" means every motor vehicle which is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.
- 27-28. "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.
- 28-29. "Guest" means and includes a person who accepts a ride in any vehicle without giving compensation therefor.

- 29-30. "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and of every way privately maintained within a mobile home park, trailer park, or campground containing five or more lots for occupancy by mobile homes, travel trailers, or tents when any part thereof is open for purposes of vehicular travel.
- 30-31. "House car" or "motor home" means a motor vehicle which has been reconstructed or manufactured primarily for private use as a temporary or recreational dwelling and having at least four of the following permanently installed systems:
- a. Cooking facilities.
 - b. Icebox or mechanical refrigerator.
 - c. Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.
 - d. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.
 - e. Heating or air-conditioning system, or both, separate from the vehicle engine or the vehicle engine electrical system.
 - f. A 110-115 volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply.
- 31-32. "Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highway.
- 32-33. "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two roadways thirty feet [9.14 meters] or more apart, then every crossing of each roadway of such divided highway by an intersecting highway must be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet [9.14 meters] or more apart, then every crossing of two roadways of such highways must be regarded as a separate intersection.
- 33-34. "Intoxicating liquor" means and includes any beverage containing alcohol.
- 34-35. "Judgment" means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a claim for relief arising out of ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of

any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a claim for relief on an agreement of settlement for such damages.

35-36. "Legal owner" means a person who holds the legal title to a vehicle.

36-37. "Licensed health care provider" means doctor of medicine, doctor of osteopathy, doctor of chiropractic, optometrist, psychologist, advanced practice registered nurse, or physician assistant who is licensed, certified, or registered in accordance with laws and regulations in this or another state.

37-38. "Lienholder" means a person holding a security interest in a vehicle.

38-39. "Local authorities" includes every county, municipal, and other local board or body having authority to adopt local police regulations under the constitution and laws of this state.

39-40. "Mail" means to deposit mail properly addressed and with postage prepaid with the United States postal service.

40-41. "Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable person, with due consideration of the totality of circumstances.

41-42. "Manufactured home" means a structure, transportable in one or more sections, that, in the traveling mode, is eight body feet [2.44 meters] or more in width or forty body feet [12.19 meters] or more in length, or, when erected onsite, is three hundred twenty square feet [29.73 square meters] or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to whether the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under title 42 of the United States Code.

42-43. "Manufacturer" means any person who manufactures, assembles, or imports and sells new motor vehicles to new motor vehicle dealers for resale in the state; but such term does not include a person who assembles or specially builds interior equipment on a completed vehicle supplied by another manufacturer, distributor, or supplier.

43-44. "Metal tires" includes all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material except that this provision does not apply to pneumatic tires.

44-45. "Mobile home" means a structure, either single or multisectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet [8.23 meters] or more in length.

- 45-46. "Modular unit" includes every factory fabricated transportable building unit designed to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational, or industrial purposes.
- 46-47. "Motor vehicle" includes every vehicle that is self-propelled, every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and, for purposes of motor vehicle registration, title registration, and operator's licenses, motorized bicycles. The term does not include a snowmobile as defined in section 39-24-01 or an electric bicycle.
- 47-48. "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding implements of husbandry. The term does not include an electric bicycle.
- 48-49. "Motorized bicycle" means a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion or footrests for use by the operator, a power source providing up to a maximum of two brake horsepower having a maximum piston or rotor displacement of 3.05 cubic inches [49.98 milliliters] if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed thirty miles [48.28 kilometers] per hour on a level road surface, and a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged, and the vehicle may not have a width greater than thirty-two inches [81.28 centimeters]. The term does not include an electric bicycle.
- 49-50. "Motor-powered recreational vehicle" means a motorcycle, unconventional vehicle, or off-highway vehicle as defined in section 39-29-01, or a snowmobile as defined in section 39-24-01. The term does not include an electric bicycle.
- 50-51. "Nonresident" means any person who is not a resident of this state.
- 51-52. "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state.
- 52-53. "Official traffic-control devices" means all signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.
- 53-54. "Operator" means every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.
- 54-55. "Operator's license", "driver's license", or "license to operate a motor vehicle" means any operator's or driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:
- a. Any temporary license or instruction permit;

- b. The privilege of any person to drive a motor vehicle whether such person holds a valid license; or
- c. Any nonresident's operating privilege as defined in this section.

55-56. "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

56-57. "Park", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

57-58. "Passenger motor vehicle" means every motor vehicle designed principally for the transportation of persons and includes vehicles which utilize a truck chassis, but have a seating capacity for four or more passengers.

58-59. "Pedestrian" means any person afoot.

59-60. "Person" includes every natural person, firm, copartnership, association, corporation, or limited liability company.

60-61. "Pneumatic tires" includes all tires inflated with compressed air.

61-62. "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

62-63. "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

63-64. "Primary source identity document" means documentary evidence of an individual's name, date of birth, and legal presence required in chapters 39-06 and 39-06.2 related to the issuance of permits, licenses, and nondriver photo identification cards, and retained in the driver record.

64-65. "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

65-66. "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring after the effective date of the proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to the limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.

- 66-67. "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.
- 67-68. "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.
- 68-69. "Reconstructed vehicle" means any vehicle, of a type required to be registered, materially altered from its original construction by the removal, addition, or substitution of new or used essential parts.
- 69-70. "Recreational vehicle" means any motorcycle not qualified for registration, off-highway vehicle, snowmobile, vessel, or personal watercraft. The term does not include an electric bicycle.
- 70-71. "Residence district" means territory contiguous to a highway not comprising a business district, when the frontage on such highway for a distance of three hundred feet [91.44 meters] or more is occupied mainly by dwellings, or by dwellings and buildings in use for business.
- 71-72. "Revocation" means that the operator's license is terminated and may not be renewed or restored, except on application for a new license presented to and acted upon by the director after the expiration of the period of revocation.
- 72-73. "Right of way" means the privilege of the immediate use of a roadway.
- 73-74. "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.
- 74-75. "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein refers to any such roadway separately but not to all such roadways collectively.
- 75-76. "Saddle mount" means placing the front wheels of the drawn vehicle upon the bed of the drawing vehicle.
- 76-77. "Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set aside as a safety zone.
- 77-78. "Salvage certificate of title" means a document issued by the department for purposes of proof of ownership of a salvage or destroyed vehicle and not acceptable for motor vehicle registration purposes.
- 78-79. "Schoolbus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-related events. For the purposes of chapter 39-21, "schoolbus" means any motor vehicle that is owned or leased by a public or governmental agency and used to transport primary or secondary school students to or from school or to or from school-related events, or is privately owned and operated for compensation to transport primary or

secondary school students to or from school or to or from school-related events. Schoolbus does not include a bus used as a common carrier.

- 79-80. "Semitrailer" includes every vehicle of the trailer type so designed and used in conjunction with a truck or truck tractor that some part of its own weight and that of its own load rests upon or is carried by a truck or truck tractor, except that it does not include a "housetrailer" or "mobile home".
- 80-81. "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.
- 81-82. "Solid tire" includes every tire made of rubber or other resilient material other than a pneumatic tire.
- 82-83. "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway.
- 83-84. "Specially constructed vehicle" means any vehicle which was not constructed originally under the distinct name, make, model, or type by a generally recognized manufacturer of vehicles.
- 84-85. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.
- 85-86. "State" means a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada.
- 86-87. "Stop", when required, means complete cessation from movement.
- 87-88. "Stop" or "stopping", when prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.
- 88-89. "Street" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- 89-90. "Superintendent" means the superintendent of the North Dakota state highway patrol, acting directly or through authorized employees of the superintendent.
- 90-91. "Suspension" means that the operator's license is temporarily withdrawn but only during the period of the suspension.
- 91-92. "Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right of way to vehicles on such through highway and in obedience to either a stop sign or yield sign, when such signs are erected by law.

- 92-93. "Trackless trolley coach" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.
- 93-94. "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purposes of travel.
- 94-95. "Traffic-control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.
- 95-96. "Trailer" includes every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, except that it does not include a "housetrailer" or "mobile home", which terms mean a vehicle as defined in this subsection which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers.
- 96-97. "Travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require a special highway movement permit when towed by a motorized vehicle.
- 97-98. "Truck" includes every motor vehicle designed, used, or maintained primarily for transportation of property.
- 98-99. "Truck camper" means a portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use; consists of a roof, floor, and sides; and is designed to be loaded onto and unloaded from the bed of a pickup truck.
- 99-100. "Truck tractor" includes every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
- 100-101. "Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet [30.48 meters] for a distance of a quarter of a mile [402.34 meters] or more.
- 101-102. "Used vehicle" means a motor vehicle which has been sold, bargained, exchanged, given away, or the title to which has been transferred to another, by the person who first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer or importer.
- 102-103. "Vehicle" includes every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks. The term does not include an electric bicycle.

SECTION 2. AMENDMENT. Section 39-05-02.2 of the North Dakota Century Code is amended and reenacted as follows:

39-05-02.2. Exclusions from the certificate of title requirement.

A certificate of title need not be obtained for:

1. A vehicle owned by the United States unless it is registered in this state.
2. A vehicle owned by a manufacturer or dealer and held for sale, even if incidentally moved on the highway or used for purposes of testing or demonstration, or a vehicle used by a manufacturer solely for testing.
3. A vehicle owned by a nonresident of this state and not required by law to be registered in this state.
4. A vehicle regularly engaged in interstate transportation of persons or property which is registered in accordance with the international registration plan and for which a currently effective certificate of title has been issued in another state that has a reciprocal excise tax agreement with this state.
5. A vehicle moved solely by human or animal power.
6. Implements of husbandry.
7. Special mobile equipment.
8. A self-propelled wheelchair or tricycle for a mobility-impaired individual.
9. Any vehicle which is driven or moved upon a highway only for the purpose of crossing the highway from one property to another. The vehicle shall cross the highway at an angle of approximately ninety degrees to the direction of the highway.
10. Other vehicles not required to be registered in this state or not required to display distinctive plates.
11. A manufactured home with respect to which the requirements of subsections 1 through 3 of section 39-05-35, as applicable, have been satisfied.
12. An electric bicycle.

SECTION 3. AMENDMENT. Section 39-10.1-08 of the North Dakota Century Code is amended and reenacted as follows:

39-10.1-08. Point system not applicable.

Any violation of this chapter, or any moving violation as defined in section 39-06.1-09, or any nonmoving violation as defined in section 39-06.1-08 when committed on a bicycle or an electric bicycle as defined in section 39-01-01, is not cause for the licensing authority to assess points against the driving record of the violator pursuant to section 39-06.1-10. Any other legally authorized penalty for a criminal traffic offense or noncriminal traffic violation is applicable to bicyclists.

SECTION 4. A new section to chapter 39-10.1 of the North Dakota Century Code is created and enacted as follows:

Electric bicycles.

1. Beginning January 1, 2022, any person that manufacturers or distributes an electric bicycle in this state shall affix a permanent label to the electric bicycle which contains the following information in at least nine-point Arial font:
 - a. The designated class of the electric bicycle;
 - b. The maximum assisted speed of the electric bicycle; and
 - c. The wattage of the electric bicycle's motor.
2. Any electric bicycle equipment and manufacturing must be in accordance with the requirements for bicycles provided under 16 CFR part 1512.
3. An electric bicycle must be equipped so the electric motor can be disengaged or cease to function when the individual operating the electric bicycle stops pedaling or when the brakes are applied.
4. A person may not tamper with or modify an electric bicycle to change the motor-powered speed capability or engagement of an electric bicycle, unless the label indicating the classification required under subsection 1 is replaced after modification.
5. Unless otherwise prohibited by a governmental entity having jurisdiction, an individual may operate an electric bicycle on any bicycle path or multi-use path.
6. An individual operating a class 3 electric bicycle shall ensure the bicycle is equipped with a functioning speedometer.
7. An individual under the age of eighteen may not operate a class 3 electric bicycle unless the individual is wearing a safety helmet.

SECTION 5. AMENDMENT. Subsection 5 of section 39-16-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Motor vehicle" includes every self-propelled vehicle, including trailers and semitrailers designed for use with these vehicles. The term does not include special mobile equipment or an electric bicycle.

177 SECTION 6. AMENDMENT. Subsection 2 of section 39-29-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Off-highway vehicle" means any motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. The term does not include an electric bicycle. An off-highway vehicle must be classified into one of the following categories:
 - a. Class I off-highway vehicle is a vehicle that does not qualify as road capable under chapters 39-21 and 39-27, has a seat or a saddle designed to be straddled by the operator, and has handlebars for steering control of two wheels.

¹⁷⁷ Section 39-29-01 was also amended by section 2 of House Bill No. 1068, chapter 299.

- b. Class II off-highway vehicle is fifty inches [1270.00 millimeters] or less in width, weighs one thousand two hundred pounds [544.31 kilograms] or less, and travels on three or more nonhighway tires; or is sixty-five inches [1651 millimeters] or less in width, weighs two thousand pounds [907.19 kilograms] or less, and travels on four or more nonhighway tires.
- c. Class III off-highway vehicle weighs less than eight thousand pounds [3628.74 kilograms]; travels on skis, runners, tracks, or four or more tires; has a seat; has a wheel, handlebars, or steering for steering control; and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, but does not include a vehicle registered by the department under chapter 39-04 or 39-24.

SECTION 7. AMENDMENT. Subsection 2 of section 57-40.3-01 of the North Dakota Century Code is amended and reenacted as follows:

- 2. "Motor vehicle" includes every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, every trailer, semitrailer, park model trailer as defined in subsection 2 of section 57-55-10, off-highway vehicle, snowmobile, low-speed vehicle, and travel trailer for which a certificate of title is required to be obtained under chapter 39-05, but not including house trailers or mobile homes. The term does not include an electric bicycle.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 279

SENATE BILL NO. 2329

(Senators Patten, Lemm, K. Roers)

AN ACT to amend and reenact subsection 2 of section 39-01-01 of the North Dakota Century Code, relating to the definition of an authorized emergency vehicle.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁸ **SECTION 1. AMENDMENT.** Subsection 2 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Authorized emergency vehicles":
 - a. "Class A" authorized emergency vehicles means:
 - (1) Vehicles of a governmentally owned fire department.
 - (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles.
 - (3) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation.
 - (4) Ambulances and other vehicles authorized by licensure granted under chapter 23-27.
 - (5) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the game and fish department.
 - (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
 - (7) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency.
 - (8) Vehicles operated by or under the control of the director of the parks and recreation department.

¹⁷⁸ Section 39-01-01 was also amended by section 1 of House Bill No. 1148, chapter 278, section 351 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2097, chapter 280.

- (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.
- (10) Vehicles operated by or under the control of the state forester.
- (11) Vehicles operated by or under the control of the bureau of criminal investigation and used for law enforcement purposes.
- (12) Vehicles operated by or under the state department of health in cases of emergencies.
- (13) Vehicles used or operated by governmental search and rescue personnel while performing emergency operations or duties. As used in this paragraph, "search and rescue" means deployment, coordination, and use of available resources and personnel in locating, relieving the distress, and preserving the life of and removing an individual who is missing, trapped, or lost in the backcountry, remote areas, or waters of the state. The term includes water and dive rescue.
- b. "Class B" authorized emergency vehicles means wreckers and such other emergency vehicles as are authorized by the local authorities.
- c. "Class C" authorized emergency vehicles means:
 - (1) Vehicles used by the state division of homeland security or local division of emergency management organizations.
 - (2) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
 - (3) Vehicles, other than ambulances, used by emergency medical services personnel.
 - (4) Vehicles used by volunteer search and rescue personnel if performing an emergency operation or duty upon the request of a state entity, political subdivision, or volunteer fire department. A volunteer organization may classify a personal vehicle as a class C emergency vehicle if needed to assist in a search and rescue operation in accordance with this paragraph. As used in this paragraph, "search and rescue" means deployment, coordination, and use of available resources and personnel in locating, relieving the distress, and preserving the life of and removing an individual who is missing, trapped, or lost in the backcountry, remote areas, or waters of the state. The term includes water and dive rescue.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 280

SENATE BILL NO. 2097

(Transportation Committee)
(At the request of the Highway Patrol)

AN ACT to create and enact a new subsection to section 39-06.2-07 of the North Dakota Century Code, relating to statutory fees and moving violations; to amend and reenact subsection 78 of section 39-01-01, subsection 6 of section 39-06.1-06, and sections 39-06.1-09, 39-12-22, and 39-32-02 of the North Dakota Century Code, relating to statutory fees and moving violations; to repeal sections 8-02-08, 39-06.2-17, 39-12-24, and 39-12-25 of the North Dakota Century Code, relating to transportation standards, exemptions, citations, excess size and weight restrictions, and funding for an electronic permit system; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁹ **SECTION 1. AMENDMENT.** Subsection 78 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

78. "Schoolbus" means a ~~commercial~~ motor vehicle designed or used to transport carry more than ten passengers in addition to the driver, and is used for the purpose of transporting preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-related events. For the purposes of chapter 39-21, "schoolbus" means any motor vehicle that is owned or leased by a public or governmental agency and used to transport preprimary, primary, or secondary school students to or from school or to or from school-related events, or is privately owned and operated for compensation to transport preprimary, primary, or secondary school students to or from school or to or from school-related events. Schoolbus does not include a bus used as a common carrier.

¹⁸⁰ **SECTION 2. AMENDMENT.** Subsection 6 of section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

6. For a violation of section 39-06.2-10.9 or subsection 3 of section 39-21-46, a fee established as follows:
- a. Driving more than eleven hours since the last ten hours off duty, driving after fourteen hours on duty since the last ten hours off duty, driving after sixty hours on duty in seven days or seventy hours in eight days, no record of duty status or log book in possession, failing to retain previous seven-day record of duty status or log book, or operating a vehicle with four to six out-of-service defects, one hundred dollars;

¹⁷⁹ Section 39-01-01 was also amended by section 1 of House Bill No. 1148, chapter 278, section 351 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2329, chapter 279.

¹⁸⁰ Section 39-06.1-06 was also amended by section 5 of House Bill No. 1502, chapter 283, and section 6 of House Bill No. 1502, chapter 283.

- b. False record of duty status or log book or operating a vehicle with seven to nine out-of-service defects, two hundred fifty dollars;
- c. Operating a vehicle after driver placed out of service, operating a vehicle with ten or more out-of-service defects, or operating a vehicle that has been placed out of service prior to its repair, five hundred dollars; and
- d. All other violations of motor carrier safety rules adopted under subsection 3 of section 39-21-46, fifty dollars.

¹⁸¹ **SECTION 3. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-09. Moving violation defined.

For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01, 39-06-14, 39-06-14.1, 39-06-16, section 4 of this Act, 39-08-20, 39-08-23, 39-08-24, 39-08-25, 39-09-01, 39-09-01.1, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-21-45.1, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5 of section 39-24-09, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 5 of section 39-10-26, section 39-21-44, and subsections 2 and 3 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

SECTION 4. A new subsection to section 39-06.2-07 of the North Dakota Century Code is created and enacted as follows:

A commercial learner's permitholder may not operate a commercial motor vehicle:

- a. Transporting passengers requiring a passenger endorsement;
- b. Transporting passengers requiring a schoolbus endorsement;
- c. Requiring a tank vehicle endorsement unless the tank is empty and does not contain residue of hazardous materials; or
- d. Transporting hazardous materials, regardless of need for hazardous materials endorsement.

SECTION 5. AMENDMENT. Section 39-12-22 of the North Dakota Century Code is amended and reenacted as follows:

39-12-22. Permissible loads - Exceptions.

When any motor truck, truck tractor, or trailer is operated upon the public highways of this state carrying a load in excess of the maximum prescribed under the provisions of sections 39-12-03 and 39-12-05 or other maximum weight limitations prescribed by law, the load must be reduced or shifted to within such maximum limitations before being permitted to operate on any public highway of this state;

¹⁸¹ Section 39-06.1-09 was also amended by section 8 of House Bill No. 1502, chapter 283.

provided, however, that any such vehicle carrying a load of livestock is exempt from the limitations prescribed in section ~~39-12-05~~39-12-05.3, relating to the carrying capacity of any wheel, tire, axle, or group of axles when excessive weight is caused by a shifting of the weight of the livestock. All material unloaded as required by this section must be cared for by the owner or operator of such vehicle at the risk of such owner or operator.

SECTION 6. AMENDMENT. Section 39-32-02 of the North Dakota Century Code is amended and reenacted as follows:

39-32-02. Intrastate exemptions from hours of service regulations.

1. The following intrastate drivers are not subject to hours of service regulations:
 - a. A driver of an authorized emergency vehicle;
 - b. A driver who operates a motor vehicle in intrastate commerce if the gross vehicle weight, gross vehicle weight rating, gross combination weight, and gross combination weight rating are less than twenty-six thousand one pounds [11797.18 kilograms] unless the vehicle is used to transport hazardous materials requiring a placard, the vehicle is designed to transport more than eight passengers, including the driver, for compensation, or unless the vehicle is designed or used to transport sixteen or more people, including the driver not for compensation; or
 - c. A driver of a tow truck operating at the request of a law enforcement officer.
2. Except for a driver included in subsection 1, a motor carrier may not permit or require any intrastate driver to drive and an intrastate driver may not drive:
 - a. More than twelve cumulative hours following ten consecutive hours off duty;
 - b. For any period after the end of the sixteenth hour after coming on duty following ten consecutive hours off duty; or
 - c. After having been on duty for seventy hours in any period of seven consecutive days.
3. Hours of service limitations do not apply to an intrastate driver operating a commercial vehicle to provide emergency relief during an emergency declared by the governor. Under this subsection, an emergency is the result of any natural activities, including a tornado, windstorm, thunderstorm, snowstorm, ice storm, blizzard, drought, mudslide, flood, high water, earthquake, forest fire, explosion, blackout, or other occurrence, natural or manmade, which interrupts delivery of essential services, such as electricity, medical care, sewer, water, telecommunications transmissions, or essential supplies, such as food and fuels, or otherwise threatens human life or public welfare.
4. Hours of service limitations do not apply to an intrastate driver transporting agricultural commodities or farm supplies, including farm equipment or machinery, for agricultural purposes in this state during planting and harvesting seasons from January first through December thirty-first, if the transportation is limited to an area within a one hundred fifty air-mile radius

from the source of the commodities or the distribution point for the farm supplies.

5. An intrastate driver is exempt from maintaining a record of duty status if:
- a. The driver operates within a one hundred fifty air-mile radius from the driver's normal work-reporting location or from the official worksite of the vehicle;
 - b. At least ten consecutive hours off duty separate each twelve hours on duty;
 - c. The driver, except for a driver salesperson, returns to the work-reporting location and is released from work within twelve consecutive hours; and
 - d. The motor carrier maintains and retains for a period of six months accurate time records showing the time the driver reports for duty and is released from duty each day.

SECTION 7. REPEAL. Sections 8-02-08, 39-06.2-17, 39-12-24, and 39-12-25 of the North Dakota Century Code are repealed.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 281

SENATE BILL NO. 2112

(Transportation Committee)

(At the request of the Department of Transportation)

AN ACT to amend and reenact section 39-02-03 of the North Dakota Century Code, relating to department of transportation branch office duties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-02-03 of the North Dakota Century Code is amended and reenacted as follows:

39-02-03. Powers and duties of director and department.

The director may adopt and enforce such administrative rules and, designate such agencies, and establish such branch offices, including contracted branch offices, as may be necessary to carry out the motor vehicle and driver's license laws applicable to the director's office and department. The director shall provide suitable forms for applications, registration cards, license number plates, and all other motor vehicle and driver's license forms and equipment requisite for the operation of the director's office and department, and shall prepay all transportation charges thereon. Branch office contracts entered under this section may extend five years and may be renewed in accordance with this section. At least one year before the end of each branch office contract term, the department shall consider entering contracts with new branch office vendors. Notwithstanding any other provision of law, the director may enter direct negotiations and contract with qualified vendors to provide branch office services. The director may provide for a maximum fee schedule for the various services provided by the branch offices, not to exceed ten dollars for each service provided. Any branch office may establish a different fee schedule if the schedule does not contain a fee that exceeds a maximum fee established by the director and is approved by the director. All branch office managers must be bonded. The department may lease or provide office space or other costs as necessary to independent motor vehicle branch managers. All rents collected under this section must be deposited in the state highway fund. The department and the officers thereof shall enforce the provisions of all laws pertaining to the director and the department.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 282

SENATE BILL NO. 2043

(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

AN ACT to amend and reenact subsection 1 of section 39-03.1-09 and section 39-03.1-10 of the North Dakota Century Code, relating to contributions to the highway patrolmen's retirement system by members and the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-03.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. Every member, except as provided in section 39-03.1-07, shall contribute into the fund ten and thirty-hundredths percent of the member's monthly salary, which sum must be deducted from the member's salary and credited to the member's account in the fund. Member contributions increase by one percent of the member's monthly salary beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the monthly reporting period of January 2013; and; with an additional increase of one percent, beginning with the monthly reporting period of January 2014; with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2022; with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2023; with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2024; and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2025.

¹⁸² **SECTION 2. AMENDMENT.** Section 39-03.1-10 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-10. Contributions by the state.

The state shall contribute to the fund a sum equal to sixteen and seventy-hundredths percent of the monthly salary or wage of a participating member. State contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012; and; with an additional increase of one percent, beginning with the reporting period of January 2013; and; with an additional increase of one percent, beginning with the monthly reporting period of January 2014; with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2022; with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2023; with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2024; and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2025. If the member's contribution is paid by the state under subsection 2 of

¹⁸² Section 39-03.1-10 was also amended by section 1 of Senate Bill No. 2044, chapter 439.

section 39-03.1-09, the state shall contribute, in addition, an amount equal to the required member's contribution. The state shall pay the associated employer contribution for those members who elect to exercise their rights under subsection 3 of section 39-03.1-10.1.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 283

HOUSE BILL NO. 1502

(Representatives Mock, D. Ruby, Boschee)

(Senators Clemens, Dwyer)

(Approved by the Delayed Bills Committee)

AN ACT to create and enact a new subsection to section 39-04-37, a new subdivision to subsection 2 of section 39-06.1-06, and a new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to the amount of statutory fees, entries against driving record, and moving violations; to amend and reenact section 39-04-55, subsections 2 and 4 of section 39-05-17, section 39-06-16, subdivision f of subsection 2 of section 39-06.1-06, subsection 1 of section 39-06.1-08, section 39-06.1-09, subdivision b of subsection 3 of section 39-06.1-10, subsection 2 of section 39-10-26, subsections 1 and 2 of section 39-10-38, and section 39-21-15 of the North Dakota Century Code, relating to the amount of statutory fees and moving violations and entries against driving record; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-04-37 of the North Dakota Century Code is created and enacted as follows:

To operate, or for the owner thereof knowingly to permit anyone to operate a motor vehicle on a highway if the owner is employed in this state on a temporary or full-time basis, is a resident of the state, and does not have a temporary registration permit when required under subsection 1 of section 39-04-18.2. As used in this subsection, the term "resident" means a resident as defined under subdivision e of subsection 2 of section 39-04-18.

SECTION 2. AMENDMENT. Section 39-04-55 of the North Dakota Century Code is amended and reenacted as follows:

39-04-55. Registration card to be carried in or on vehicle - Inspection of card - Penalty.

The registration card issued for a vehicle must be carried in the driver's compartment of the vehicle or, in the case of a housetrailer or mobile home or a trailer or semitrailer, regardless of when such vehicle was acquired, inside or on the vehicle, at all times while the vehicle is being operated upon a highway in this state. The card is subject to inspection by any peace officer or highway patrol officer. Any person violating this section must be assessed a fee of twenty dollars. However, a person cited for violation of this section may not be found to have committed the violation if the person, within ~~forty-eight hours~~fourteen days after being cited; produces and displays to ~~any peace officer or highway patrol officer, or to the hearing official before whom the person was to appear~~ office of the prosecutor where the matter is pending, a registration card valid at the time the person was cited. A peace officer or highway patrol officer, upon citing a person for violating this section, shall inform the person that a violation will be considered as not having occurred if the person produces and displays a valid registration card in the manner provided in this section. ~~A peace officer or highway patrol officer receiving evidence of the existence of a valid~~

~~registration card as herein provided shall notify the hearing official of the appropriate jurisdiction of that fact.~~

SECTION 3. AMENDMENT. Subsections 2 and 4 of section 39-05-17 of the North Dakota Century Code are amended and reenacted as follows:

2. If legal title passes to the transferee, the owner shall deliver the endorsed certificate of title to the transferee within thirty days of the date the vehicle was purchased.
4. Within thirty days of receiving the title, the transferee shall deliver the endorsed certificate of title to the department with a transfer fee of five dollars, and shall make an application for a new certificate of title. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked if the transferee fails to present the endorsed certificate of title to the department for transfer and make application for a new certificate of title within thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery must be made to the owner.

¹⁸³ **SECTION 4. AMENDMENT.** Section 39-06-16 of the North Dakota Century Code is amended and reenacted as follows:

39-06-16. License to be carried and exhibited on demand.

An individual licensed to operate a motor vehicle shall have the operator's license in the individual's immediate possession at all times when operating a motor vehicle and shall physically surrender the operator's license, upon demand of any court, police officer, or a field deputy or inspector of the department. However, an individual charged with violating this section may not be convicted or assessed any court costs if the individual produces ~~in court or in the office of the arresting officer~~ within fourteen days to the office of the prosecutor where the matter is pending, a valid operator's license issued to that individual that is not under suspension, revocation, or cancellation at the time of the individual's arrest.

¹⁸⁴ **SECTION 5. AMENDMENT.** Subdivision f of subsection 2 of section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

- f. A violation of ~~subsection 1 of section 39-04-37 by an individual by becoming a resident of this state~~ 1 of this Act, a fee of one hundred dollars.

¹⁸⁵ **SECTION 6.** A new subdivision to subsection 2 of section 39-06.1-06 of the North Dakota Century Code is created and enacted as follows:

A violation of 39-19-03, a fee of fifty dollars.

SECTION 7. AMENDMENT. Subsection 1 of section 39-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

¹⁸³ Section 39-06-16 was also amended by section 2 of House Bill No. 1072, chapter 288.

¹⁸⁴ Section 39-06.1-06 was also amended by section 6 of House Bill No. 1502, chapter 283, and section 2 of Senate Bill No. 2097, chapter 280.

¹⁸⁵ Section 39-06.1-06 was also amended by section 5 of House Bill No. 1502, chapter 283, and section 2 of Senate Bill No. 2097, chapter 280.

1. A violation of section ~~39-04-11~~39-04-02.1, ~~subsection 1 of section 39-04-37 by an individual by becoming a resident of this state~~1 of this Act, subsection 4 of section 39-06-17, and section ~~39-06-20~~, 39-06-44, 39-06-45, 39-10-47, 39-10-49, 39-10-50, 39-10-54.1, 39-21-08, 39-21-10, 39-21-11, or 39-21-14, or a violation of any municipal ordinance equivalent to the foregoing sections.

¹⁸⁶ **SECTION 8. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-09. Moving violation defined.

For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section ~~39-04-11~~, 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01, ~~39-06-04~~, 39-06-14, 39-06-14.1, 39-06-16, ~~39-06-2-07~~, 39-08-20, 39-08-23, 39-08-24, 39-08-25, 39-09-01, 39-09-01.1, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 39-12-04, 39-12-05, 39-12-06, 39-12-09, ~~39-19-03~~, 39-21-45.1, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5 of section 39-24-09, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, ~~or 39-21~~, ~~or 39-27~~, or equivalent ordinances, except subsection 5 of section 39-10-26, section 39-21-44, and subsections 2 and 3 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

¹⁸⁷ **SECTION 9.** A new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

Driving in violation of the conditions of 2 points
an instructional permit.

¹⁸⁸ **SECTION 10. AMENDMENT.** Subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

- | | | |
|-----|--|------------------|
| b. | Criminal Violations | |
| | Conviction of: | Points Assigned: |
| (1) | Reckless driving in violation of section 39-08-03, or equivalent ordinance | 8 points |
| (2) | Aggravated reckless driving in violation of section 39-08-03, or equivalent ordinance | 12 points |
| (3) | Leaving the scene of an accident involving property damage in violation of section 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances | 14 points |

¹⁸⁶ Section 39-06.1-09 was also amended by section 3 of Senate Bill No. 2097, chapter 280.

¹⁸⁷ Section 39-06.1-10 was also amended by section 10 of House Bill No. 1502, chapter 283.

¹⁸⁸ Section 39-06.1-10 was also amended by section 9 of House Bill No. 1502, chapter 283.

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|--|-----------|
| (4) Leaving the scene of an accident involving personal injury or death in violation of section 39-08-04, or equivalent ordinance | 18 points |
| (5) Violating restrictions in a restricted license issued under section 39-06-17 and relating to the use of eyeglasses or contact lenses while driving | 3 points |
| (6) Violating any restrictions other than those listed in paragraph 5, contained in a restricted license issued under section 39-06-17 or 39-06.1-11 | 4 points |
| (7) Except as provided in paragraph 9 of subdivision a, knowingly operating an unsafe vehicle in violation of section 39-21-46, or equivalent ordinance | 2 points |
| (8) Fleeing in a motor vehicle from a peace officer in violation of section 39-10-71, or equivalent ordinance | 24 points |
| (9) Causing an accident with an authorized emergency vehicle or a vehicle operated by or under the control of the director used for maintaining the state highway system in violation of subsection 5 of section 39-10-26, or equivalent ordinance | 2 points |
| (10) Driving in violation of the conditions of an instruction permit | 2 points |

SECTION 11. AMENDMENT. Subsection 2 of section 39-10-26 of the North Dakota Century Code is amended and reenacted as follows:

2. If an authorized emergency vehicle is parked or stopped at the scene of an emergency and is displaying a flashing, revolving, or rotating blue, white, or red light, approaching traffic shall move to the right-hand edge or curb of the roadway and shall stop, but once having stopped, traffic may proceed past the scene at its own risk when the roadway is clear, except when otherwise directed by a police officer. If an authorized emergency vehicle is otherwise parked or stopped on the interstate system, or on a multilane highway outside the limits of a city, and the authorized emergency vehicle is displaying a flashing, revolving, or rotating amber, blue, white, or red light, the driver of an approaching vehicle shall proceed with caution and yield the right of way by moving to a lane that is not adjacent to the authorized emergency vehicle if the move may be made with due regard to safety and traffic conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.

SECTION 12. AMENDMENT. Subsections 1 and 2 of section 39-10-38 of the North Dakota Century Code are amended and reenacted as follows:

1. No person may turn a vehicle or, move right or left upon a roadway, or merge into or from traffic unless and until such movement can be made with reasonable safety without giving an appropriate signal in the manner hereinafter provided.
2. A signal of intention to turn or, move right or left ~~when required, or merge into or from traffic~~ must be given continuously during not less than the last one

hundred feet [30.48 meters] traveled by the vehicle before turning, moving right or left, or changing lanes.

SECTION 13. AMENDMENT. Section 39-21-15 of the North Dakota Century Code is amended and reenacted as follows:

39-21-15. Lamps, reflectors, and reflective materials on farm tractors, farm equipment, and implements of husbandry.

1. Every farm tractor, self-propelled unit of farm equipment, or towed implement of husbandry, manufactured or assembled after January 1, 1980, must at all times, and every farm tractor, self-propelled unit of farm equipment, or towed implement of husbandry must, when operated upon the highways of this state during the times mentioned in section 39-21-01, be equipped as follows:
 - 4- a. Tractors and self-propelled units of farm equipment must be equipped with two single-beam or multiple-beam headlamps meeting the requirements of section 39-21-20 or 39-21-22; provided, that a tractor or self-propelled unit of farm equipment which is not equipped with an electrical system must be equipped with at least one lamp displaying a white light visible when lighted from a distance of not less than one thousand feet [304.8 meters] to the front of the vehicle. Every tractor and self-propelled unit of farm equipment must be equipped with at least one lamp displaying a red light visible when lighted from a distance of one thousand feet [304.8 meters] to the rear of the vehicle. In addition, every tractor and every self-propelled unit of farm equipment must be equipped with two red reflectors visible from all distances from six hundred feet [182.88 meters] to one hundred feet [30.48 meters] to the rear when directly in front of lawful lower beams of headlamps.
 - 2- b. Every towed unit of farm equipment or implement of husbandry must be equipped with at least one lamp displaying a red light visible when lighted from a distance of one thousand feet [304.8 meters] to the rear or two red reflectors visible from all distances within six hundred feet [182.88 meters] to one hundred feet [30.48 meters] to the rear when directly in front of lawful lower beams of headlamps. In addition, if the extreme left projection of a towed unit of farm equipment or implement of husbandry extends beyond the extreme left projection of the towing tractor or vehicle, the unit or implement must be equipped with at least one amber lamp or reflector mounted to indicate as nearly as practicable the extreme left projection and visible from all distances within six hundred feet [182.88 meters] to one hundred feet [30.48 meters] to the front when illuminated by the lower beams of headlamps and at least one red lamp or reflector so mounted and visible from the same distances to the rear.
2. The lamps and reflectors required by this section must be so positioned as to show from front and rear as nearly as practicable the extreme projection of the vehicle carrying them on the side of the roadway used in passing the vehicle. If a farm tractor or a unit of farm equipment, whether self-propelled or towed, is equipped with two or more lamps or reflectors visible from the front or two or more lamps or reflectors visible from the rear, the lamps or reflectors must be so positioned that the extreme projections both to the left and to the right of the vehicle must be indicated as nearly as is practicable. If all other requirements are met, reflective tape or paint may be used in lieu of the reflectors required in ~~subsection 2~~subdivision b.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 284

HOUSE BILL NO. 1176

(Representatives Roers Jones, Becker, Heinert, Ista, Jones, Klemin, Mock)
(Senators Bakke, Bekkedahl, Davison)

AN ACT to amend and reenact section 39-06-01.1 of the North Dakota Century Code, relating to cancellation of a minor's driver's license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06-01.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-01.1. Special provisions for minor operators.

1. The director shall cancel the operator's license of an individual who has committed acts resulting in an accumulated point total in excess of five points as provided for a violation under section 39-06.1-10 ~~or has committed an alcohol-related offense or a drug-related offense while operating a motor vehicle~~, if:
 - a. The acts or offenses were committed while the individual was a minor; and
 - b. The individual admitted the violation, was found to have committed the violation by the official having jurisdiction, or pled guilty to, was found guilty of, or adjudicated to have committed the offense.
2. The director shall cancel the operator's license of an individual who has committed an alcohol-related offense or a drug-related offense while operating a motor vehicle if:
 - a. The offense was committed while the individual was a minor;
 - b. The individual was found to have committed the offense by the official having jurisdiction, or pled guilty to, was found guilty of, or adjudicated to have committed the offense;
 - c. The offense created an imminent risk of injury to another individual;
 - d. A lesser penalty would be ineffective to prevent future risk to another individual; and
 - e. The official having jurisdiction orders the director to cancel the operator's license.
3. If an individual has had that individual's license to operate a motor vehicle canceled under subsection 1 or 2, the director shall deem that individual to have never have had any license to operate a motor vehicle and may not issue any license to operate a motor vehicle other than an instruction permit or a restricted instruction permit after the completion of any period of suspension or revocation. After the issuance of an instruction permit or restricted

instruction permit, the director may not issue any other operator's license to that individual until that individual:

- a. Meets the requirements of section 39-06-17. The driver education requirement may be met through either an internet course or successfully completing a course at an approved commercial driver training school meeting the requirements of chapter 39-25; and
- b. Satisfies all other requirements that apply to that individual for that operator's license.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 285

HOUSE BILL NO. 1406

(Representatives Simons, Christensen, Magrum, D. Ruby)
(Senators Heitkamp, O. Larsen)

AN ACT to amend and reenact section 39-06-07 of the North Dakota Century Code, relating to an application for an operator's license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06-07 of the North Dakota Century Code is amended and reenacted as follows:

39-06-07. Application for operator's license.

1. An applicant for an operator's license must be made upon a form furnished by the director.
2. An applicant must state on the application the full name, date of birth, sex, social security number, unless the applicant is a nonimmigrant who is not eligible for a social security number or the applicant provides an affidavit stating the applicant was not assigned a social security number, residence and mailing address, and provide a brief description of the applicant. By signing the application the applicant is deemed to have certified that all information contained on the application is true and correct. The application must be accompanied by the fee listed in section 39-06-49. The application must contain any other information as the director may require to improve identity security. The director may require an applicant to provide a social security card and proof of residence address.
3. If an application is received from an individual previously licensed in another jurisdiction, the director may request a copy of the driver's record from the other jurisdiction. A copy of another jurisdiction's driving record becomes a part of the driving record in this state with the same force and effect as though entered on the driving record in this state in the original instance.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 286

HOUSE BILL NO. 1185

(Representatives K. Koppelman, Christensen, Jones, Klemin, Paulson, Satrom,
Schauer, Vigesaa)
(Senators Clemens, Dwyer)

AN ACT to amend and reenact sections 39-06-09 and 39-08-13 of the North Dakota Century Code, relating to liability for negligence of a minor driver and accident report forms; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06-09. Liability for negligence of minor - General.

Any

1. Subject to subsection 2, any negligence of a minor when driving a motor vehicle ~~upon~~ on a highway must be imputed to the individual who has signed the application of the minor for an operator's license, or upon the father, mother, or legal guardian if signing authority has been temporarily transferred under section 39-06-08. This individual is jointly and severally liable with the minor for any damages caused by the negligence, except as provided in section 39-06-10.
2. The negligence of a minor under subsection 1 may not be imputed to the individual who signed the application of the minor for an operator's license, or upon the father, mother, or legal guardian if signing authority temporarily has been transferred under section 39-06-08 for any injury or damage to that individual which was caused by the minor's negligence.

¹⁸⁹ **SECTION 2. AMENDMENT.** Section 39-08-13 of the North Dakota Century Code is amended and reenacted as follows:

39-08-13. Accident report forms.

1. The director shall prepare and supply to law enforcement agencies, garages, and other suitable agencies or individuals forms for accident reports required by law, appropriate with respect to the purposes to be served. The reports to be made by investigating officers shall call for sufficiently detailed information to disclose the cause of a traffic accident, conditions then existing, persons and vehicles involved, and whether the requirements for the deposit of security under section 39-16-05 are applicable.

¹⁸⁹ Section 39-08-13 was also amended by section 5 of House Bill No. 1098, chapter 295.

2. Every accident report required to be made to the director must be made in the appropriate format or approved by the director and must contain all the information required therein unless not available.
3. Every law enforcement officer who investigates a vehicle accident for which a report must be made as required in this chapter shall forward a report of such accident to the department within ten days after the accident.
4. ~~The~~Except as provided in subsection 5, reports required to be forwarded by law enforcement officers and the information contained in the reports is not privileged or confidential. If, however, the investigating officer expresses an opinion as to fault or responsibility for the accident, the opinion is confidential and not open to public inspection, except as provided in subsection 56. In addition, the following information contained in the report is an exempt record as defined in section 44-04-17.1 unless the requester is a party to the accident, a party's legal representative, the insurer of any party to the accident, the agent of that insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or accident involving a party to the accident:
 - a. Driver identification number of a party in the report;
 - b. Telephone number of a party in the report;
 - c. Insurance company name and policy number of a party in the report; and
 - d. Day and month of birth of a party in the report.
5. a. Unless the requester is a party to the accident, a party's legal representative, the insurer of any party to the accident, the agent of that insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or accident involving a party to the accident, the following information contained in the report is exempt:
 - (1) The name of a minor party in the report;
 - (2) Driver identification number of a minor party in the report; and
 - (3) Telephone number uniquely owned by a minor party in the report.
- b. A person may not forward a report in which a minor party's information is disclosed to a person that is not an authorized requester under subdivision a. A person that violates this subdivision is guilty of a class B misdemeanor.
6. Upon affirmation by a party to the accident, a party's legal representative, or the insurer of any party to the accident that the investigating officer's opinion is material to a determination of liability and upon payment of a fee of five dollars, the director or investigating agency shall release a completed copy of the investigating officer's opinion to the entity requesting the information. The request must be made on an appropriate form approved by the director.
- ~~6-7.~~ Upon request of any person and upon payment of a fee of two dollars, the director or the law enforcement agency may furnish to a requester a copy of

that portion of an investigating officer's accident report which does not disclose the opinion of the reporting officer or contain any exempt information that may not be disclosed, if the report shows that the accident is one for which a driver is required to file a report under section 39-08-09.

- ~~7-8.~~ Copies of accident reports are not admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident.
- ~~8-9.~~ The director, without a request under subsection 4 ~~or~~ 5, or 6 may send a copy of an accident report to the registered owner of each vehicle involved as indicated by the report.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 287

HOUSE BILL NO. 1168

(Representatives Toman, Bosch, Ertelt, Kading, Mock)
(Senator Schaible)

AN ACT to amend and reenact sections 39-06-13 and 39-06-19 and subsection 2 of section 39-06-49 of the North Dakota Century Code, relating to operator's license examinations, renewals, and fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06-13 of the North Dakota Century Code is amended and reenacted as follows:

39-06-13. Examination of applicants.

1. Unless otherwise provided in this chapter, the director shall examine every applicant for an operator's license. The examination must include a test of the applicant's eyesight; ability to read and understand highway signs regulating, warning, and directing traffic; and knowledge of the traffic laws of this state. The director shall make any written portion of the examination, except writing on illustrations of signs, available to an applicant in any widely practiced language. The director may waive the written portion of the examination for an applicant who has successfully passed a written examination in another state and has an operator's license that is not or in the process of being revoked, suspended, or canceled.
2. The director shall establish a process to administer the written portion of an examination for an operator's license through an online electronic medium. The director shall charge an applicant a fee of ten dollars to access the online written examination. The online examination must:
 - a. Use personal questions about the applicant before the examination which the applicant is required to answer during the examination, to strengthen test security to deter fraud; and
 - b. Require the applicant's parent or legal guardian to certify to the department the parent or legal guardian monitored the applicant during the online written examination, before issuance by the department of a class D instruction permit to an applicant who has passed the online examination.
3. The examination must include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle unless waived for an applicant who has successfully passed an actual ability test in this or another state conducted by a state licensing authority or by a commercial driver training school meeting the driver education requirements prescribed by the director under chapter 39-25. A minor may operate a motor vehicle no matter how owned for the actual ability test.
- ~~3-4.~~ In lieu of an eyesight test, the applicant may provide a statement of examination from a licensed physician or an optometrist stating the corrected

and uncorrected vision of the applicant, if the examination was within six months of the application.

4-5. The director may require any other physical or mental examination.

¹⁹⁰ **SECTION 2. AMENDMENT.** Section 39-06-19 of the North Dakota Century Code is amended and reenacted as follows:

39-06-19. Expiration of license - Renewal.

1. Every operator's license issued under this chapter or chapter 39-06.2 expires and is renewed according to this section.
2. The expiration date of a noncommercial operator's license for an individual whose birth occurred in a year ending in an odd numeral is twelve midnight on the anniversary of the birthday in the third subsequent year ending in an odd numeral, except for an individual who, at the time of renewal, is seventy-eight years of age or older is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an odd numeral. The expiration date of a noncommercial operator's license for an individual whose birth occurred in a year ending in an even numeral is twelve midnight on the anniversary of the birthday in the third subsequent year ending in an even numeral, except for an individual who, at the time of renewal, is seventy-eight years of age or older is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an even numeral.
3. The expiration date of a commercial operator's license for an individual whose birth occurred in a year ending in an odd numeral is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an odd numeral. The expiration date of a commercial operator's license for an individual whose birth occurred in a year ending in an even numeral is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an even numeral.
4. An individual who has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, a pending application for asylum in the United States, a pending or approved application for temporary protected status in the United States, approved deferred action status, or a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence or conditional permanent residence status in the United States will be issued a temporary operator's license or nondriver photo identification card. The temporary operator's license or identification card is valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year. The license or card may be renewed only upon presentation of valid documentary evidence that the status has been extended.
5. An applicant for renewal must present the application with the fee for renewal of license to the director not before ten months prior to the expiration date of the operator's license. The director may require an examination of an applicant as upon an original application. The director may require an applicant for renewal or a substitute to provide documentation that confirms to

¹⁹⁰ Section 39-06-19 was also amended by section 1 of House Bill No. 1102, chapter 289.

the satisfaction of the director the true identity, date of birth, and legal presence of the applicant and provide a social security card or other satisfactory evidence of a social security number and proof of residence address, if not previously completed or if there are changes to the information already on file. The director may not issue a distinguishing number that is, contains, can be converted to, or is an encrypted version of the applicant's social security number.

6. The director may not renew an operator's license if the license has been suspended under section 14-08.1-07. Upon the recommendation of the court, the director may issue a temporary permit to the licensee under section 39-06.1-11 if the temporary permit is necessary for the licensee to work and the court has determined the licensee is making a good-faith effort to comply with the child support order.
7. An applicant for renewal of an operator's license must provide a certificate of examination from the driver licensing or examining authorities or a statement as to the corrected and uncorrected vision of the applicant from a licensed physician or an optometrist, except as required under subsection 9. The director shall provide visual examination equipment at each location where a license may be renewed.
8. An individual submitting an application and the fee for renewal of license one year or more after the expiration of a license, except an applicant whose military service has terminated less than thirty days prior to the application, must be treated as an initial applicant.
9. A noncommercial applicant may apply by mail or electronically for renewal of a license during every other renewal cycle, except as otherwise provided by subsection 10. The director may use vision information provided by the applicant to meet vision requirements for applicants under sixty-five years of age and adopt procedures necessary to implement this subsection.
10. A noncommercial applicant for an operator's license may not renew by mail or electronically if the applicant is seeking a new photo or changes to the information on the face of the physical operator's license.

SECTION 3. AMENDMENT. Subsection 2 of section 39-06-49 of the North Dakota Century Code is amended and reenacted as follows:

2. The fee for:
 - a. An application for a nondriver photo identification card is eight dollars.
 - b. Written testing for an application for an operator's license is five dollars.
 - c. Online written testing for an application for an operator's license is ten dollars.
 - d. Actual ability testing for an application for an operator's license is five dollars.
 - ~~d-e.~~ An application for an operator's license is fifteen dollars.
 - ~~e-f.~~ An application for a motorized bicycle operator's permit is ten dollars.

- f.g. A substitute operator's license is eight dollars unless the substitute is for erroneous information due to a change in name or address, then the fee is three dollars.
- g.h. An operator's license renewal is fifteen dollars.
- h.i. Reinstatement after suspension is fifty dollars unless the suspension was the result of a suspension under subsection 3, 4, or 6 of section 39-06-03 or subdivision b of subsection 1 of section 39-06-32, then the fee is twenty-five dollars, or unless the suspension was a result of a violation under section 39-08-01 or chapter 39-20, then the fee is one hundred dollars.
- i.j. Reinstatement after revocation is fifty dollars, unless the revocation was imposed for a violation of subsection 6 of section 39-06-17 or section 39-06-31, 39-06-43, or 39-20-04, then the fee is one hundred dollars.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 288

HOUSE BILL NO. 1072

(Transportation Committee)

(At the request of the Department of Transportation)

AN ACT to create and enact a new section to chapter 39-06 of the North Dakota Century Code, relating to electronic motor vehicle operator's licenses; and to amend and reenact section 39-06-16 of the North Dakota Century Code, relating to carrying an operator's license and exhibiting the license on demand.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-06 of the North Dakota Century Code is created and enacted as follows:

Electronic operator's license.

1. The department shall implement a computerized licensing system that allows a licensed motor vehicle operator to provide electronic proof of valid licensing on an electronic communications device.
2. The electronic proof of valid licensing may be used:
 - a. When being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law; or
 - b. For identification purposes.
3. The electronic operator's license must be designed so that there is no need for the credential holder to relinquish possession of the device in which the electronic credential system is installed in order to present the credential, or for the individual to whom the credential is presented to access the verification system to confirm the validity of the credential.
4. The computerized licensing system may not transmit or transfer any information contained on an electronic operator's license without authorization from the licensed motor vehicle operator.
5. In case of a discrepancy between a physical and electronic credential, the electronic credential takes priority and is considered to provide the current information.
6. The electronic credential and verification systems must be designed to protect the credential holder's privacy, including the use of privacy enhancing technology or other appropriate methods. If the department enters an agreement with a third-party electronic credential system provider, the agreement must require the third-party electronic credential system provider to take appropriate measures to protect the credential holder's privacy.

7. In addition to the fees required by section 39-06-49 for an operator's license, a substitute operator's license, and an operator's license renewal:
 - a. An initial fee of five dollars is required from a licensed motor vehicle operator seeking to possess an electronic operator's license; and
 - b. The fee for an electronic operator's license renewal is five dollars.
8. The director may adopt rules necessary for the effective implementation of an electronic operator's licensing system.

¹⁹¹ **SECTION 2. AMENDMENT.** Section 39-06-16 of the North Dakota Century Code is amended and reenacted as follows:

39-06-16. License to be carried and exhibited on demand.

An individual licensed to operate a motor vehicle shall have ~~the~~ a physical or electronic operator's license in the individual's immediate possession at all times when operating a motor vehicle and shall physically surrender ~~the~~ or electronically provide an operator's license, upon demand of any court, police officer, or a field deputy or inspector of the department. However, an individual charged with violating this section may not be convicted or assessed any court costs if the individual produces in court or in the office of the arresting officer a valid operator's license issued to that individual that is not under suspension, revocation, or cancellation at the time of the individual's arrest.

Approved April 19, 2021

Filed April 20, 2021

¹⁹¹ Section 39-06-16 was also amended by section 4 of House Bill No. 1502, chapter 283.

CHAPTER 289

HOUSE BILL NO. 1102

(Transportation Committee)

(At the request of the Department of Transportation)

AN ACT to amend and reenact subsection 9 of section 39-06-19 of the North Dakota Century Code, relating to online driver's license renewals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹² **SECTION 1. AMENDMENT.** Subsection 9 of section 39-06-19 of the North Dakota Century Code is amended and reenacted as follows:

9. A noncommercial applicant may apply by mail or electronically for renewal of a license during every other renewal cycle. The director may use vision information provided by the applicant to meet vision requirements for applicants under ~~sixty-five~~^{seventy} years of age and adopt procedures necessary to implement this subsection.

Approved March 8, 2021

Filed March 9, 2021

¹⁹² Section 39-06-19 was also amended by section 2 of House Bill No. 1168, chapter 287.

CHAPTER 290

SENATE BILL NO. 2113

(Transportation Committee)

(At the request of the Department of Transportation)

AN ACT to create and enact a new subsection to section 39-06.2-10.6 and new subsection to section 39-20-05 of the North Dakota Century Code, relating to conducting department of transportation administrative hearings by electronic means; and to amend and reenact subsection 2 of section 39-06-33 of the North Dakota Century Code, relating to conducting department of transportation administrative hearings by electronic means.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-06-33 of the North Dakota Century Code is amended and reenacted as follows:

2. Any hearing conducted under this section and any appeal from the decision of the hearing must be conducted under chapter 28-32, except the hearing must be heard within sixty days of the receipt of the request for hearing and in the county of the licensee's residence, unless the parties agree to a different time and place for the hearing. A hearing under this section may be conducted by telephone, television, virtual online interface, or other electronic means with the consent of the licensee. At the hearing, the regularly kept records of the director may be introduced and are prima facie evidence of their content without further foundation.

SECTION 2. A new subsection to section 39-06.2-10.6 of the North Dakota Century Code is created and enacted as follows:

A hearing under this section may be conducted in whole or in part by telephone, television, virtual online interface, or other electronic means with the consent of the licensee. A hearing officer may provide a notice, decision, or order under this section by mail or other means as authorized by the director.

SECTION 3. A new subsection to section 39-20-05 of the North Dakota Century Code is created and enacted as follows:

A hearing under this section may be conducted in whole or in part by telephone, television, virtual online interface, or other electronic means with the consent of the licensee. A hearing officer may provide a notice, decision, or order under this section by mail or other means as authorized by the director.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 291

SENATE BILL NO. 2099

(Transportation Committee)
(At the request of the Highway Patrol)

AN ACT to amend and reenact subsection 2 of section 39-06.1-02, and sections 39-06.1-07 and 39-07-07 of the North Dakota Century Code, relating to citations; and to repeal section 39-07-07.1 of the North Dakota Century Code, relating to citations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

2. If the individual is cited for a traffic violation under state law and posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the violation admitted. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official in accordance with section 39-06.1-03.

SECTION 2. AMENDMENT. Section 39-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-07. Notification to offenders - Duties of director.

1. ~~The director shall prepare notification forms and a temporary operator's permit under section 39-20-03.1 or 39-20-03.2 to be delivered to the charged individual with the uniform traffic summons and complaint under section 29-05-31. The notification form may be delivered to the individual in writing, by providing a website address, or providing a quick response code. The notification forms must contain language, approved by the attorney general, informing an individual charged with a traffic violation, other than offenses listed in section 39-06.1-05, of the procedures available to that individual under sections 39-06.1-02 and 39-06.1-03 and informing an individual who refuses a chemical test or onsite screening test under chapter 39-20 or who, on taking a chemical test, is found to be in violation of subdivision a of subsection 1 of section 39-08-01, of the procedures available under chapter 39-20. The notification must contain a schedule of points to be charged against an individual's driving record or other operator's license penalties as provided by law and a schedule of statutory fees and bond amounts as determined in accordance with this chapter. A notification form separate from the uniform traffic summons and complaint may be delivered to an individual charged with a violation of subsection 3 of section 39-21-46.~~
2. The director shall prepare a temporary operator's permit under sections 39-20-03.1, 39-20-03.2, and 39-20-04. The temporary operator's permit must

inform the driver of the procedures available under chapter 39-20 and must be issued in accordance with that chapter. The temporary operator's permit may not be delivered by mail or electronic means unless specifically authorized under chapter 39-20.

SECTION 3. AMENDMENT. Section 39-07-07 of the North Dakota Century Code is amended and reenacted as follows:

39-07-07. Halting ~~person~~an individual for violating traffic regulations - Duty of officer halting.

1. Whenever ~~any person~~an individual is halted for the violation of any of the provisions of chapters 39-01 through 39-13, 39-18, 39-21, and 39-24, or of equivalent city ordinances, the officer halting ~~that person~~the individual, except as otherwise provided in section 39-07-09 and section 39-20-03.1 or 39-20-03.2, may:
 1. a. Take the name and address of the ~~person~~individual;
 2. b. Take the license number of the ~~person's~~individual's motor vehicle; and
 3. c. If a city ordinance or state criminal traffic violation, issue a summons or otherwise notify ~~that person~~the individual in writing to appear at a time and place to be specified in the summons or notice or, if a state noncriminal traffic violation, notify the ~~person~~individual of the right to request a hearing when posting bond by mail.
2. A halting officer employed by ~~any~~a political subdivision of the state may not take a ~~person~~an individual into custody or require ~~that person~~the individual to proceed with the officer to any other location for the purpose of posting bond, ~~whereif~~ the traffic violation was a noncriminal offense under section 39-06.1-02. The officer shall offer to provide the ~~person with~~individual with an envelope for use in mailing the bond.

SECTION 4. REPEAL. Section 39-07-07.1 of the North Dakota Century Code is repealed.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 292

SENATE BILL NO. 2109

(Transportation Committee)

(At the request of the Department of Transportation)

AN ACT to create and enact a new subsection to section 39-06.2-10 of the North Dakota Century Code, relating to commercial driver's license disqualifications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-06.2-10 of the North Dakota Century Code is created and enacted as follows:

An individual who is convicted of using a commercial motor vehicle in the commission of a felony involving an act or practice of severe forms of trafficking of persons as defined in the federal Trafficking Victims Protection Reauthorization Act of 2017 [Pub. L. 115-427, 132 Stat. 5503; 22 U.S.C. 7102] is disqualified permanently from driving a commercial motor vehicle, without the possibility of reinstatement.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 293

HOUSE BILL NO. 1336

(Representatives D. Johnson, Jones, Karls, Satrom)
(Senators Larson, Luick, Myrdal)

AN ACT to amend and reenact section 39-08-01.6 of the North Dakota Century Code, relating to sealing a criminal record of a driving under the influence offense; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹³ **SECTION 1. AMENDMENT.** Section 39-08-01.6 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01.6. Criminal record - Seal - Exception.

1. The court shall seal an individual's criminal record underin accordance with sections 12.1-32-07.1 and 12.1-32-07.2 which relates to a conviction under section 39-08-01, if the individual:
 - a. Has pled guilty or nolo contendere to, or has been found guilty of a violation under section 39-08-01; and
 - b. Has not pled guilty or nolo contendere to, or has not been found guilty of a subsequent violation of section 39-08-01, or any other criminal offense, within seven years of the first violation under section 39-08-01.
2. This section does not apply to an individual licensed as a commercial driver under section 39-06.2-10 or to a prosecutor's access to a prior offense for purposes of enhancement under subsection 3 of section 39-08-01.

SECTION 2. RETROACTIVE APPLICATION. This Act applies retroactively.

Approved March 25, 2021

Filed March 26, 2021

¹⁹³ Section 39-08-01.6 was also amended by section 1 of House Bill No. 1355, chapter 294.

CHAPTER 294

HOUSE BILL NO. 1355

(Representatives Meier, Becker, Karls, Paur, Roers Jones, Satrom)
(Senators Dwyer, Luick, Myrdal)

AN ACT to amend and reenact section 39-08-01.6 of the North Dakota Century Code, relating to sealing a criminal record.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁴ **SECTION 1. AMENDMENT.** Section 39-08-01.6 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01.6. Criminal record - Seal - Exception.

1. The court shall seal an individual's criminal record under sections 12.1-32-07.1 and 12.1-32-07.2 if the individual:
 - a. Has pled guilty or nolo contendere to, or has been found guilty of a violation under section 39-08-01 or an equivalent ordinance; and
 - b. Has not pled guilty or nolo contendere to, or has not been found guilty of a subsequent violation of section 39-08-01 or an equivalent ordinance, or any other criminal offense, within seven years of the first violation under section 39-08-01 or an equivalent ordinance.
2. This section does not apply to an individual licensed as a commercial driver under section 39-06.2-10 or to a prosecutor's access to a prior offense for purposes of enhancement under subsection 3 of section 39-08-01 or an equivalent ordinance.

Approved March 25, 2021

Filed March 26, 2021

¹⁹⁴ Section 39-08-01.6 was also amended by section 1 of House Bill No. 1336, chapter 293.

CHAPTER 295

HOUSE BILL NO. 1098

(Transportation Committee)
(At the request of the Highway Patrol)

AN ACT to amend and reenact sections 39-08-05, 39-08-08, 39-08-10, 39-08-11, 39-08-13, 39-08-14, 39-08-15, and 39-08-16 of the North Dakota Century Code, relating to reporting crashes and obtaining crash reports and data.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-08-05 of the North Dakota Century Code is amended and reenacted as follows:

39-08-05. Accidents~~Crashes~~ involving damage to vehicle - Penalty.

The driver of any vehicle involved in an ~~accident~~ crash resulting only in damage ~~to a vehicle which is driven or attended by any person~~ property damage to the driver's vehicle or any other vehicle shall immediately stop ~~such~~ the vehicle at the scene of ~~such accident~~ the crash or as close thereto ~~to the scene of the crash~~ as possible but shall ~~forthwith~~ return to and in every event shall remain at the scene of ~~such accident~~ the crash until the driver has fulfilled the requirements of section 39-08-06 and 39-08-09. Every such stop must be made without obstructing traffic more than is necessary. Any person failing to stop or comply with ~~said~~ the requirements ~~under such circumstances~~ in this section is guilty of a class B misdemeanor.

SECTION 2. AMENDMENT. Section 39-08-08 of the North Dakota Century Code is amended and reenacted as follows:

39-08-08. Duty upon striking highway fixtures or other property.

The driver of any vehicle involved in an ~~accident~~ crash resulting only in damage to highway fixtures or other property shall take reasonable steps to locate and notify the owner or person in charge of ~~such~~ the property of ~~such fact and of the damage.~~ The driver shall provide the driver's name and, address, and of the registration number of the vehicle the driver is driving and shall upon request and if available exhibit the driver's operator's or chauffeur's license and, The driver shall make report of such accident the crash when and as required in section 39-08-09. The driver shall provide the name of the motor vehicle insurance policy carrier and the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor vehicle insurance policy carrier and the policy number of the owner of the vehicle, to the owner or person in charge of the damaged property or to the law enforcement officer investigating the crash.

SECTION 3. AMENDMENT. Section 39-08-10 of the North Dakota Century Code is amended and reenacted as follows:

39-08-10. Officer to report.

Every law enforcement officer, who in the regular course of duty investigates a motor vehicle ~~accident~~ crash required to be reported as provided in section 39-08-09 either at the time and at the scene of the ~~accident~~ crash or thereafter by interviewing

the participants, or witnesses, shall make and promptly forward to the director a report of the ~~accident~~crash in ~~the~~ format prescribed by the director. The report must contain all the information required therein unless the information is not available, and must be transmitted electronically to the department of transportation using the software prescribed by the director.

SECTION 4. AMENDMENT. Section 39-08-11 of the North Dakota Century Code is amended and reenacted as follows:

39-08-11. When driver unable to report.

1. ~~An accident~~A crash notice is not required from any person who is physically incapable of making the report during the period of such incapacity.
2. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of ~~an accident~~a crash and there was another occupant in the vehicle at the time of the ~~accident~~crash capable of doing so, ~~such~~the occupant shall make or cause to be given the notice not given by the driver.
3. Whenever the driver is physically incapable of giving notice of ~~an accident~~a crash and ~~such~~the driver is not the owner of the vehicle, then the owner of the vehicle involved shall within five days after learning of the ~~accident~~crash give ~~such~~the notice and insurance information not given by the driver.

¹⁹⁵ **SECTION 5. AMENDMENT.** Section 39-08-13 of the North Dakota Century Code is amended and reenacted as follows:

39-08-13. AccidentCrash **report forms.**

1. The director shall prepare and supply to law enforcement agencies, garages, and other suitable agencies or individuals forms for ~~accident~~crash reports required by law, appropriate with respect to the purposes to be served. The reports to be made by investigating officers shall call for sufficiently detailed information to disclose the cause of a traffic ~~accident~~crash, conditions then existing, persons and vehicles involved, and whether the requirements for the deposit of security under section 39-16-05 are applicable.
2. Every ~~accident~~crash report required to be made to the director must be made in the ~~appropriate~~ format ~~or approved~~prescribed by the director and must contain all the information required therein unless not available.
3. Every law enforcement officer who investigates a vehicle ~~accident~~crash for which a report must be made as required in this chapter shall forward a report of such ~~accident~~crash to the department within ten days after the ~~accident~~crash.
4. The reports required to be forwarded by law enforcement officers and the information contained in the reports is not privileged or confidential. ~~If, however, the investigating officer expresses an opinion as to fault or responsibility for the accident, the opinion is confidential and not open to public inspection, except as provided in subsection 5.~~Crash reports held by a public entity other than the department of transportation and a law enforcement agency that contracts with service providers are exempt records.

¹⁹⁵ Section 39-08-13 was also amended by section 2 of House Bill No. 1185, chapter 286.

In addition, the following information contained in the report is an exempt record as defined in section 44-04-17.1 unless the requester is a party to the ~~accident~~crash, a party's legal representative, the insurer of any party to the ~~accident~~crash, the agent of that insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or ~~accident~~crash involving a party to the ~~accident~~crash:

- a. Driver identification number of a party in the report;
 - b. Telephone number of a party in the report;
 - c. Insurance company name and policy number of a party in the report; and
 - d. Day and month of birth of a party in the report.
5. Upon ~~affirmation by request from~~ a party to the ~~accident~~crash, a party's legal representative, or the insurer of any party to the ~~accident~~crash that the investigating officer's opinion is material to a determination of liability~~crash~~, the agent of the insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or ~~crash~~ involving a party to the ~~crash~~, and upon payment of a fee of five~~up to seven~~ dollars, the director or investigating agency shall release a completed copy of the ~~investigating officer's opinion~~crash report to the entity requesting the information. The request must be made on an ~~appropriate~~the form ~~approved~~prescribed by the director.
 6. Upon request of any person and upon payment of a fee of two~~up to seven~~ dollars, the director or the law enforcement agency may furnish to a requester a copy of that portion of an investigating officer's ~~accident~~crash report which does not disclose the opinion of the reporting officer or contain any exempt information that may not be disclosed, if the report shows that the ~~accident~~crash is one for which a driver is required to file a report under section 39-08-09.
 7. Copies of ~~accident~~crash reports are not admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle ~~accident~~crash.
 8. The director, without a request under subsection 4 or 5, may send a copy of an ~~accident~~crash report to the registered owner of each vehicle involved as indicated by the report.

SECTION 6. AMENDMENT. Section 39-08-14 of the North Dakota Century Code is amended and reenacted as follows:

39-08-14. Public inspection of reports relating to ~~accidents~~crashes.

1. All ~~accident~~crash reports made by persons involved in ~~accidents~~crashes or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the department or other state agencies having use for the records for ~~accident~~crash prevention purposes, or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the department may disclose the identity of a person involved in an ~~accident~~crash when such identity is not otherwise known or when such person denies the person's presence at such ~~accident~~crash.

2. All ~~accident~~crash reports and supplemental information filed in connection with the administration of the laws of this state relating to the deposit of security or proof of financial responsibility are confidential and not open to general public inspection, nor may copying of lists of such reports be permitted.
3. No written reports or written information mentioned in this section may be used as evidence in any trial, civil or criminal, arising out of an ~~accident~~crash, except that the director shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified ~~accident~~crash report has or has not been made to the director in compliance with law.
4. Notwithstanding any other provisions of this chapter, any information compiled or otherwise made available to the department pursuant to this chapter must be transmitted to each and every duly authorized official or agency of the United States requesting such.

SECTION 7. AMENDMENT. Section 39-08-15 of the North Dakota Century Code is amended and reenacted as follows:

39-08-15. Director of the department of transportation to tabulate and analyze ~~accident~~crash reports.

The director shall tabulate and may analyze all ~~accident~~crash reports and shall publish annually, or at more frequent intervals, statistical information based thereon as to the number and circumstances of traffic ~~accidents~~crashes.

SECTION 8. AMENDMENT. Section 39-08-16 of the North Dakota Century Code is amended and reenacted as follows:

39-08-16. Any incorporated city may require ~~accident~~crash reports.

Any incorporated city or other municipality may by ordinance require that the driver of a vehicle involved in an ~~accident~~crash shall file with a designated city department a report of such ~~accident~~crash or a copy of any report herein required to be filed with the director. All such reports must be for the confidential use of the city department and subject to the provisions of section 39-08-14.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 296

SENATE BILL NO. 2056

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact subsection 2 of section 39-08-20 of the North Dakota Century Code, relating to driving without liability insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence, including written or electronic proof of insurance, of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section. If that person produces satisfactory evidence, including written or electronic proof of insurance, of a valid policy of liability insurance in effect at the time of the alleged violation of this section to the office of the court ~~under which the matter will be heard~~ prosecutor where the matter is pending, that person may not be found in violation of subsection 1.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 297

HOUSE BILL NO. 1290

(Representatives Mock, Hager, Hagert, Jones, Kading, O'Brien, Owens, Sanford)
(Senators Bakke, Clemens, Dwyer)

AN ACT to create and enact section 39-10-11.1 of the North Dakota Century Code, relating to a vehicle overtaking and passing a bicycle on a roadway; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 39-10-11.1 of the North Dakota Century Code is created and enacted as follows:

39-10-11.1. Overtaking and passing a bicycle.

The driver of a vehicle shall leave a safe distance when overtaking and passing a bicycle proceeding in the same direction on a roadway and shall maintain clearance until safely clear of the overtaken bicycle. "Safe distance" as used in this section means no less than three feet [0.91 meters] clearance.

Approved March 16, 2021

Filed March 16, 2021

CHAPTER 298

HOUSE BILL NO. 1252

(Representatives Mock, Hager, Jones, Kading, O'Brien, D. Ruby)
(Senators Bakke, Dwyer, D. Larsen)

AN ACT to create and enact a new section to chapter 39-10.1 of the North Dakota Century Code, relating to stopping and yielding while operating a bicycle; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-10.1 of the North Dakota Century Code is created and enacted as follows:

Yielding and stopping while operating a bicycle on a roadway.

1. An individual operating a bicycle who is approaching a stop sign at an intersection with a roadway having three or more lanes for moving traffic shall come to a complete stop before entering the intersection.
2. An individual operating a bicycle who is approaching a stop sign at an intersection where a vehicle is stopped in the roadway at the same stop sign shall come to a complete stop before entering the intersection.
3. An individual operating a bicycle who is approaching a stop sign at an intersection with a roadway having two or fewer lanes for moving traffic shall reduce speed and, if required for safety, stop before entering the intersection. After slowing to a reasonable speed or stopping, the individual shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the individual is moving across or within the intersection, except that an individual, after slowing to a reasonable speed and yielding the right-of-way if required, cautiously may make a turn or proceed through the intersection without stopping.
4. An individual operating a bicycle who is approaching an intersection shall yield the right-of-way to any vehicle that already has entered the intersection.
5. When an individual operating a bicycle and a vehicle enter an intersection from different roadways at approximately the same time, the operator of the vehicle or bicycle on the left shall yield the right-of-way to the vehicle or bicycle on the right.
6. If the individual operating a bicycle is involved in a collision with a vehicle in the intersection or junction of roadways after proceeding past a stop sign without stopping or past a steady red traffic-control light, the collision is deemed prima facie evidence of the individual's failure to yield the right of way.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 299

HOUSE BILL NO. 1068

(Transportation Committee)

(At the request of the Parks and Recreation Department)

AN ACT to amend and reenact subsection 8 of section 39-24-01 and subsection 2 of section 39-29-01 of the North Dakota Century Code, relating to the definition of an off-highway vehicle and a snowmobile.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 8 of section 39-24-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow, having a curb weight of not more than one thousand two hundred pounds [544.31 kilograms], driven by track or tracks in contact with the snow, steered by a ski or skis in contact with the snow, and which is not wider than forty-eight inches [121.92 centimeters]. ~~The term does not include an off-highway vehicle as defined in chapter 39-29 converted to operate on tracks.~~

¹⁹⁶ **SECTION 2. AMENDMENT.** Subsection 2 of section 39-29-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Off-highway vehicle" means any motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. The term includes a motorized vehicle converted to operate on snow. An off-highway vehicle must be classified into one of the following categories:
 - a. Class I off-highway vehicle is a vehicle that does not qualify as road capable under chapters 39-21 and 39-27, has a seat or a saddle designed to be straddled by the operator, and has handlebars for steering control of two wheels.
 - b. Class II off-highway vehicle is fifty inches [1270.00 millimeters] or less in width, weighs one thousand two hundred pounds [544.31 kilograms] or less, and travels on three or more nonhighway tires; or is sixty-five inches [1651 millimeters] or less in width, weighs two thousand pounds [907.19 kilograms] or less, and travels on four or more nonhighway tires.
 - c. Class III off-highway vehicle weighs less than eight thousand pounds [3628.74 kilograms]; travels on skis, runners, tracks, or four or more tires; has a seat; has a wheel, handlebars, or steering for steering control; and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, but does not include a vehicle registered by the department under chapter 39-04 or 39-24.

¹⁹⁶ Section 39-29-01 was also amended by section 6 of House Bill No. 1148, chapter 278.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 300

SENATE BILL NO. 2094

(Transportation Committee)

(At the request of the Parks and Recreation Department)

AN ACT to amend and reenact section 39-29-10 of the North Dakota Century Code, relating to the issuance of off-highway vehicle safety certificates by the parks and recreation department for completion of an off-highway vehicle safety training course.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-29-10 of the North Dakota Century Code is amended and reenacted as follows:

39-29-10. Operation by persons under age sixteen.

Except as otherwise provided in this section, an individual under sixteen years of age who is not in possession of a valid operator's license or permit to operate an off-highway vehicle may not, except upon the lands of the individual's parent or guardian or as a participant in an organized sporting event that involves the use of off-highway vehicles, operate an off-highway vehicle. An individual at least twelve years of age may operate an off-highway vehicle if the individual has completed an off-highway vehicle safety training course prescribed by the director of the parks and recreation department and has received the appropriate off-highway vehicle safety certificate issued by the director of the ~~department of transportation~~ parks and recreation department. The failure of an operator to exhibit an off-highway vehicle safety certificate on demand to any official authorized to enforce this chapter is presumptive evidence that that person does not hold a certificate. Fees collected from each individual receiving certification must be deposited in the off-highway vehicle trail tax fund for off-highway vehicle safety education and training programs.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 301

SENATE BILL NO. 2027

(Legislative Management)
(Agriculture and Transportation Committee)

AN ACT to repeal section 39-34-05 of the North Dakota Century Code, relating to transportation network company reporting requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 39-34-05 of the North Dakota Century Code is repealed.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 302

SENATE BILL NO. 2149

(Senators Burckhard, Dwyer, Kreun)
(Representative O'Brien)

AN ACT to amend and reenact section 39-34-06 of the North Dakota Century Code, relating to a commercial service airport's authority to enter an agreement with a transportation network company.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-34-06 of the North Dakota Century Code is amended and reenacted as follows:

39-34-06. Controlling authority.

1. Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by this chapter, chapter 26.1-40.1, and any rules adopted consistent with this chapter and adopted by the insurance commissioner under chapter 26.1-40.1.
2. A political subdivision may not impose a tax on, or require a license for, a transportation network company or a transportation network company driver or subject a transportation network company to the political subdivision's rate, entry, operational, or other requirements.
3. This chapter may not be construed to limit the ability of a commercial service airport or the governing body of a commercial service airport to enter an operating agreement with a transportation network company which authorizes operational access to the commercial service airport. An operating agreement entered under this subsection may provide guidelines for entry, pick-up, drop-off, fees, and other airport operational procedures required by the commercial service airport for the transportation network company to be allowed operational access to the commercial service airport. As used in this subsection, "commercial service airport" means a public airport that has at least two thousand five hundred passenger boardings per calendar year and receives scheduled passenger aircraft service.

Approved March 23, 2021

Filed March 24, 2021

MUNICIPAL GOVERNMENT

CHAPTER 303

HOUSE BILL NO. 1419

(Representatives Dockter, Bosch, Heinert, Klemin, Meier, Nathe)
(Senators Dever, Poolman)

AN ACT to create and enact a new section to chapter 40-22 of the North Dakota Century Code, relating to the authority of a city to levy an infrastructure fee in lieu of special assessments; and to amend and reenact sections 11-09.1-05, 11-11-55.1, 40-05.1-06, and 40-23-21 of the North Dakota Century Code, relating to the authority of cities and counties to levy an infrastructure fee in lieu of special assessments and special assessment fund balances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

11-09.1-05. Powers.

After the filing with the secretary of state of a charter approved in reasonable conformity with this chapter, the county and its citizens may, if included in the charter and implemented through ordinances:

1. Acquire, hold, operate, and dispose of property within or without the county limits, and, subject to chapter 32-15, exercise the right of eminent domain for those purposes.
2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law; and establish debt limitations.
3. ~~To levy~~Levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the county at the same rate unless otherwise provided by law. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law that determines what property or acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede section 11-11-55.1 relating to the sixty percent petition requirement for improvements and of section 40-22-18 relating to the barring proceeding for improvement projects.

4. To levy and collect an infrastructure fee. The fee must replace a general special assessment on all property for payment of infrastructure maintenance costs through a utility bill issued by the county. The money collected under this subsection may not be used for any purpose other than infrastructure maintenance costs. If a home rule county levies an infrastructure fee, the home rule county also may levy and collect green field special assessments. As used in this subsection:
 - a. "General special assessments" means special assessments levied for the purpose of maintaining existing roads and infrastructure and special assessments levied for the construction or repair of arterial roads and infrastructure that provide a benefit to the entire community.
 - b. "Green field special assessments" means special assessments levied for infrastructure costs associated with the development of agricultural or undeveloped property.
5. Levy and collect sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, a county lodging tax, and a county restaurant tax. Sales and use taxes and gross receipts taxes levied under this chapter:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of manufactured homes or mobile homes.
 - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
 - c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.
 - d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1, with the exception of a county lodging or county restaurant tax, and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

After December 31, 2005, any portion of a charter or any portion of an ordinance or act of a governing body of a home rule county passed pursuant to a charter which does not conform to the requirements of this subsection is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance or act of a governing body of a home rule county because it does not conform to this subsection does not affect the validity of any other portion of the charter or ordinance or act of a governing body of a home rule county or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31,

2005, become gross receipts taxes after December 31, 2005. Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section.

- 5-6. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after adoption of a home rule charter, a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. This subsection does not authorize a county to redesignate the elected offices of sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.
- 6-7. Provide for all matters pertaining to county elections, except as to qualifications of electors.
- 7-8. Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil and criminal penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare. However, this subsection does not confer any authority to regulate any industry or activity which is regulated by state law or by rules adopted by a state agency.
- 8-9. Lay out or vacate public grounds, and provide through its governing body for the construction, use, operation, designation, and regulation of a county road system.
- 9-10. Provide for zoning, planning, and subdivision of public or private property within the county limits but outside the zoning authority of any city or organized township.
- 10-11. Exercise in the conduct of its affairs all powers usually exercised by a corporation.
- 11-12. Contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.

The people of all counties coming within this chapter have the full right of self-government in all matters within the powers enumerated in this chapter. The statutes of this state, so far as applicable, continue to apply to counties, except as superseded by the charters of the counties or by ordinances passed pursuant to the charters.

SECTION 2. AMENDMENT. Section 11-11-55.1 of the North Dakota Century Code is amended and reenacted as follows:

11-11-55.1. Petition or resolution for improvements - Levy of special assessments - Levy of infrastructure fee.

- 1. The board of county commissioners of any county, by resolution or upon receipt of a petition of sixty percent of the landowners in a defined area,

outside of the limits of any incorporated city, may install the petitioned improvements as benefit the defined area, provide for the financing of the improvements, and levy special assessments for the payment of all or part of the improvements within the defined area.

2. The board of county commissioners, by resolution or upon petition of sixty percent of the qualified electors who voted in the last general election in a defined area, may levy and collect an infrastructure fee in lieu of general special assessments on all residential and commercial county utility bills for payment of infrastructure maintenance costs. If a home rule county levies an infrastructure fee, the home rule county also may levy and collect green field special assessments.
3. In providing for the improvements, the county shall have the authority granted to municipalities in chapters 40-22, 40-23, 40-23.1, 40-24, 40-25, 40-26, 40-27, and 40-28, and the county shall comply with the provisions of those chapters in making the improvements. Whenever action is required of city officials in those chapters, the comparable county officials shall take the action.
4. As used in this section:
 - a. "General special assessments" means special assessments levied for the purpose of maintaining existing roads and infrastructure and special assessments levied for the construction or repair of arterial roads and infrastructure that provide a benefit to the entire community.
 - b. "Green field special assessments" means special assessments levied for infrastructure costs associated with the development of agricultural or undeveloped property.

SECTION 3. AMENDMENT. Section 40-05.1-06 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-06. Powers.

From and after the filing with the secretary of state of a charter framed and approved in reasonable conformity with the provisions of this chapter, such city, and the citizens thereof, shall, if included in the charter and implemented through ordinances, have the following powers set out in this chapter:

1. To acquire, hold, operate, and dispose of property within or without the corporate limits, and, subject to chapter 32-15, exercise the right of eminent domain for such purposes.
2. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and expenses; to contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; to establish charges for any city or other services; and to establish debt limitations.
3. To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization

and the state supervisor of assessments and all taxable property must be taxed by the city at the same rate unless otherwise provided by law.

4. To levy and collect an infrastructure fee. The fee must replace a general special assessment on all property for payment of infrastructure maintenance costs through a utility bill issued by a municipality. The money collected under this subsection may not be used for any purpose other than infrastructure maintenance costs. If a home rule city levies an infrastructure fee, the home rule city also may levy and collect green field special assessments. As used in this subsection:
 - a. "General special assessments" means special assessments levied for the purpose of maintaining existing roads and infrastructure and special assessments levied for the construction or repair of arterial roads and infrastructure that provide a benefit to the entire community.
 - b. "Green field special assessments" means special assessments levied for infrastructure costs associated with the development of agricultural or undeveloped property.
5. To levy and collect excises, fees, charges, franchise and license taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, a city lodging tax, and a city restaurant tax. For purposes of this section, any taxes imposed under this section on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005. After December 31, 2005, any portion of a charter or any portion of an ordinance passed pursuant to a charter which does not conform to the requirements of this section is invalid to the extent it does not conform. The invalidity of a portion of a charter or ordinance because it does not conform with this subsection does not affect the validity of any other portion of the charter or ordinance of the eligibility for a refund under section 57-01-02.1. Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section. Sales and use taxes and gross receipts taxes levied under this section:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of manufactured homes or mobile homes.
 - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
 - c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.
 - d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1, with the exception of a city lodging or city restaurant tax, and must be administered by the tax commissioner in

accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

- 5-6. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.
- 6-7. To provide for city officers, agencies, and employees, their selection, terms, powers, duties, qualifications, and compensation. To provide for change, selection, or creation of its form and structure of government, including its governing body, executive officer, and city officers.
- 7-8. To provide for city courts, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers; however, the right of appeal from judgment of such courts shall not be in any way affected.
- 8-9. To provide for all matters pertaining to city elections, except as to qualifications of electors.
- 9-10. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.
- 40-11. To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulation thereof.
- 44-12. To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof.
- 42-13. To engage in any utility, business, or enterprise permitted by the constitution or not prohibited by statute or to grant and regulate franchises therefor to a private person, firm, corporation, or limited liability company.
- 43-14. To provide for zoning, planning, and subdivision of public or private property within the city limits. To provide for such zoning, planning, and subdivision of public or private property outside the city limits as may be permitted by state law.
- 44-15. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
- 45-16. To fix the boundary limits of said city and the annexation and deannexation of territory adjacent to said city except that such power shall be subject to, and shall conform with the state law made and provided.
- 46-17. To contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.

It is the intention of this chapter to grant and confirm to the people of all cities coming within its provisions the full right of self-government in both local and city matters within the powers enumerated herein. The statutes of the state of North Dakota, so far as applicable, shall continue to apply to home rule cities, except insofar

as superseded by the charters of such cities or by ordinance passed pursuant to such charters.

SECTION 4. A new section to chapter 40-22 of the North Dakota Century Code is created and enacted as follows:

Power of municipality to defray expense of improvements - Infrastructure fee.

1. Notwithstanding section 40-22-01, a municipality may levy and collect an infrastructure fee. The fee must replace a general special assessment on all property for payment of infrastructure maintenance costs through a utility bill issued by a municipality. The money collected under this subsection may not be used for any purpose other than infrastructure maintenance costs. If a municipality levies an infrastructure fee, the municipality also may levy and collect green field special assessments.
2. As used in this section:
 - a. "General special assessments" means special assessments levied for the purpose of maintaining existing roads and infrastructure and special assessments levied for the construction or repair of arterial roads and infrastructure that provide a benefit to the entire community.
 - b. "Green field special assessments" means special assessments levied for infrastructure costs associated with the development of agricultural or undeveloped property.

SECTION 5. AMENDMENT. Section 40-23-21 of the North Dakota Century Code is amended and reenacted as follows:

40-23-21. Use of collections of subsequent assessments.

1. All collections of special assessments levied pursuant to sections 40-23-17 through 40-23-21 shall be credited as received to the special fund maintained by the municipality for the payment of any outstanding special improvement warrants, refunding improvement bonds, general obligation bonds, or revenue bonds which were issued to finance the improvement for which the assessments were levied, or, if no such obligations are outstanding, to such fund as the governing body may direct.
2. If a governing body of a municipality levied and collected an infrastructure fee under section 4 of this Act, the funds generated by the fee must be used for the payment of any outstanding special improvement warrants, refunding improvement bonds, general obligation bonds, or revenue bonds issued to finance the improvement. The governing body of a municipality may not use funds generated by an infrastructure fee imposed after the effective date of this Act for the payment of any outstanding special improvement warrants, refunding improvement bonds, general obligation bonds, or revenue bonds, issued before the effective date of this Act for the purpose of financing green field special assessments, as defined in section 40-05.1-06.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 304

HOUSE BILL NO. 1130

(Representatives Lefor, Steiner)
(Senator Wardner)

AN ACT to create and enact sections 40-18-14.1, 40-18-14.2, 40-18-14.3, 40-18-14.4, and 40-18-14.5 of the North Dakota Century Code, relating to the authority of the municipal court to execute judgments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 40-18-14.1 of the North Dakota Century Code is created and enacted as follows:

40-18-14.1. Judgment for fine or costs.

If the judgment provided for in section 40-18-14 imposes a fine or assesses a cost, the municipal judge may order an authenticated copy of the judgment be filed in the office of the clerk of any district court of any county in the state. The clerk of district court shall treat the municipal court judgment in the same manner as a civil judgment of any district court of any county of the state.

SECTION 2. Section 40-18-14.2 of the North Dakota Century Code is created and enacted as follows:

40-18-14.2. Notice of filing.

1. At the time of filing a judgment under section 40-18-14, the municipal court judge shall order an affidavit providing the name and last known mailing address of the defendant and otherwise complying with section 28-20-15 be filed.
2. Upon the filing of the judgment and affidavit as provided in section 40-18-14, the clerk of municipal court shall mail notice of the filing of the municipal judgment to the defendant at the defendant's last known address and file proof of mailing with the district court. The notice must include the name and mailing address of the municipal court.
3. An execution of other process for enforcement of a municipal court judgment filed under this section may not be issued until ten days after the date the judgment is filed.

SECTION 3. Section 40-18-14.3 of the North Dakota Century Code is created and enacted as follows:

40-18-14.3. Stay.

If the defendant shows the district court of any county that an appeal from the judgment provided in section 40-18-14 is pending or will be taken, the court shall stay enforcement of the municipal court judgment until the appeal is concluded or the time of appeal expires.

SECTION 4. Section 40-18-14.4 of the North Dakota Century Code is created and enacted as follows:

40-18-14.4. Fees.

The municipal judge shall order a filing fee of ten dollars to be paid to the clerk of the district court.

SECTION 5. Section 40-18-14.5 of the North Dakota Century Code is created and enacted as follows:

40-18-14.5. Effect of filing.

Upon filing of a judgment under section 40-18-14 with the district court in accordance with this chapter, the judgment is enforceable only in the same manner as provided for a judgment for money in a civil action.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 305

HOUSE BILL NO. 1381

(Representatives Schauer, Hagert, B. Koppelman, K. Koppelman, Lefor, Pollert, D. Ruby, Satrom)
(Senators Dwyer, Lee, Wardner)

AN ACT to create and enact a new subsection to section 40-23-10 of the North Dakota Century Code, relating to notice requirements; to amend and reenact sections 40-22-10 and 40-23.1-08 of the North Dakota Century Code, relating to notice requirements and the engineer's report for special improvement districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-22-10 of the North Dakota Century Code is amended and reenacted as follows:

40-22-10. Engineer's report required - Contents.

1. After a special improvement district has been created, the governing body of a municipality, if ~~the governing body~~ deems it necessary to make any of the improvements set out in section 40-22-01 in the manner provided in this chapter, shall direct the engineer for the municipality, or some other competent engineer if the municipality does not have a competent municipal engineer, to prepare a report as to the general nature, purpose, and feasibility of the proposed improvement and an estimate of the probable cost of the improvement, including:
 - 1- a. A separate statement of the estimated cost of the work for which proposals must be advertised under section 40-22-19; and
 - 2- b. A separate statement of all other items of estimated cost not included under subsection 1 which are anticipated to be included in the cost of the improvement under sections 40-23-05 and 40-23.1-04.
2. An engineer's report under this section also must include information describing how the special assessment district was created including any considerations as to which properties are determined to receive a benefit from the proposed improvement.

SECTION 2. A new subsection to section 40-23-10 of the North Dakota Century Code is created and enacted as follows:

Any notice under this section must be published on the city's website.

SECTION 3. AMENDMENT. Section 40-23.1-08 of the North Dakota Century Code is amended and reenacted as follows:

40-23.1-08. Publication of assessment list and notice of hearing of objections to list.

The city auditor shall cause the assessment list, which ~~list shall~~may not include the amount each lot, tract, or parcel is benefited by the improvement, to be published on the municipality's website and once each week for two consecutive weeks in the official newspaper of the municipality, together with a notice of the time when and the place where the city auditor will meet to hear objections made to any assessment by any interested party or interested party's agent or attorney. In lieu of publication of an assessment list, if it includes more than five thousand lots, tracts, or parcels, the city auditor may cause it to be filed and made available for public inspection at all times after the first publication of the notice, during reasonable business hours, at such place as shall be designated in the published notice. The date set for such hearing shall be not less than fifteen days after the first publication of the notice.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 306

SENATE BILL NO. 2254

(Senators J. Roers, Burckhard, Larson)
(Representatives M. Johnson, Pyle)

AN ACT to amend and reenact subsection 1 of section 40-51.2-05 and section 40-51.2-07 of the North Dakota Century Code, relating to notice requirements for annexation and exclusion.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 40-51.2-05 of the North Dakota Century Code is amended and reenacted as follows:

1. The governing body may not take final action on a petition presented by owners and qualified electors until the petitioners have given notice of presentation of the petition by one publication in the official newspaper of the city as provided by section 40-01-09 and the governing body has mailed at least ~~seven~~fifteen days before the presentation, by certified mail, a notice of the time and place of consideration of the petition to the owner of each parcel of real property within the area described in the petition at the person's last-known mailing address. The notice is not required to be sent to any owner of real property who signed a petition pursuant to section 40-51.2-03 or 40-51.2-04. At the same time, the governing body of the city also shall mail, by certified mail, the notice of the time and place of consideration of the petition to the governing body of each city, county, or township directly affected by the land area petitioned to be annexed.

SECTION 2. AMENDMENT. Section 40-51.2-07 of the North Dakota Century Code is amended and reenacted as follows:

40-51.2-07. Annexation by resolution of city.

1. The governing body of any city may adopt a resolution to annex contiguous or adjacent territory as follows:
 - a. The governing body of the city shall adopt a resolution describing the property to be annexed. Within seven days of the adoption of a resolution under this subdivision, the governing body shall mail, by certified mail, a copy of the resolution to the owner of each parcel of real property within the area to be annexed at the person's last-known mailing address.
 - b. The governing body of the city shall publish the resolution and a notice of the time and place the governing body will meet to hear and determine the sufficiency of any written protests against the proposed annexation in the official newspaper once each week for two consecutive weeks. ~~The~~At least fifteen days before the meeting, the governing body of the city shall mail at ~~least seven days before the meeting,~~ by certified mail, a notice to the owner of each parcel of real property within the area to be annexed at the person's last-known mailing address. The notice must inform landowners of the resolution, the time and place of hearing, and the requirement that

protests must be filed in writing. The owners of any real property within the territory proposed to be annexed may file written protests with the city auditor protesting against the proposed annexation within thirty days of the first publication of the resolution ~~may file written protests with the city auditor protesting against the proposed annexation~~. The governing body of the city also shall mail at least seven days before the meeting, by certified mail, the notice of the time and place of the hearing to the governing body of each city, county, or township directly affected by the land area proposed to be annexed. No state-owned property may be annexed without the written consent of the state agency or department having control of the property. The governing body of the city, at its next meeting after the expiration of the time for filing the protests, shall hear and determine the sufficiency of the protests.

- c. In the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution becomes a part of the city. When a copy of the resolution and an accurate map of the annexed area, certified by the executive officer of the city, are filed and recorded with the county recorder, the annexation becomes effective. Annexation is effective for the purpose of general taxation on and after the first day of the next January. However, the city shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately before the annexation proceedings until those lands are put to another use.
2. If the owners of one-fourth or more of the territory proposed to be annexed protest, or if a city that has extraterritorial zoning or subdivision regulation authority over the area petitioned to be annexed protests, the city may either stop its pursuit of the annexation or submit the matter to a committee for mediation as provided in section 40-51.2-07.1.

Approved March 17, 2021

Filed March 18, 2021

OCCUPATIONS AND PROFESSIONS

CHAPTER 307

SENATE BILL NO. 2060

(Industry, Business and Labor Committee)
(At the request of the State Board of Chiropractic Examiners)

AN ACT to amend and reenact sections 43-06-01, 43-06-02, 43-06-04, 43-06-04.1, 43-06-05, 43-06-08, 43-06-09, 43-06-10.1, 43-06-11, 43-06-13, 43-06-15, 43-06-16.1, and 43-06-18 of the North Dakota Century Code, relating to the state board of chiropractic examiners and the practice of chiropractic; and to repeal sections 43-06-10 and 43-06-12 of the North Dakota Century Code, relating to the state board of chiropractic examiners and the practice of chiropractic.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-06-01 of the North Dakota Century Code is amended and reenacted as follows:

43-06-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Approved and accredited doctor of chiropractic program" means a doctor of chiropractic program approved by the board and accredited by a board-approved entity, such as the council on chiropractic education or its successor or equivalent.
2. "Board" means the state board of chiropractic examiners.
- ~~2-3.~~ "Certified chiropractic clinical assistant" means an individual certified by the board who in accordance with section 43-06-16.1 assists with basic health care duties in the practice of chiropractic under the supervision of a licensed doctor of chiropractic in good standing with the board.
- ~~3-4.~~ a. "The practice of chiropractic" includes:
 - (1) The examination, evaluation, and diagnosis by means including x-ray, other appropriate diagnostic imaging, clinical laboratory procedures, or pertinent examinations taught by chiropractic colleges accredited by the council on chiropractic education or its successor or equivalent;
 - (2) The treatment of patients by means of the adjustment or manipulation of the spinal column, the vertebral articulations, the appendicular skeleton not excluding the skull, and of any displaced tissue of any kind or nature;
 - (3) The practice of physiotherapy, electrotherapy, or hydrotherapy;

- (4) All other procedures, treatments, and interventions taught by chiropractic colleges accredited by the council on chiropractic education or its successor;
 - (5) The rating and reporting of any permanent impairment of function and the providing of professional opinions regarding any matter included in this definition of practice of chiropractic as set out herein; and
 - (6) Delegation of basic health care duties in the practice of chiropractic to a certified chiropractic clinical assistant; and
 - (7) Telehealth.
- b. The practice of chiropractic does not include prescribing for, removal of, or administering to any person any medicine or drug to be taken internally which is now or hereafter included in materia medica, nor performing any surgery, except as is provided in this section, nor practicing obstetrics.
5. "Telehealth" means the use of electronic communications to provide and deliver chiropractic-related information and chiropractic services, including chiropractic-related information and services, over any distance. Telehealth encompasses chiropractic care and chiropractic promotion activities, including education, advice, reminders, interventions, and the monitoring of interventions.

SECTION 2. AMENDMENT. Section 43-06-02 of the North Dakota Century Code is amended and reenacted as follows:

43-06-02. Who is exempt from the provisions of this chapter.

This chapter does not apply to:

1. Chiropractors from the District of Columbia, or other states, territories, or countries who are in actual consultation in this state.
2. ~~Students duly enrolled in a college of chiropractic approved and accredited by the council on chiropractic education, or its successor or equivalent, who have completed chiropractic studies and who are continuing their training under a preceptorship program and performing the duties of an intern under the supervision of a chiropractor licensed in the state of North Dakota who has received approval to supervise such internship by the board and said students having received approval to participate in such internship by the board and by the chiropractic college or university.~~
3. ~~A graduate of any approved and accredited college of chiropractic who has for the first time made application for license by examination to practice chiropractic in the state of North Dakota, and who, under the supervision of a North Dakota licensed chiropractor, performs the duties of an intern, provided that a supervising chiropractor has certified to the board that the graduate is of good character and competent chiropractic ability. The enrolled in an approved and accredited doctor of chiropractic program, who qualify for the preceptorship program. Under this exception:~~
 - a. The student shall perform the duties of an intern under the supervision of a chiropractor licensed in the state of North Dakota.

- b. The student and the licensed chiropractor shall meet the requirements established for the preceptorship by an approved and accredited doctor of chiropractic program and must be approved by the program and by the board.
- 3. A graduate of a program who has not completed the examination requirements in section 43-06-10.1 who applies for a graduate internship under this exception:
 - a. The graduate, under the supervision of a North Dakota licensed chiropractor, shall perform the duties of an intern.
 - b. The graduate shall submit an initial application for North Dakota licensure.
 - c. The graduate must be sponsored by a chiropractor with a current and valid North Dakota license in good standing, including no active complaints, with at least three years of experience.
 - d. The graduate and the licenseholder shall provide proof of malpractice insurance.
 - e. The graduate intern authorization granted by the board terminates within fifteen months from the date issued by the board.
- 4. Nothing in this chapter is to be construed to impinge upon the practice of medicine by a physician and surgeon or an osteopathic physician and surgeon who has adequate training in the use of manipulative and adjustive procedures of the spine and appendicular skeleton.
- 5. A chiropractor who is licensed in another jurisdiction of the United States or credentialed to practice chiropractic in another country if that chiropractor is teaching, demonstrating, or providing chiropractic in connection with teaching or participating in an educational seminar in the state for no more than sixty days in a calendar year.
- 6. A chiropractor who is licensed in another jurisdiction of the United States or credentialed to practice chiropractic in another country if that chiropractor is practicing chiropractic in North Dakota as a member of the health care team for a sports, cultural, or performing arts group. Treatment may only be performed on members of the team or group the chiropractor is traveling with, for no more than sixty days in a calendar year.

SECTION 3. AMENDMENT. Section 43-06-04 of the North Dakota Century Code is amended and reenacted as follows:

43-06-04. Board of chiropractic examiners - Members - Term of office.

- 1. Each member of the board shall qualify by taking the oath of office required of civil officers and shall hold office for a term of five years and until the member's successor is appointed and qualified. The terms of office of the members of the board must be so arranged that only one term expires on the thirty-first day of August of any year except:
 - a. Every fifth year, the governor shall appoint a doctor of chiropractic and a certified chiropractic clinical assistant to the board.

- b. ~~Two years~~One year after the appointments in subdivision a, the governor shall appoint a doctor of chiropractic and a consumer member to the board.
2. A member may not serve for more than two consecutive five-year terms.
3. If a member of the board is absent from two consecutive regular meetings, the board may declare a vacancy. Vacancies on the board must be filled by appointment by the governor.

SECTION 4. AMENDMENT. Section 43-06-04.1 of the North Dakota Century Code is amended and reenacted as follows:

43-06-04.1. Powers and duties of board.

1. The board shall administer the provisions of this chapter and the administrative rules of the board relating to the practice of chiropractic. ~~#The board~~ has all powers, rights, and duties as provided in chapter 28-32.
2. The board shall verify the qualifications of applicants for licenses to practice chiropractic and of applicants for certification to practice as a certified chiropractic clinical assistant. ~~#The board~~ shall examine and renew the licenses or certification of duly qualified applicants.
3. The board shall regulate the practice of chiropractic and shall enforce the provisions of this chapter and the rules of the board. The board shall investigate complaints of violations and cause the prosecution of persons violating the provisions of this chapter or the administrative rules of the board.
4. The board may appoint a peer review committee and employ ~~such~~ personnel and incur ~~such~~ expenses as may be necessary for the performance of the board's duties and the enforcement of this chapter.
5. The board may inspect upon probable cause, at all reasonable times, any chiropractic office or place where chiropractic services are performed.
6. The board may set fees for licensure and renewal.
7. The board may adopt and amend administrative rules and regulations, consistent with the provisions of this chapter governing the practice of chiropractic and the diagnosis and treatment of patients, the enforcement of this chapter, and proper performance of ~~its~~ the board's duties, including:
 - a. A code of ethical conduct governing the practice of chiropractic.
 - b. Requirements, standards, and examinations to determine the intellectual, educational, scientific, technical, and professional qualifications of applicants for license or certification.
 - c. Matters pertaining to the content and conduct of examination.
 - d. Matters pertaining to the operation and registration of chiropractic facilities.
 - e. Matters pertaining to the practice and certification of chiropractic specialties by licensed doctors of chiropractic.

- f. The quantity, type, and character of postgraduate study to be done by any licensee in order to comply with ~~the provisions of this chapter.~~
- g. Set policies and procedures on what constitutes professional or unprofessional conduct.
- h. Any other rules or regulations as may be necessary to give this chapter full force and effect.

SECTION 5. AMENDMENT. Section 43-06-05 of the North Dakota Century Code is amended and reenacted as follows:

43-06-05. Meetings of board - When held - Place of meeting - Quorum - Officers - Seal - Compensation - Expenses - How paid.

The board shall hold regular meetings twice yearly at approximate six-month intervals and such special meetings as ~~the board~~ may deem necessary. The meetings ~~shall~~must be held at such places as the board may designate. ~~Three~~Four members of the board constitute a quorum. At the first meeting of the board of each calendar year, the members of the board shall elect from their membership a president, vice president, and secretary-treasurer. Each shall hold office for one year and until a successor is elected and qualified. The board shall have a seal and may adopt appropriate rules necessary to carry out the provisions of this chapter. A member of the board shall receive compensation in an amount to be fixed by regulation of the board for each day or portion thereof of a day spent in the discharge of duties, such mileage as is provided by section 54-06-09, and must be reimbursed for actual and necessary expenses incurred in the discharge of official duties in accordance with section 44-08-04. In addition to the compensation, expenses, and mileage, the secretary-treasurer of the board is entitled to receive such salary as must be fixed by a resolution of the board adopted at a regular meeting.

SECTION 6. AMENDMENT. Section 43-06-08 of the North Dakota Century Code is amended and reenacted as follows:

43-06-08. License required - Application - Examination required - Fee.

~~No~~A person may not practice chiropractic in this state unless that person has a license from the state board of chiropractic examiners. ~~Any~~A person who desires a license shall ~~apply to the board and submit to an examination.~~ Each applicant shall present with the application a diploma from a college of chiropractic accredited by the council on chiropractic education or its successor or equivalent, or a photocopy of the same, or a certificate from the college stating that the applicant is a student in good standing in the student's last trimester, and proof that the applicant has the required qualifications. ~~The board may allow an applicant to take the examination during the period that the applicant is attending the applicant's last trimester but may not issue a license until the applicant has graduated and has provided the board with a diploma as provided in this section. Before beginning the examination, the applicant shall pay:~~

1. Apply to the board;
2. Submit an official transcript of successful completion of all required examinations;
3. Submit an official transcript and diploma from an approved and accredited doctor of chiropractic program. The applicant may submit an application while the applicant is enrolled in the applicant's last term but the board may not

issue a license until the applicant has graduated and has provided the board with an official transcript and diploma as provided in this section; and

4. Pay to the board a fee, to be determined by the board from time to time, of an amount not to exceed five hundred dollars.

SECTION 7. AMENDMENT. Section 43-06-09 of the North Dakota Century Code is amended and reenacted as follows:

43-06-09. Chiropractor - Qualifications.

An applicant for examination licensure to practice chiropractic in this state shall must have a degree from or a certificate proving enrollment be enrolled in the last trimester term of college received from at an approved and accredited college of chiropractic. An approved and accredited college of chiropractic within the meaning of this chapter is a college of chiropractic that is approved by the board and accredited by the council on chiropractic education or its successor or equivalent doctor of chiropractic program.

SECTION 8. AMENDMENT. Section 43-06-10.1 of the North Dakota Century Code is amended and reenacted as follows:

43-06-10.1. National board examination.

The board may in its discretion shall accept all parts of the national board examination in lieu of part of an examination for a license, or its successor or equivalent, providing all other requirements are met.

SECTION 9. AMENDMENT. Section 43-06-11 of the North Dakota Century Code is amended and reenacted as follows:

43-06-11. License - When issued - Who issues - Title used by licensed chiropractor.

A license to practice chiropractic in this state must be issued by the board to an applicant who has submitted proof of the required qualifications and passed the required examination. ~~No~~A license to practice chiropractic may not be granted except upon the affirmative vote of at least ~~three of the members~~ a quorum of the board. A licensed chiropractor may use the title doctor of chiropractic, chiropractor, chiropractic physician, or D.C.

SECTION 10. AMENDMENT. Section 43-06-13 of the North Dakota Century Code is amended and reenacted as follows:

43-06-13. Term of license - Renewal - Fee - Requirements.

1. A license to practice chiropractic in this state is valid for one year ~~only~~ and must be renewed on or before the first day of September of each year.
2. A renewal applicant shall pay a fee for renewal of a license. The fee for renewal of a license must be determined by the board from time to time, but may not exceed five hundred dollars.
3. The board shall establish by rule the number of hours necessary for annual continuing education. ~~Before it issues a renewal license, the board shall require each applicant who has a license to practice in this state to attend a postgraduate course sponsored by a college of chiropractic, accredited by the~~

~~council on chiropractic education, or its successor or equivalent, a health-related seminar sponsored by an equally accredited college or university, a medical seminar qualifying for continuing education credits, or an educational program arranged by the North Dakota chiropractic association and approved by the board.~~

4. The board shall establish by rule the accepted programs for the annual continuing education requirement.
5. ~~A license which~~that has not been renewed, as a result of nonpayment of annual registration fees required by this chapter or as a result of the failure by the licensee to attend the required annual continuing education, may be reinstated ~~upon payment to the board of the amount of renewal fees then in default or by certification that the required continuing education has been completed after the expiration of the previous license~~by procedure adopted by the board in administrative rules. In either case, the board may charge an additional administrative fee to be fixed by the board at the time of consideration of the reinstatement, not to exceed four hundred dollars.
6. In addition to the payment of fees, the board, after an investigation, may require a chiropractor whose license has not been renewed to submit to a re-examination as to the applicant's qualifications to practice chiropractic before the applicant is reinstated, if the board in the exercise of ~~its~~the board's discretion finds and determines ~~that~~ the best interests of the public and the applicant will be served thereby.

SECTION 11. AMENDMENT. Section 43-06-15 of the North Dakota Century Code is amended and reenacted as follows:

43-06-15. Grounds for denial of licensure, revocation, or suspension of license or other action of the board - ~~Sworn~~Signed written statement - Investigation - Hearing.

1. The board may deny an application for licensure and may revoke, suspend, or take such other action as provided in this section regarding the license of any chiropractor in this state who:
 - a. Has a mental or physical condition such that the person is unable to safely engage in the practice of chiropractic.
 - b. Has been declared incompetent or seriously mentally ill by a court of competent jurisdiction and thereafter has not been declared competent or released from supervision.
 - c. Is suffering from alcoholism or drug addiction which endangers the public by impairing the chiropractor's ability to practice safely.
 - d. Procured the license to practice by fraud or mistake.
 - e. Has engaged in unprofessional or dishonorable conduct, including false or misleading advertising, rendering excessive or inappropriate treatment, or charging unconscionable fees.
 - f. Has been convicted of a crime involving moral turpitude, sexual misconduct, infliction of physical harm or bodily injury to another individual, corruption, dishonesty, illegal possession or distribution of drugs, or any crime that

- would affect the person's ability to practice as a licensed chiropractor. A copy of the record of conviction or plea of guilty or nolo contendere is conclusive evidence.
- g. Has aided, assisted, or enabled any unlicensed person to practice chiropractic contrary to this chapter or rule of the board.
 - h. Has engaged in the practice of abortion.
 - i. Has made use of any advertising statement of a character tending to deceive or mislead the public.
 - j. Has failed to maintain a chiropractic facility in safe and sanitary conditions.
 - k. Has incurred a disciplinary action, suspension, or revocation in another jurisdiction; has surrendered a license while a disciplinary complaint was pending in another jurisdiction; or has entered a settlement agreement to avoid or resolve a disciplinary complaint in another jurisdiction as a result of acts similar to acts described in this section or rule of the board. A certified copy of the suspension or revocation board order in the other jurisdiction is conclusive evidence.
 - l. Has committed any violation of the provisions of this chapter ~~and~~, the code of ethics, or rules as adopted by the board, including the failure to submit for physical or mental examination or to provide information as required by the board.
 - m. Has practiced chiropractic while the license to practice was suspended or revoked.
 - n. Has, while under probation, violated ~~its~~the terms of probation.
 - o. Has failed to properly supervise a certified chiropractic clinical assistant or who has delegated duties to a certified chiropractic clinical assistant which are beyond the assistant's education or training or which are beyond the scope of practice of a certified chiropractic clinical assistant.
2. Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a ~~sworn~~signed written statement and other reports and information to the board under subsection 5 or for otherwise reporting to the board violations or alleged violations under this chapter. The reports are not public records.
 3. Members of the board and persons employed by the board or engaged in the investigation or prosecution of violations and in the preparation and management of charges of violations of this chapter on behalf of the board, including members of any peer review committee, are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.
 4. A doctor of chiropractic who is the subject of an investigation by, or on behalf of, the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by, or on behalf of, the board relating to the subject of the investigation and providing copies of

patient records or any pertinent information requested by the board, to assist the board in ~~its~~the board's investigation.

5. Any person, including a member of the board, may file a signed written statement and other reports and information with any member of the board against a licensed chiropractor charging the chiropractor with any of the offenses or conditions set forth in subsection 1, ~~which. The~~ statement must set forth a specification of the charges. When the statement has been filed, the board shall make an investigation as provided by subsection 6.
6. When the statement and other reports and information have been filed, the board shall notify the licensed chiropractor of the allegations and ~~shall thereafter make an investigation for the purpose of determining~~shall investigate to determine whether the allegations in the statement constitute a basis for further proceedings. The investigation must be conducted in such manner and at such time and place as in the judgment of the board will best ascertain the facts. The board may appoint a peer review committee. The board, in order to pursue the investigation, ~~has the power to~~may subpoena and examine witnesses and records, including patient records, and ~~to~~ copy, photograph, or take samples. ~~It~~The board may require the licensed chiropractor to give statements under oath, to submit to a physical or mental examination, or both, by a physician or physicians and other qualified evaluation professionals selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine and review any relevant medical or psychological records, including test results and x-rays relative to the examination or treatment of the licensed chiropractor. A written request from the board constitutes authorization to release information. The medical or psychological information is not public record.
7. If, based on the investigation or report from a peer review committee, the board has reasonable cause to believe ~~that~~ there is a basis for further proceedings, the board shall prepare a complaint and serve ~~it~~the complaint, along with a notice of hearing, on the licensed chiropractor and thereafter proceed with a hearing on the matter under chapter 28-32. All hearings must be held in Bismarck ~~at the state capitol~~ unless the board and the licensed chiropractor agree otherwise.
8. After the hearing, the board, under section 28-32-39, shall make and give notice of ~~its~~the board's determination or decision as to whether the offenses charged have been committed or the conditions charged do not exist. If the finding is in the negative, the board shall dismiss the charges. If the finding is in the affirmative, the board shall:
 - a. ~~Revoke~~Shall revoke the license;
 - b. ~~Suspend~~Shall suspend the licensee's right to practice for a period not to exceed one year;
 - c. ~~Suspend its~~Shall suspend the board's judgment of revocation on terms and conditions determined by the board;
 - d. ~~Place~~Shall place the licensee on probation; or

- e. ~~Take~~Shall take any other disciplinary action which the board in ~~its~~the ~~board's~~ discretion considers proper, including the ordering of an adjustment to a patient's bill or refund of ~~such an~~ amount previously paid, including reasonable interest from the date of the order, to a patient or payer of any unconscionable fees for chiropractic services.
- f. In addition to the actions imposed in subdivisions a through e, ~~the board~~ may:
 - (1) Require payment of all costs of proceedings resulting in a disciplinary action, including administrative costs, investigation costs, attorney's fees, peer review committee costs, witness costs and fees, the costs of the offices of administrative hearings services, and court costs.
 - (2) Impose a civil penalty not exceeding ten thousand dollars for each separate violation, to deprive the chiropractor of any economic advantage gained by reason of the violation found and to reimburse the board for the cost of the investigation and proceedings.
- 9. In cases of revocation, suspension, or probation, the board shall record the facts of the case and all actions of the board.
- 10. On the expiration of a term of suspension, the licensee must be reinstated by the board if the chiropractor applies to the board and furnishes evidence, satisfactory to the board, that the licensee is then of good character and conduct or restored to good health and ~~that the licensee has not practiced chiropractic during the term of suspension and is competent to practice in this state. If the evidence fails to establish those facts to the satisfaction of the board, the board may require the applicant to submit to an examination in accordance with sections 43-06-08 through 43-06-12~~this chapter or shall proceed to hearing on revocation with notice as provided in subsection 7.
- 11. Any licensed chiropractor may take corrective action or voluntarily relinquish the chiropractor's license to the board before a formal order of the board on such terms and conditions as may be agreed by the licensed chiropractor and the board.

SECTION 12. AMENDMENT. Section 43-06-16.1 of the North Dakota Century Code is amended and reenacted as follows:

43-06-16.1. Certified chiropractic clinical assistant.

- 1. A person may not practice as a certified chiropractic clinical assistant or claim to be a chiropractic assistant without certification from the board. The fee for initial certification ~~is fifty~~may not exceed one hundred dollars ~~per year and must be set by the board from time to time.~~ The board may grant a temporary certification to an initial applicant who is waiting for a criminal history background check to be completed. This temporary certification expires automatically upon the applicant receiving a regular certification or being notified the application has been denied.
- 2. To be certified to practice as a certified chiropractic clinical assistant, an applicant ~~must~~shall provide evidence satisfactory to the board the applicant:
 - a. Graduated from high school, or holds a graduate equivalency degree.

- b. Is at least eighteen years of age.
 - c. ~~Successfully completed the certified chiropractic clinical assistant program and examination by the federation of chiropractic licensing boards. However, applicants for initial certification before March 1, 2018, and who have verified employment of two thousand hours as a chiropractic assistant within the three years before August 1, 2017, and submitted evidence of passing the certified chiropractic clinical assistant examination by the national board of chiropractic examiners via the federation of chiropractic licensing boards, qualify for certification without meeting the coursework requirement of the program.~~
 - d. ~~Is of good moral character and submits documentation of good moral character as prescribed by the board, including criminal records review.~~Successfully completed a criminal history record check as authorized by section 43-06-11.1.
 - e. Completed an application in a manner and form provided by the board.
 - f. Paid all applicable fees relative to the application process as determined by the board.
 - g. Received practical experience to the extent required to demonstrate competency to safely provide patient care pertinent to the chiropractic office at which the certified chiropractic clinical assistant is employed.
3. A certified chiropractic clinical assistant who is certified in another jurisdiction may apply for certification. The applicant shall provide evidence satisfactory to the board the applicant:
- a. Has current practice privilege in good standing as a certified chiropractic clinical assistant or equivalent granted by at least one jurisdiction with requirements similar to or greater than the ~~requirement~~requirements of this board; and
 - b. Presented to the board current documentation that any practice privilege granted by another jurisdiction as a certified chiropractic clinical assistant or equivalent has not been suspended, revoked, or otherwise restricted for any reason except nonrenewal.
4. ~~A minimum passing examination score of seventy-five percent result is required to obtain certification. The examination must be provided by the national board of chiropractic examiners via the federation of chiropractic licensing boards or a board approved examination.~~The board may accept a chiropractic clinical assistant program examination such as the federation of chiropractic licensing board-certified chiropractic clinical assistant program examination or its board-approved successor or equivalent.
5. ~~The fee for renewal of the certification is fifty~~may not exceed one hundred dollars per year and must be set by the board from time to time. Certificate renewal isA certificate in this state is valid for one year and must be renewed on or before March first of every year.
- a. A certified chiropractic clinical assistant shall obtain ~~six~~three hours of continuing education every ~~two years~~year after the initial certification to

renew certification. These hours must be a program or seminar approved by providers of approved continuing education, ~~a seminar sponsored by the North Dakota chiropractic association and approved by the board, or a seminar approved for continuing education by another state's board of chiropractic examiners or equivalent, or a seminar otherwise approved by the board.~~ Proof of meeting continuing education requirements must be submitted with the certified chiropractic clinical assistant's renewal application ~~on the even-numbered years after initially receiving certification.~~

- b. For an applicant who first receives initial certification between ~~January~~December first of the year immediately before renewal and March first, the certification is deemed to be automatically renewed on March first for an additional year without payment of an additional renewal fee.
6. A certified chiropractic clinical assistant must be under the direct supervision of a North Dakota licensed chiropractor in good standing with the board. Direct supervision means the oversight provided by the chiropractor over the clinical services performed by a certified chiropractic clinical assistant, and requires the chiropractor to be on the premises at all times and readily available to instruct the certified chiropractic clinical assistant throughout the performance of the clinical services.
7. The certified chiropractic clinical assistant may assist the chiropractor in patient care involving physiotherapy, electrotherapy, hydrotherapy, chiropractic rehabilitative therapy, administrative processes, and other activities as needed to assist in the practice of chiropractic. The certified chiropractic clinical assistant may perform delegated duties commensurate with the certified chiropractic clinical assistant's education and training, but may not evaluate, interpret, design, or modify established treatment programs of chiropractic care or violate any statute. Certified chiropractic clinical assistants may not participate in clinical decisionmaking, render manipulative chiropractic care, create or change the course of a chiropractic treatment plan, or represent themselves as independent health care providers. A certified chiropractic clinical assistant may not perform medical imaging unless also licensed under chapter 43-62 ~~or upon meeting an exception from that chapter.~~
8. The board may deny certification of an applicant, or may revoke, suspend, or take other appropriate disciplinary or corrective action regarding the certification of any certified chiropractic clinical assistant who:
 - a. Has a mental or physical condition that renders the individual unable to safely engage in patient care.
 - b. Has been declared incompetent by a court.
 - c. Is suffering from alcoholism or drug addiction that endangers the public by impairing the certified chiropractic clinical assistant's ability to practice safely.
 - d. Procured the certification to practice by fraud or mistake.
 - e. Has engaged in unprofessional or dishonorable conduct.

- f. Has been convicted of a crime involving ~~moral turpitude, sexual misconduct, infliction of physical harm or bodily injury to another individual, corruption, or dishonesty~~ which would affect the certified chiropractic clinical assistant's ability to safely engage in patient care.
- g. Has aided or assisted a noncertified individual to practice as a certified chiropractic clinical assistant.
- h. Has made advertising statements that are deceiving or misleading to the public.
- i. Has had disciplinary action taken in another jurisdiction.
- j. Has committed any violation of regulations regarding chiropractic found in this chapter or rules adopted by the board.
- k. Has practiced as a certified chiropractic clinical assistant while the certification was suspended or revoked.
- l. Is found ~~guilty of~~ to have committed unprofessional conduct ~~that, which~~ includes:
 - (1) Willfully harassing, abusing, or intimidating a patient either physically or verbally.
 - (2) Any conduct that has endangered or is likely to endanger the health or safety of the public.
 - (3) Conviction of a crime related to the qualification of a certified chiropractic clinical assistant.
 - (4) Conviction of a felony or any offense involving ~~moral turpitude, sexual misconduct, infliction of physical harm or bodily injury to another individual, dishonesty, or corruption.~~
 - (5) Conviction of violating any law or regulation concerning the dispensing or administration of narcotics, dangerous drugs, or controlled substances.
 - (6) Knowingly making or signing any false certificates related to the chiropractic care administered.
 - (7) Participation in any act of fraud.
 - (8) Except as required by law, the unauthorized disclosure of any information about a patient revealed or discovered during the course of examination or treatment.
 - (9) Delegating professional responsibilities to a person that is not certified to provide the services.
 - (10) Initiating or engaging in any sexual conduct, sexual activities, or sexualizing behavior involving a current patient even if the patient attempts to sexualize the relationship, except when the patient is the certified chiropractic clinical assistant's spouse or significant other.

9. Disciplinary procedures will be conducted in accordance with chapter 28-32, with the following provisions:
 - a. Complaints must be filed and signed in written form or may be considered by the board on ~~its~~the board's own motion.
 - b. The board shall notify the certified chiropractic clinical assistant and the employer regarding any complaints filed. Full and timely cooperation is required in the investigation.
 - c. The board may appoint a peer review committee at ~~its~~the board's discretion. The peer review committee has the same authority as a peer review committee appointed under section 43-06-14.1.
 - d. If the board finds probable cause to impose disciplinary action, the board shall prepare a complaint and serve ~~it~~the complaint to the certified chiropractic clinical assistant and employer.
10. Certification is not required for individuals who solely perform administrative activities of a nonclinical nature.

SECTION 13. AMENDMENT. Section 43-06-18 of the North Dakota Century Code is amended and reenacted as follows:

43-06-18. State's attorney to enforce law.

The state's attorney of each county in this state shall enforce section 43-06-19 and prosecute all violations thereof this section, and the ~~secretary-treasurer~~executive director of the board, under the direction of the board, shall aid in the enforcement of this chapter.

SECTION 14. REPEAL. Sections 43-06-10 and 43-06-12 of the North Dakota Century Code are repealed.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 308

SENATE BILL NO. 2261

(Senators Patten, Hogue, K. Roers)
(Representative Lefor)

AN ACT to amend and reenact sections 43-10.1-01 and 43-10.1-03.1 of the North Dakota Century Code, relating to irrevocable itemized funeral contracts and Medicaid assets exempt for funeral expenses; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-10.1-01 of the North Dakota Century Code is amended and reenacted as follows:

43-10.1-01. Definitions.

As used in this chapter:

1. "Cemetery association" means any person, ~~corporation, municipality, association, or organization~~ owning, conducting, or maintaining a cemetery or plot for the burial of dead human bodies.
2. "Cemetery merchandise" means all service or property to be used in funeral services or burials other than professional service or personal property to be used in funeral services.
3. "Commissioner" means the securities commissioner.
4. "Irrevocable itemized funeral contract" means an irrevocable pre-need funeral service contract that is an itemized listing of goods and services that will be received based on the contract.
5. "Licensed funeral establishment" means a funeral establishment as defined and licensed in accordance with sections 43-10-21 and 43-10-22.
5. "~~Person~~" means ~~any natural person, firm, association, corporation, limited-liability company, or agents or employees thereof.~~
6. "Pre-need funeral service contract" means any contract, other than an insurance contract, under which for a specified consideration paid in advance in a lump sum or by installments, a person promises, upon the death of a beneficiary named or implied in the contract, to furnish professional service or personal property to be used in funeral services, or to furnish cemetery merchandise.
7. "Professional service or personal property to be used in funeral services" means all personal property, services, supplies, and equipment normally performed or furnished by a licensed embalmer, a licensed funeral establishment, or a cemetery association including any inside interment receptacles or containers into which a dead human remains may be directly placed, caskets, crypt beds, catafalques, and all other articles of merchandise

incident to a funeral service, but excluding any outside interment receptacles into which any inside receptacle or container will be placed, grave lots, grave spaces, grave markers, monuments, tombstones, crypts, niches, and mausoleums unless these items are sold by a companion agreement or in contemplation of a trade or barter which includes the sale or rental of any inside interment receptacles or containers into which a dead human remains may be directly placed, caskets, crypt beds, catafalques, or other articles of merchandise incident to a funeral service.

SECTION 2. AMENDMENT. Section 43-10.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

43-10.1-03.1. Payments on pre-need funeral contracts to be deposited - Depository shall keep record of deposit - Personal property storage.

1. If payments are made to a person upon pre-need funeral service contracts, including irrevocable itemized funeral contracts, one hundred percent of the funds collected under the contracts for the sale of professional service or personal property to be used in funeral services and fifty percent of the funds collected under the contracts for the sale of cemetery merchandise must be deposited in or transferred to a trust company in this state or to a federally insured bank, credit union, or savings and loan association in this state, within ten days. The deposit must be placed in a federal deposit insurance corporation or national credit union administration insured account or certificate of deposit or negotiable debt obligation of the United States government. Payments received from the sale of professional service or personal property to be used in funeral services or cemetery merchandise which cannot or would not be serviced by a licensed funeral establishment or cemetery association in the area in which the service or property was sold are specifically included, regardless of whether the sales might otherwise be considered pre-need funeral service contracts, within the payments to be deposited under this section. If payments have been made under an irrevocable itemized funeral contract, the money must be carried in a separate account or separate certificate of deposit with the names of the depositor or transferor, cemetery association or licensed funeral establishment, and the person making payment on behalf of the individual for whose benefit payment is made.
 - a. The funds may be released or transferred by the bank, credit union, savings and loan association, or trust company to the depositor upon the death of the individual for whose benefit the funds were paid. A certified copy of the certificate of death must be furnished to the bank, credit union, savings and loan association, or trust company as prima facie evidence of death. The funds may be released or transferred by the bank, credit union, savings and loan association, or trust company to the person making the payment, before the death of the individual for whose benefit the funds are paid, upon a five-day written notice by registered or certified mail made by the bank, credit union, savings and loan association, or trust company to the depositor or transferor at the request of the person making the payment.
 - b. A purchaser of a pre-need funeral service contract may make a certain amount of the pre-need funds irrevocable by designating an irrevocable amount to be used to pay for the funeral of the beneficiary. The irrevocable amount may not exceed the amount itemized funeral service contract to pay for a funeral and is recognized as an allowable asset exclusion used

for determining eligibility for medical assistance under section 50-24.1-02.3 at the time the contract is entered. A purchaser of a pre-need funeral service contract an irrevocable itemized funeral contract has forty-five days from entering the contract to cancel the irrevocable part of the contract by giving notice to the cemetery association or licensed funeral establishment with which the contract was entered. Any pre-need funeral service contract held by a cemetery association or a licensed funeral establishment must be fully transferable to another cemetery association or funeral establishment licensed under chapter 43-10 or a substantially similar law of another jurisdiction which agrees to accept the obligations.

2. A bank, credit union, savings and loan association, or trust company receiving such a deposit or transfer shall keep a complete record of the deposit or transfer, showing the name of the depositor or transferor, name of the person making payment, name of the individual for whose benefit payment is made, and any other pertinent information.
3. Any personal property to be used in funeral services or cemetery merchandise which is sold to a purchaser on the basis it will be identified and marked as belonging to such purchaser, and stored or warehoused for the purchaser, must be stored or warehoused at some location within this state.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 309

SENATE BILL NO. 2092

(Industry, Business and Labor Committee)
(At the request of the State Board of Cosmetology)

AN ACT to create and enact section 43-11-16.1 and section 43-11-25.1 of the North Dakota Century Code, relating to internships and apprenticeship programs and international applicants for licensure; to amend and reenact sections 43-11-01, 43-11-02, 43-11-11, 43-11-11.1, 43-11-12, 43-11-13, 43-11-14, 43-11-15, 43-11-16, 43-11-17, 43-11-19, 43-11-20.1, 43-11-20.4, 43-11-21, 43-11-22, 43-11-23, 43-11-24, 43-11-25, 43-11-26, 43-11-27, 43-11-27.1, 43-11-28, 43-11-29, 43-11-30, 43-11-31, 43-11-33, 43-11-34, and 43-11-35 of the North Dakota Century Code, relating to the practice and licensure of cosmetologists, estheticians, and manicurists; to repeal sections 43-11-13.1, 43-11-13.2, and 43-11-20 of the North Dakota Century Code, relating to master esthetician and master manicurist licensure, homebound licensure, and student practice; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-11-01 of the North Dakota Century Code is amended and reenacted as follows:

43-11-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the state board of cosmetology.
2. ~~"Booth space" means that part of a licensed salon operated independently by an individual licensed under this chapter.~~
3. "Cosmetologist" means an individual licensed under this chapter to practice cosmetology.
4. ~~3. "Cosmetology" means any one or a combination of practices generally and usually performed by and known as the occupation of beauty culturists or cosmeticians or cosmetologists or hairdressers, or of any other person~~individual ~~holding out as practicing cosmetology by whatever designation and within the meaning of~~under ~~this chapter and in and upon whatever place or premises.~~
 - a. ~~The term includes the following or any one or a combination of these practices:~~
 - (1) ~~Hair care, including arranging, dressing, curling, waving, permanent waving, cleansing, cutting, shaving, trimming, singeing, bleaching, coloring, straightening, or similar work, upon the hair of any individual by any means or with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating,~~

~~manipulating, exercising, performing noninvasive hair removal, beautifying, or similar work on the body, manipulation of eyelashes, or manicuring the nails of any individual;~~

(2) Skin care;

(3) Manipulation and application of product to eyelashes and eyebrows, including extensions, design, treatment, tinting, and lightening;

(4) Hair extensions using chemical hair joint agents, such as synthetic tape, keratin bonds, or fusion bonds; and

(5) Manicuring.

b. The term does not include natural hair braiding or threading.

5. ~~"Cosmetology salon" includes that part of any building in which the occupation of a cosmetologist is practiced.~~

6-4. ~~"Esthetician" means an individual who is licensed by the board to engage in the under this chapter to practice esthetics and skin care.~~

7. ~~"Homebound" means an individual who is ill, disabled, or otherwise unable to travel to a salon.~~

8-5. "Esthetics" means manipulation and application of product to eyelashes and eyebrows, including extensions, design, treatment, tinting, and lightening and skin care.

6. "Independent licensee" is a licensed individual who maintains a separate salon license and operates independently from the establishment owner in which the individual's suite or chair is located.

7. "Instructor" means an individual who is at least eighteen years old, who is a licensed cosmetologist, esthetician, or manicurist who teaches cosmetology, esthetics, manicuring, or any other practices taught within the scope of the individual's license, in a duly registered school of cosmetology, and who has met the requirements of section 43-11-27 and has applied for and received an instructor's license.

9-8. "Invasive care" means any procedure that invades the live tissue of the dermis, including by any means, including cutting, puncturing, burning, insertion of instruments, and includes:

a. Laser use; and

b. Chemical peels using:

(1) Thirty percent or higher concentration of alpha hydroxy acid;

(2) Twenty percent or higher concentration of beta hydroxy acid;

(3) Two percent or higher concentration of resorcinol;

(4) Fifteen percent or higher concentration of trichloroacetic acid (TCA); or

(5) Fifteen percent or higher concentration of phenol.

~~40.9. "Manicuring" means the cleansing:~~

- ~~a. Cleansing, cutting, shaping, or beautifying, or massaging of the hands, feet, or nails;~~
- ~~b. Massaging from the elbow to the fingertips or knee to toes of any individual;~~
- ~~c. Caring for and treating the cuticles and nails; and~~
- ~~d. The application and removal of sculptured or otherwise artificial nails by hand or with mechanical or electrical apparatus or appliances.~~

~~41.10. "Manicurist" means an individual who is licensed by the board to engage in the~~under this chapter ~~to practice of manicuring.~~

~~42.11. "Master cosmetologist" means an individual who has met the requirements of section 43-11-26 and has applied for and received a~~ managingmaster ~~cosmetologist license.~~

~~43.12. "Master esthetician" means an individual who has met the requirements of section 43-11-26 and has applied for and received a~~ master esthetician license.

~~13. "Master manicurist" means an individual who has met the requirements of section 43-11-26 and has applied for and received a~~ master manicuring license.

~~14. "Mechanical device" means a clip, comb, crochet hook, curler, curling iron, hairpin, roller, scissors, blunt-tipped needle, thread, and hair binder.~~

~~44.15. "Natural hair braiding" means the service of twisting, wrapping, weaving, extending, locking, or braiding hair by hand or with a mechanical device. Natural hair braiding is commonly known as "African-style hair braiding" but is not limited to any particular cultural, ethnic, racial, or religious forms of hairstyles.~~

a. The term includes:

- (1) The use of natural or synthetic hair extensions, natural or synthetic hair and fibers, and decorative beads and other hair accessories;
- (2) Minor trimming of natural hair or hair extensions incidental to twisting, wrapping, weaving, extending, locking, or braiding hair;
- (3) The making of wigs from natural hair, natural fibers, synthetic fibers, and hair extensions; and
- (4) The use of topical agents, such as conditioners, gels, moisturizers, oils, pomades, and shampoos, in conjunction with performing services under paragraph 1 or 2.

b. The term does not include:

(1) The application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair; or

(2) The use of chemical hair joining agents, such as synthetic tape, keratin bonds, or fusion bonds.

45-16. "Noninvasive care" includes treatments confined to the nonliving cells of the stratum corneum of the epidermis. Noninvasive care must be in a superficial mode and not for the treatment of medical disorders, and living cells may not be altered, cut, or damaged.

17. "Salon" means an establishment in a fixed location, not used as sleeping or living quarters, licensed under this chapter where cosmetology services are provided.

18. "School of cosmetology" means an establishment operated for the purpose of teaching cosmetology.

46-19. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, performing noninvasive hair removal, including waxing and tweezing; beautifying, or similar noninvasive care and work on the body of any person/individual. The term does not include invasive care or threading.

47-20. "Student" means any person/individual who is engaged in the learning or acquiring of any or all the practices of cosmetology and while so learning, performs or assists in any of the practices of cosmetology in any school registered or licensed and under the immediate supervision of an instructor licensed as such under this chapter.

48-21. "Student instructor" means a cosmetologist, esthetician, or manicurist who is receiving instruction in teacher's training within the scope of the individual's license in a duly registered school of cosmetology.

49-22. "Threading" means the method of removing hair from the eyebrows, upper lip, or other body part by using cotton thread to pull hair from follicles.

a. The term may include the use of an over-the-counter astringent, gel, and powder, tweezers, and scissors, incidental to the removal of hair by threading.

b. The term does not include the use of chemicals, heat, or any type of wax.

20-23. "Tuition" means the total cost of a ~~person's~~an individual's cosmetology studies, and does not include books or demonstration kits.

SECTION 2. AMENDMENT. Section 43-11-02 of the North Dakota Century Code is amended and reenacted as follows:

43-11-02. Exemptions from provisions of chapter.

This chapter does not apply to:

1. ~~Services in case of emergency.~~

2. Services provided by ~~persons~~individuals practicing cosmetology upon members of ~~their~~the individual's immediate families.
3. ~~Services by a person licensed by the state and working within the standards and ethics of that person's profession, if that person does not represent to the public that the person is a cosmetologist or manicurist.~~
- 4.2. Services by nurses, undertakers, and morticians lawfully engaged in the performance of the usual and ordinary duties of their vocation.
- 5.3. Educational activities conducted in connection with any regularly scheduled meeting or any educational activities of any bona fide association of licensed cosmetologists, estheticians, or manicurists from which the general public is excluded. For purposes of this subsection, a "bona fide association of cosmetologists" means any organization whose constitution, bylaws, or membership rules establish within said organization a class of membership consisting of licensed cosmetologists.
- 6.4. Services provided by retailers or their sales personnel trained in the demonstration of cosmetics application if the cosmetics are applied only with disposable applicators that are discarded after each customer demonstration. The board may adopt rules to ensure sanitary conditions for services provided under this exemption.
- 7.5. Services provided in a licensed hospital or a nursing home by ~~a person an~~ individual practicing cosmetology on a volunteer basis without compensation or by a nurse's assistant.
- 8.6. Skin care provided by a licensed cosmetologist or esthetician outside of a licensed salon if the services are being provided under the supervision, control, and responsibility of a physician or physician assistant practicing within the scope of the physician's or physician assistant's license under chapter 43-17, or nurse practicing within the scope of the nurse's license under chapter 43-12.1.

197 **SECTION 3. AMENDMENT.** Section 43-11-11 of the North Dakota Century Code is amended and reenacted as follows:

43-11-11. Sanitary rules~~Rules of cleaning and disinfecting~~ - Practice outside salon.

The board with the approval of the state department of health shall adopt sanitary rules of cleaning and disinfecting necessary to prevent the creating and spreading of infectious and contagious diseases. ~~A cosmetology salon must be at a fixed location and may not be used for living or sleeping quarters. A cosmetologist or, esthetician, or manicurist may practice outside of the establishment under the direction and control of a master cosmetologist or master esthetician thereof a licensed salon under rules adopted by the board. The board shall inspect salons to assure compliance with the rules of cleaning and disinfecting.~~

SECTION 4. AMENDMENT. Section 43-11-11.1 of the North Dakota Century Code is amended and reenacted as follows:

¹⁹⁷ Section 43-11-11 was also amended by section 358 of House Bill No. 1247, chapter 352.

43-11-11.1. Use of brush rollers authorized.

~~A person~~An individual licensed under this chapter may use brush rollers in the performance of cosmetology and hairdressing or hairsetting services if the rollers are cleaned and ~~sanitized~~disinfected after each use in conformity with rules adopted by the board.

SECTION 5. AMENDMENT. Section 43-11-12 of the North Dakota Century Code is amended and reenacted as follows:

43-11-12. ~~Persons to aid~~Employees of board.

The board may employ ~~a secretary~~, support staff; and other ~~persons~~individuals knowledgeable in cosmetology for conducting examinations, inspections, and investigations of ~~persons~~licensees regulated ~~by~~under this chapter. Any ~~person~~individual employed by the board is entitled to receive expenses in the amounts payable under sections 44-08-04 and 54-06-09.

SECTION 6. AMENDMENT. Section 43-11-13 of the North Dakota Century Code is amended and reenacted as follows:

43-11-13. License required.

~~No person in this state may~~An individual may not:

1. Advertise, engage in, or attempt to engage in the occupation of cosmetology, manicuring, or skin care, nor conduct a cosmetology salon or booth or school of cosmetology, unless having first obtained a license.
2. Employ an unlicensed individual to perform cosmetology unless otherwise provided under this chapter.

SECTION 7. AMENDMENT. Section 43-11-14 of the North Dakota Century Code is amended and reenacted as follows:

43-11-14. Licenses - Board to issue - Form - Displayed.

The board may issue all licenses provided for ~~in~~under this chapter. Each license issued must be ~~signed~~;

1. Signed by the secretary of the board and attested;
2. Attested by the seal of the board. ~~A license is evidence that the person is entitled to follow all of the practices or occupations referred to in the license. A license must be displayed conspicuously in the principal office, place of business, or place of employment of the licenseholder; and~~
3. Displayed in clear view to the public where services are being provided.

SECTION 8. AMENDMENT. Section 43-11-15 of the North Dakota Century Code is amended and reenacted as follows:

43-11-15. Salon ownership and operation.

1. A salon may be owned by any person authorized to do business in this state.

- a. ~~A cosmetology salon must be operated and supervised by a master cosmetologist. A manicuring salon must be operated and supervised by a master cosmetologist or master manicurist.~~
 - b. ~~A salon providing only skin care or esthetics must be operated and supervised by a master cosmetologist or master esthetician.~~
 - c. A manicuring salon must be supervised by a master cosmetologist or master manicurist.
2. The board shall determine the qualifications by rule for licensure and license fees for a salon license.

SECTION 9. AMENDMENT. Section 43-11-16 of the North Dakota Century Code is amended and reenacted as follows:

43-11-16. Schools of cosmetology - Qualifications for licensure.

1. A license must be granted to a school of cosmetology upon an application to the board and the payment of the annual license fee; if the school:
4. a. Is operated and maintained in premises separate from any cosmetology salon;
2. b. Requires a minimum of one thousand ~~eight~~five hundred hours of training and instruction in cosmetology, six hundred hours of training and instruction in esthetics, or three hundred fifty hours of training and instruction in ~~manicure~~manicuring, not to exceed eight hours per day;
3. c. Employs at least two full-time licensed instructors and maintains a maximum student-to-instructor ratio of twenty-four-to-one based on current enrollment, except a school that provides training and instruction limited to esthetics or ~~manicure~~manicuring shall maintain a maximum student-to-instructor ratio of twelve-to-one based on current enrollment;
4. d. Possesses apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum;
5. e. Maintains a record of the attendance and performance of each student;
6. f. Maintains regular class and instruction hours to include practical demonstrations and theoretical studies supplemented by audiovisual aids, and studies in sanitation, sterilization, and other safety measures and the use of antiseptics, cosmetics, and electrical appliances consistent with the practical and theoretical requirements as applicable to cosmetology;
7. g. Agrees not to:
 - a. (1) Permit any student to practice on any person~~individual who is~~ not an instructor or registered student of the school until the student has completed at least twenty percent of the total hours of instruction required ~~by~~under this chapter and only if the practice is under the immediate direction and supervision of a licensed instructor; or
 - b. (2) Compensate any of its~~the school's~~ basic students in any way; and

- 8- h. At the time of application for licensure and upon the renewal of a license, furnishes to the board, and maintains in force at all times the license is in effect, a bond in the penal sum of ten thousand dollars. The bond must run in favor of the board, as agent of the state, and must be furnished by a surety company authorized to do business in this state. It must be conditioned upon the bonded school's providing its registered students with the full course of instruction required under this chapter and must provide for a refund of a proportionate amount of each student's tuition fee upon default.
2. Any school that enrolls student instructors shall set up an adequate course of training; with the approval of the board; and may not have at any one time more than two student instructors for each licensed instructor actively engaged in the school.

SECTION 10. Section 43-11-16.1 of the North Dakota Century Code is created and enacted as follows:

43-11-16.1. Internships and apprenticeship programs.

The board may establish internships with the schools of cosmetology and may establish apprenticeship programs. The board may adopt rules related to the licensure and discipline of interns and apprentices practicing in programs established under this section.

SECTION 11. AMENDMENT. Section 43-11-17 of the North Dakota Century Code is amended and reenacted as follows:

43-11-17. Licenses issued for schools of cosmetology and cosmetology salons - Fee for annual registration.

The board ~~may~~shall issue an ~~annual~~, after inspection and approval, a license for a school of cosmetology. The ~~annual~~ registration fee for a school must be determined by the board; as set forth in section 43-11-28. The board shall issue, after inspection and approval, ~~issue~~ a salon license, the ~~annual~~ fee for which must be determined by the board; as set forth in section 43-11-28.

SECTION 12. AMENDMENT. Section 43-11-19 of the North Dakota Century Code is amended and reenacted as follows:

43-11-19. Students - Registration.

1. A student ~~cosmetologist~~ must:
- 4- a. Adhere to the laws and rules regarding the practice of cosmetology;
- 2- b. Have educational qualifications equivalent to completion of four years of high school; and
- 3- c. Have enrolled in a school of cosmetology and complied with the preliminary requirements thereof.
2. The names and qualifications of all students must be certified to the board by each school of cosmetology. The certification must be accompanied by a processing fee for each student in an amount as may be ~~fixed~~determined by the board under section 43-11-28.

SECTION 13. AMENDMENT. Section 43-11-20.1 of the North Dakota Century Code is amended and reenacted as follows:

43-11-20.1. Refund of student tuition fees upon cancellation of course.

Schools of cosmetology shall refund tuition and other charges paid by or on behalf of a student when written notice of cancellation is given by the student. Refunds must be made in accordance with the following schedule:

Hours	Tuition
Enrolled	Retained
	By School
0.0% - 4.9%	20%
5% - 9.9%	30%
10% - 14.9%	40%
15% - 24.9%	45%
25% - 49.9%	70%
Over 50%	100%

Notice of this section, and of sections 43-11-20.2 and 43-11-20.3, must be posted in a conspicuous place clear view to the public where services are being provided in each school of cosmetology. The notice must be in a form and contain information as prescribed by the board. The board shall take action necessary to enforce this section and sections 43-11-20.2 and 43-11-20.3, including revocation of the license issued pursuant to section 43-11-17. This section does not prejudice the right of any student to commence a civil action against any school of cosmetology for breach of contract or fraud.

SECTION 14. AMENDMENT. Section 43-11-20.4 of the North Dakota Century Code is amended and reenacted as follows:

43-11-20.4. Exemption from postsecondary license requirement - Solicitor's permit required.

Schools of cosmetology are exempt from the license requirement of chapter 15-20.4. All persons~~individuals~~ who solicit business for a school of cosmetology; or who sell any course of instruction; shall secure a solicitor's permit and bond in an amount and under conditions as established by the board.

SECTION 15. AMENDMENT. Section 43-11-21 of the North Dakota Century Code is amended and reenacted as follows:

43-11-21. Cosmetologist, esthetician, manicurist license - Examination required - Application - Examination - Fees.

Each person~~individual~~ who desires to secure a cosmetologist, esthetician, or manicurist license shall file with the ~~secretary of the board~~ a written application under oath on a form supplied by the board. The application must be accompanied by all of the following:

1. An examination fee as may be fixed by the board pursuant to section 43-11-28.
2. Satisfactory proof that the applicant has completed the required training in a school of cosmetology.
3. A fee for original licensure as required by section 43-11-28.

SECTION 16. AMENDMENT. Section 43-11-22 of the North Dakota Century Code is amended and reenacted as follows:

43-11-22. Board to determine qualifications of applicants - Delegation of power.

The qualifications of applicants for admission to examination for registration; and for certification or licensure to practice under this chapter must be determined by the board. The board may delegate authority under this section to ~~the secretary~~support staff.

SECTION 17. AMENDMENT. Section 43-11-23 of the North Dakota Century Code is amended and reenacted as follows:

43-11-23. Examination.

The examination of applicants for license to practice under this chapter must be conducted under rules ~~prescribed~~adopted by the board and must include both practical demonstrations and written or oral tests in reference to the practices for which a license is desired and in reference to related studies or subjects as the board may determine necessary for the proper and efficient performance of a practice. The board may require the practical portion of the examination be conducted by schools of cosmetology as part of graduation requirements. The examination may not be confined to any specific system or method and must be consistent with the practical and theoretical requirements of cosmetology.

SECTION 18. AMENDMENT. Section 43-11-24 of the North Dakota Century Code is amended and reenacted as follows:

43-11-24. Cosmetologist, esthetician, or manicurist license - When issued - Failure to pass examination - Re-examination -~~Retraining~~.

1. A cosmetologist, esthetician, or manicurist license must be issued to any ~~person~~individual who has met all the following requirements:
 1. a. Complied with section 43-11-21.
 2. b. Passed to the satisfaction of the board the examination of applicants for a license to practice under this chapter.
2. If the applicant fails to pass the examination, the examination fee may not be returned. If an applicant fails to pass an examination, the applicant may be examined again with the payment of a re-examination fee as set forth in section 43-11-28. ~~An applicant who fails to pass the practical examination twice must complete an additional one hundred sixty hours of training at a school of cosmetology before applying for a second re-examination.~~

SECTION 19. AMENDMENT. Section 43-11-25 of the North Dakota Century Code is amended and reenacted as follows:

43-11-25. License issued without examination -- Conditions~~License by reciprocity.~~

The board may dispense with the examination of applicants for licenses to practice cosmetology and may grant licenses under this chapter upon the payment of a fee for original licensure and the reciprocity fee if the following requirements are met:

1. The applicant has:
 - a. ~~Complied with the requirements for registration of~~Provided satisfactory proof of a license in good standing with the District of Columbia, or ~~another~~any other state, territory, foreign country, or province where the requirements are equal ~~substantially~~equally substantial to those in force in this state at the time the application for the license is filed; or
 - b. ~~Provided satisfactory proof of completing the course curriculum hours required by the board and provided proof of successfully passing the theoretical and practical examinations substantially similar to those required in this state; or~~
 - c. Provided satisfactory proof:
 - (1) The applicant is licensed in good standing in any other state, territory, or jurisdiction of the United States to practice cosmetology, ~~manicuring, or esthetics;~~
 - (2) The applicant worked in the licensed profession for at least three of the past five years; and
 - (3) ~~The applicant graduated from a school of cosmetology, manicuring, or esthetics approved by the board which may be established by presentation of a diploma, transcript, or verification from the original licensing state, territory, or jurisdiction;~~
 - (4) ~~The applicant passed a theoretical and practical examination acceptable to the board; and~~
 - (5) A license granted to the applicant in any other state, territory, or jurisdiction of the United States is not subject to suspension or revocation, or otherwise restricted in any manner for disciplinary purposes.
2. The applicant passes to the satisfaction of the board an examination on ~~sanitary practices and cosmetology law in this state~~North Dakota laws, rules, and regulations.

SECTION 20. Section 43-11-25.1 of the North Dakota Century Code is created and enacted as follows:

43-11-25.1. International applicants.

1. An applicant with training and credentials outside of the United States shall submit, at the applicant's own expense, qualifications, credentials, and work experience for review to a credentialing agency approved by the board.

2. Failure to have a review completed by the above credentialing agency may result in the board denying the application. The board may accept or refuse any recommendations made by the credentialing agency.

SECTION 21. AMENDMENT. Section 43-11-26 of the North Dakota Century Code is amended and reenacted as follows:

43-11-26. Master cosmetologist, master esthetician, and master manicurist - License - Qualifications.

An individual may obtain a master cosmetologist, master esthetician, or master manicurist license upon meeting all the following requirements:

1. Furnishing to the board evidence of having practiced as a cosmetologist, esthetician, or manicurist for at least one thousand hours. Cosmetologists may obtain hours under the direction and control of a master cosmetologist. Estheticians may obtain hours under the direction and control of a master cosmetologist or master esthetician. Manicurists may obtain hours under the direction and control of a master cosmetologist or master manicurist. Cosmetologists and estheticians may obtain a master license under the direction, control, and responsibility of a physician or physician assistant practicing within the scope of licensure under chapter 43-17 or a nurse practicing within the scope of the nurse's license under chapter 43-12.1.
2. Paying an original licensure fee as set forth in section 43-11-28.
3. Complying with the other requirements ~~of~~under this chapter applicable to a master ~~cosmetologist~~license.

SECTION 22. AMENDMENT. Section 43-11-27 of the North Dakota Century Code is amended and reenacted as follows:

43-11-27. Instructor's license - Student instructor's license - Registration - Qualifications.

1. ~~No person~~individual may be licensed as an instructor of cosmetology unless the person ~~furnishes the board~~individual passes a theory and a practical examination required by the board after paying the examination fee set forth in section 43-11-28 and provides evidence of having a general education equivalent to the completion of four years in high school. An applicant:
 - a. ~~Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and must have at least nine hundred sixty hours instructor's training in cosmetology in a school of cosmetology. Under this subdivision the practical portion of the examination may be waived if the written examination is supplemented with videotapes of the applicant's teaching procedures;~~
 - b. Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and must have been actively engaged in the practice of cosmetology under the scope of the applicant's license for at least one year before application for an instructor's license, supplemented by not less than four hundred eighty hours instructor's training in a school of cosmetology or course of training approved by the board; or

- c. Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and shall have been actively engaged in the practice of cosmetology for at least three years prior to application for an instructor's license supplemented by not less than one hundred sixty hours instructor's training in a school of cosmetology or course of training approved by the board. No instructor or student instructor may be permitted to practice cosmetology on a patron other than that part of practical work which pertains directly to the teaching of practical operations to students.
2. Student instructors in ~~cosmetology~~ must be registered upon enrollment in a school of cosmetology and upon certification by the school to with the board of. The board must record the name, age, and qualifications of the student instructor which must be recorded in a register kept for that purpose. A student instructor shall possess, at the time of enrollment, possess a general education equivalent to the completion of four years in high school and hold a license as a cosmetologist. Upon completion of the course prescribed for student instructors, the student instructor shall make application on a form provided by the board and pay a fee as provided in section 43-11-28. The board then shall thereupon cause the applicant to be examined for an instructor's license. The examination must be given by a special examining committee comprised of the board, assisted by one person designated by the board possessing the minimum qualifications entitling the person to instruct in an institution of higher learning and who shall examine the applicant in teaching procedures only. Upon successfully passing the examination, the board shall issue an instructor's license to the applicant.
3. No ~~person~~individual is entitled to renew an instructor's license unless the instructor has furnished to the board evidence of completion of the continuing education established by the board by rule.
4. Licensed estheticians and manicurists may only provide instruction within the scope of practice of the respective licenses determined under this chapter.

SECTION 23. AMENDMENT. Section 43-11-27.1 of the North Dakota Century Code is amended and reenacted as follows:

43-11-27.1. Esthetician and manicurist licenses - Qualifications - Fees.

The board may issue ~~annual~~ licenses for estheticians and manicurists. The board shall determine the qualifications for licensure and ~~annual~~ license fees for estheticians and manicurists.

SECTION 24. AMENDMENT. Section 43-11-28 of the North Dakota Century Code is amended and reenacted as follows:

43-11-28. Fees.

1. Fees to be paid by applicants for original registrations, original licenses, ~~annual~~ renewals, licenses issued upon reciprocity, and examinations as required under this chapter may not exceed the following amounts:

a. Original registrations, licenses, and annual renewals:	MAXIMUM FEE:
(1) Salons, original registration	\$80.00 <u>per year</u>

(2)	Salons, annual renewal	\$30.00 <u>per year</u>
(3)	School of cosmetology, original registration	\$505.00 <u>per year</u>
(4)	School of cosmetology, annual renewal	\$205.00 <u>per year</u>
(5)	Cosmetologist, original license	\$15.00 <u>per year</u>
(6)	Cosmetologist, annual renewal	\$15.00 <u>per year</u>
(7)	Master cosmetologist, original license	\$25.00 <u>per year</u>
(8)	Master cosmetologist, annual renewal	\$20.00 <u>per year</u>
(9)	Instructor, original license	\$35.00 <u>per year</u>
(10)	Instructor, annual renewal	\$20.00 <u>per year</u>
(11)	Reciprocity license fee	\$105.00 <u>per year</u>
(12)	Registration fee for student instructor	\$15.00 <u>per year</u>
(13)	Duplicate license	\$10.00 <u>per year</u>
(14)	Certification fee	\$20.00 <u>per year</u>

b. Late fees:

(1)	<u>Late renewal within one year</u>	<u>\$50.00</u>
(2)	<u>Late renewal after one year but before five years</u>	<u>\$150.00</u>

c. Examinations:

(1)	Cosmetology practical examination	\$25.00
(2)	Instructors practical examination	\$55.00
(3)	Written examination fees are set and collected by the administrator of the examination and payment is the responsibility of the applicant.	

2. Fees are not prorated or returnable. ~~The board may charge a fifty dollar penalty for each license renewal application received after December thirty-first.~~

3. The board shall sponsor an educational program for licenseholders to carry out the purposes of protecting the public health and safety and maintaining capable and skilled cosmetologists, ~~manicurists~~, estheticians, ~~manicurists~~, and instructors. The board shall use such portion of the renewal fees as the board may determine for the purpose of providing the educational program.

SECTION 25. AMENDMENT. Section 43-11-29 of the North Dakota Century Code is amended and reenacted as follows:

43-11-29. License renewal - Failure to renew license at end of year - When it may be renewed.

A license issued by the board under this chapter, which has not been renewed prior to the thirty-first day of December in any year, expires on the thirty-first day of December in that year. The holder of an expired license, within one year from and after the date of its expiration, may obtain a license upon the payment of the required fee in addition to the current renewal fee and upon furnishing to the board satisfactory proof of the person's qualifications to resume practice. If a license is not renewed within one year from the date it expired, the applicant for reinstatement shall take and pass the examination that is required of new applicants:

1. A license issued by the board expires on December thirty-first. If the application for renewal is not received on or before the expiration date, the license expires.
2. The board may renew a license if:
 - a. An application for renewal is submitted as provided by the board;
 - b. The renewal fee is paid; and
 - c. Grounds for denial do not exist under section 43-11-31.
3. The holder of an expired license, within one year from and after the date of the license's expiration, may obtain a reinstatement of the license upon:
 - a. Payment of the required late fee; and
 - b. Payment of the current renewal fee.
4. The holder of an expired license, one year after the date of expiration but before five years, may obtain a reinstatement of the license upon:
 - a. Payment of the required late fee; and
 - b. Furnishing to the board satisfactory proof of passing the North Dakota law, rules, and regulations examination.
5. The board may not reinstate a license if more than five years has lapsed since the license expired. If a license has not been renewed within five years, the individual may reapply for licensure under the requirements of initial licensure as set forth under this chapter.

SECTION 26. AMENDMENT. Section 43-11-30 of the North Dakota Century Code is amended and reenacted as follows:

43-11-30. Revocation or suspension of license.

The board may place on probation, revoke and, or suspend a license upon proof of the violation of under this chapter or rules a rule adopted by the board.

SECTION 27. AMENDMENT. Section 43-11-31 of the North Dakota Century Code is amended and reenacted as follows:

43-11-31. License - Refusal to grant - Grounds.

The board may deny an application or discipline a licensee on any of the following grounds:

1. Fraud in passing the examination.
2. Conviction of an offense determined by the board to have a direct bearing upon ~~a person's~~ an individual's ability to serve the public in a profession licensed by the board, or, following conviction of any offense, the board determines the ~~person~~individual is not sufficiently rehabilitated under section 12.1-33-02.1.
3. Grossly unprofessional or dishonest conduct.
4. Addiction to the use of intoxicating liquor or drugs to such an extent as to render the ~~person~~individual unfit to practice ~~cosmetology~~.
5. Advertising by means of knowingly false or deceptive statements.
6. Failure to display the license as provided ~~in~~under this chapter.
7. Violation of the provisions ~~of~~under this chapter or the rules adopted by the board.
8. Permitting an unlicensed ~~person~~individual to practice cosmetology, ~~manicuring, skin care,~~ or teaching in a cosmetology salon or school of cosmetology.
9. Advertising or providing services outside of the licensee's scope of practice as defined under this chapter.

SECTION 28. AMENDMENT. Section 43-11-33 of the North Dakota Century Code is amended and reenacted as follows:

43-11-33. Board may subpoena witnesses - Fees - How paid.

The board may require the attendance of witnesses and the production of books, records, and papers at any hearing or with reference to any matter which ~~it~~the board has authority to investigate; and, for that purpose, may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers. The fees and mileage of witnesses must be the same as may be allowed in the court in criminal cases. Fees and mileage must be paid in the same manner as expenses of the board.

SECTION 29. AMENDMENT. Section 43-11-34 of the North Dakota Century Code is amended and reenacted as follows:

43-11-34. Appeal from actions of the board.

An appeal may be taken from an action of the board under this chapter in refusing to grant; or in suspending or revoking a license; to the district court of the county of residence of the ~~person~~individual who has been refused a license or whose license has been suspended or revoked. The appeal must be taken in accordance with the provisions ~~of~~under chapter 28-32.

SECTION 30. AMENDMENT. Section 43-11-35 of the North Dakota Century Code is amended and reenacted as follows:

43-11-35. Penalty.

Any ~~person~~individual who, without a license, as required under this chapter willfully practices any of the occupations, maintains a school, or acts or advertises in any capacity, ~~wherein a license is required by~~ violates this chapter or rule adopted by the board, is guilty of a class B misdemeanor.

SECTION 31. REPEAL. Sections 43-11-13.1, 43-11-13.2, and 43-11-20 of the North Dakota Century Code are repealed.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 310

SENATE BILL NO. 2125

(Senators K. Roers, Heckaman, Poolman)
(Representatives Dobervich, M. Ruby)

AN ACT to amend and reenact subsection 1 of section 43-12.3-06 of the North Dakota Century Code, relating to the health care professional student loan repayment program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 43-12.3-06 of the North Dakota Century Code is amended and reenacted as follows:

1. The health council shall enter a contract with a selected health care professional. The health council shall agree to provide student loan repayments on behalf of the selected health care professional subject to the requirements and limitations of this section.
 - a. For a physician:
 - (1) The loan repayment may not exceed twenty thousand dollars per year, and may not exceed one hundred thousand dollars over five years; and
 - (2) The matching funds must equal fifty percent of the amount required in paragraph 1.
 - b. For a clinical psychologist:
 - (1) The loan repayment may not exceed twelve thousand dollars per year, and may not exceed sixty thousand dollars over five years; and
 - (2) The matching funds must equal twenty-five percent of the amount required in paragraph 1.
 - c. For an advanced practice registered nurse or a physician assistant:
 - (1) The loan repayment may not exceed four thousand dollars per year, and may not exceed twenty thousand dollars over five years; and
 - (2) The matching funds must equal ten percent of the amount required in paragraph 1.
 - d. For a behavioral health professional:
 - (1) The loan repayment may not exceed four thousand dollars per year, and may not exceed twenty thousand dollars over five years; and
 - (2) The matching funds must equal ten percent of the amount required in paragraph 1.

- e. For purposes of this section, a behavioral health professional means an individual who practices in the behavioral health field and is:
- (1) A licensed addiction counselor;
 - (2) A licensed professional counselor;
 - (3) A licensed social worker;
 - (4) A registered nurse; ~~or~~
 - (5) A specialty practice registered nurse; or
 - ~~(6) A licensed behavior analyst.~~

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 311

HOUSE BILL NO. 1044

(Human Services Committee)

(At the request of the State Board of Nursing)

AN ACT to amend and reenact section 43-12.5-01 of the North Dakota Century Code, relating to the advanced practice registered nurse licensure compact.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-12.5-01 of the North Dakota Century Code is amended and reenacted as follows:

43-12.5-01. ~~Advance~~Advanced practice registered nurse licensure compact.

ARTICLE I - FINDINGS AND DECLARATION OF PURPOSE

1. The party states find that:
 - a. The health and safety of the public are affected by the degree of compliance with advanced practice registered nurse licensure requirements and the effectiveness of enforcement activities related to state advanced practice registered nurse licensure laws;
 - b. Violations of advanced practice registered nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
 - c. The expanded mobility of advanced practice registered nurses and the use of advanced communication and intervention technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of advanced practice registered nurse licensure and regulation;
 - d. New practice modalities and technology make compliance with individual state advanced practice registered nurse licensure laws difficult and complex;
 - e. The current system of duplicative advanced practice registered nurse licensure for advanced practice registered nurses practicing in multiple states is cumbersome and redundant for both health care delivery systems, payors, state licensing boards, regulators, and advanced practice registered nurses ~~and states~~; and
 - f. Uniformity of advanced practice registered nurse licensure requirements throughout the states promotes public safety and public health benefits as well as providing a mechanism to increase access to care.
2. The general purposes of this compact are to:
 - a. Facilitate the states' responsibility to protect the public's health and safety;

- b. Ensure and encourage the cooperation of party states in the areas of advanced practice registered nurse licensure and regulation, including promotion of uniform licensure requirements;
- c. Facilitate the exchange of information between party states in the areas of advanced practice registered nurse regulation, investigation, and adverse actions;
- d. Promote compliance with the laws governing advanced practice registered nurse practice in each jurisdiction;
- e. Invest all party states with the authority to hold an advanced practice registered nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses/privileges to practice;
- f. Decrease redundancies in the consideration and issuance of advanced practice registered nurse licenses; and
- g. Provide opportunities for interstate practice by advanced practice registered nurses who meet uniform licensure requirements.

ARTICLE II - DEFINITIONS

As used in this compact:

- 1. "Advanced practice registered nurse" means a registered nurse who has gained additional specialized knowledge, skills, and experience through a program of study recognized or defined by the Interstate Commission of Advanced Practice Registered Nurse Compact Administrators ("commission"), and who is licensed to perform advanced nursing practice. An advanced practice registered nurse is licensed in an advanced practice registered nurse role that is congruent with an advanced practice registered nurse educational program, certification, and commission rules.
- 2. "Advanced practice registered nurse licensure" means the regulatory mechanism used by a party state to grant legal authority to practice as an advanced practice registered nurse.
- 3. "Advanced practice registered nurse uniform licensure requirements" means the minimum uniform licensure, education, and examination requirements as adopted by the commission set forth in subsection 2 of article III.
- 4. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an advanced practice registered nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting an advanced practice registered nurse's authorization to practice, including the issuance of a cease and desist action.
- 5. "Alternative program" means a non-disciplinary monitoring program approved by a licensing board.

6. "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on advanced practice registered nurse licensure and enforcement activities related to advanced practice registered nurse licensure laws which is administered by a nonprofit organization composed of and controlled by licensing boards.
7. "Current significant investigatory information" means:
 - a. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the advanced practice registered nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - b. Investigative information that indicates that the advanced practice registered nurse represents an immediate threat to public health and safety regardless of whether the advanced practice registered nurse has been notified and had an opportunity to respond.
8. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board in connection with a disciplinary proceeding.
9. "Home state" means the party state that is the advanced practice registered nurse's primary state of residence.
10. "Licensing board" means a party state's regulatory body responsible for regulating the practice of advanced practice registered nursing.
11. "Multistate license" means an advanced practice registered nurse license to practice as an advanced practice registered nurse issued by a home state licensing board which authorizes the advanced practice registered nurse to practice as an advanced practice registered nurse in all party states under a multistate licensure privilege, in the same role and population focus as the advanced practice registered nurse is licensed in the home state.
12. "Multistate licensure privilege" means a legal authorization associated with an advanced practice registered nurse multistate license which permits an advanced practice registered nurse to practice as an advanced practice registered nurse in a remote state, in the same role and population focus as the advanced practice registered nurse is licensed in the home state.
13. "Noncontrolled prescription drug" means a device or drug that is not a controlled substance and is prohibited under state or federal law from being dispensed without a prescription. The term includes a device or drug that bears or is required to bear the legend "caution: federal law prohibits dispensing without prescription" or "prescription only" or other legend that complies with federal law.
14. "Party state" means any state that has adopted this compact.
15. "Population focus" means ~~a specific patient population that is congruent with the advanced practice registered nurse educational program, certification, and commission rules~~ one of the six population foci of family or individual across

the lifespan, adult-gerontology, pediatrics, neonatal, women's health or gender-related, and psychiatric mental health.

16. "Prescriptive authority" means the legal authority to prescribe medications and devices as defined by party state laws.
17. "Remote state" means a party state that is not the home state.
18. "Role" means one of the four recognized roles of certified registered nurse anesthetists, certified nurse midwives, clinical nurse specialists, and certified nurse practitioners.
19. "Single-state license" means an advanced practice registered nurse license issued by a party state which authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.
- 49-20. "State" means a state, territory, or possession of the United States and the District of Columbia.
- 20-21. "State practice laws" means a party state's laws, rules, and regulations that govern advanced practice registered nurse practice, define the scope of advanced nursing practice, ~~including prescriptive authority,~~ and create the methods and grounds for imposing discipline ~~except that prescriptive authority must be treated in accordance with subsections 6 and 7 of article III.~~ State practice laws do not include the:
 - a. A party state's laws, rules, and regulations requiring supervision or collaboration with a health care professional, except for laws, rules, and regulations regarding prescribing controlled substances; and
 - b. The requirements necessary to obtain and retain an advanced practice registered nurse license, except for qualifications or requirements of the home state.

ARTICLE III - GENERAL PROVISIONS AND JURISDICTION

1. A state must implement procedures for considering the criminal history records of applicants for initial advanced practice registered nurse licensure or advanced practice registered nurse licensure by endorsement. Such procedures must include the submission of fingerprints or other biometric-based information by advanced practice registered nurse applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.
2. ~~By rule, the commission shall adopt the advanced practice registered nurse uniform licensure requirements. The uniform licensure requirements must provide the minimum requirements for advanced practice registered nurse multistate licensure in party states, if the commission may adopt rules whereby an advanced practice registered nurse, with an unencumbered license on the effective date of this compact, may obtain, by endorsement~~Each party state shall require an applicant to satisfy the following advanced practice registered nurse uniform licensure requirements to obtain or otherwise, and retain a multistate license in a party~~the home state:~~

3. ~~In order to obtain or retain a multistate license, an advanced practice registered nurse shall meet, in addition to the uniform licensure requirements,:~~
 - a. ~~Meets the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable home state laws;~~
4. ~~By rule, the commission shall identify the approved advanced practice registered nurse roles and population foci for licensure as an advanced practice registered nurse.:~~
 - b. ~~(1) Has completed an accredited graduate-level education program that prepares the applicant for one of the four recognized roles and population foci; or~~
 - (2) ~~Has completed a foreign advanced practice registered nurse education program for one of the four recognized roles and population foci that:~~
 - (a) ~~Has been approved by the authorized accrediting body in the applicable country; and~~
 - (b) ~~Has been verified by an independent credentials review agency to be comparable to a licensing board-approved advanced practice registered nurse education program;~~
 - c. ~~Has, if a graduate of a foreign advanced practice registered nurse program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening;~~
 - d. ~~Has successfully passed a national certification examination that measures advanced practice registered nurse, role and population-focused competencies and maintains continued competence as evidenced by recertification in the role and population focus through the national certification program;~~
 - e. ~~Holds an active, unencumbered license as a registered nurse and an active, unencumbered authorization to practice as an advanced practice registered nurse;~~
 - f. ~~Has successfully passed an NCLEX-RN® examination or recognized predecessor, as applicable;~~
 - g. ~~Has practiced for at least two thousand eighty hours as an advanced practice registered nurse in a role and population focus congruent with the applicant's education and training. For purposes of this section, practice must not include hours obtained as part of enrollment in an advanced practice registered nurse education program;~~
 - h. ~~Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state or, if applicable, foreign country's criminal records;~~

- i. Has not been convicted or found guilty or, has entered into an agreed disposition of a felony offense under applicable state, federal, or foreign criminal law;
 - j. Has not been convicted or found guilty or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined by factors set forth in rules adopted by the commission;
 - k. Is not currently enrolled in an alternative program;
 - l. Is subject to self-disclosure requirements regarding current participation in an alternative program; and
 - m. Has a valid United States social security number.
3. An advanced practice registered nurse issued a multistate license must be licensed in an approved ~~advanced practice registered nurse~~ role and at least one approved population focus.
- ~~5-4.~~ An advanced practice registered nurse multistate license issued by a home state to a resident in that state will be recognized by each party state as authorizing the advanced practice registered nurse to practice as an advanced practice registered nurse in each party state, under a multistate licensure privilege, in the same role and population focus as the advanced practice registered nurse is licensed in the home state. ~~If an applicant does not qualify for a multistate license, a single-state license may be issued by a home state.~~
5. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single-state license, except that an individual may apply for a single-state license, instead of a multistate license, even if otherwise qualified for the multistate license. However, the failure of such an individual to affirmatively opt for a single-state license may result in the issuance of a multistate license.
6. Issuance of an advanced practice registered nurse multistate license must include prescriptive authority for noncontrolled prescription drugs, ~~unless the advanced practice registered nurse was licensed by the home state before the home state's adoption of this compact and has not previously held prescriptive authority:~~
- a. ~~An advanced practice registered nurse granted prescriptive authority for noncontrolled prescription drugs in the home state may exercise prescriptive authority for noncontrolled prescription drugs in any remote state while exercising a multistate licensure privilege under an advanced practice registered nurse multistate license; the advanced practice registered nurse may not be required to meet any additional eligibility requirements imposed by the remote state in exercising prescriptive authority for noncontrolled prescription drugs.~~
 - b. ~~Prescriptive authority in the home state for an advanced practice registered nurse who was not granted prescriptive authority at the time of initial licensure by the home state, before the adoption of this compact, must be determined under home state law.~~

- e. ~~Prescriptive authority eligibility for an advanced practice registered nurse holding a single-state license must be determined under the law of the licensing state.~~
7. For each state in which an advanced practice registered nurse seeks authority to prescribe controlled substances, the advanced practice registered nurse shall satisfy all requirements imposed by such state in granting ~~and/or~~ and renewing such authority.
 8. An advanced practice registered nurse issued a multistate license may assume responsibility and accountability for patient care independent of ~~any~~ supervisory or collaborative relationship ~~with a physician~~. This authority may be exercised in the home state and in any remote state in which the advanced practice registered nurse exercises a multistate licensure privilege. ~~For an advanced practice registered nurse issued a single-state license in a party state, the requirement for a supervisory or collaborative relationship with a physician must be determined under applicable party state law.~~
 9. All party states are authorized, in accordance with state due process laws, to take adverse action against an advanced practice registered nurse's multistate licensure privilege such as revocation, suspension, probation, or any other action that affects an advanced practice registered nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it promptly shall notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system promptly shall notify the home state of any such actions by remote states.
 10. ~~An~~Except as otherwise expressly provided in this compact, an advanced practice registered nurse practicing in a party state shall comply with the state practice laws of the state in which the client is located at the time service is provided. Advanced practice registered nurse practice is not limited to patient care, but includes all advanced nursing practice as defined by the state practice laws of the party state in which the client is located. Advanced practice registered nurse practice in a party state under a multistate licensure privilege subjects the advanced practice registered nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.
 11. ~~This~~Except as otherwise expressly provided in this compact, this compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state must be recognized by other party states as satisfying any state law requirement for registered nurse licensure as a precondition for authorization to practice as an advanced practice registered nurse in that state.
 12. Individuals not residing in a party state shall continue to be able to apply for a party state's single-state advanced practice registered nurse license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice as an advanced practice registered nurse in any other party state.

ARTICLE IV - APPLICATIONS FOR ADVANCED PRACTICE REGISTERED NURSE LICENSURE IN A PARTY STATE

1. Upon application for an advanced practice registered nurse multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held or is the holder of a licensed practical/vocational nursing license, a registered nursing license, or an advanced practice registered nurse license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant, and whether the applicant is currently participating in an alternative program.
2. An advanced practice registered nurse may hold a multistate advanced practice registered nurse license, issued by the home state, in only one party state at a time.
3. If an advanced practice registered nurse changes primary state of residence by moving between two party states, the advanced practice registered nurse shall apply for advanced practice registered nurse licensure in the new home state, and the multistate license issued by the prior home state must be deactivated in accordance with applicable commission rules.
 - a. The advanced practice registered nurse may apply for licensure in advance of a change in primary state of residence.
 - b. A multistate advanced practice registered nurse license may not be issued by the new home state until the advanced practice registered nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate advanced practice registered nurse license from the new home state.
4. If an advanced practice registered nurse changes primary state of residence by moving from a party state to a nonparty state, the advanced practice registered nurse multistate license issued by the prior home state converts to a single-state license, valid only in the former home state.

ARTICLE V - ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE LICENSING BOARDS

1. In addition to the other powers conferred by state law, a licensing board may:
 - a. Take adverse action against an advanced practice registered nurse's multistate licensure privilege to practice within that party state.
 - (1) Only the home state may take adverse action against an advanced practice registered nurse's license issued by the home state.
 - (2) For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct that occurred outside of the home state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

- b. Issue cease and desist orders or impose an encumbrance on an advanced practice registered nurse's authority to practice within that party state.
 - c. Complete any pending investigations of an advanced practice registered nurse who changes primary state of residence during the course of such investigations. The licensing board also may take any appropriate action and promptly shall report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system promptly shall notify the new home state of any such actions.
 - d. Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a party state licensing board for the attendance and testimony of witnesses ~~and/or~~ and the production of evidence from another party state must be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing licensing board shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses ~~and/or~~ and evidence are located.
 - e. Obtain and submit, for an advanced practice registered nurse licensure applicant, fingerprints or other biometric-based information to the federal bureau of investigation for criminal background checks, receive the results of the federal bureau of investigation record search on criminal background checks and use the results in making licensure decisions.
 - f. If otherwise permitted by state law, recover from the affected advanced practice registered nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that advanced practice registered nurse.
 - g. Take adverse action based on the factual findings of another party state, if the licensing board follows its own procedures for taking such adverse action.
- 2. If adverse action is taken by a home state against an advanced practice registered nurse's multistate licensure, the privilege to practice in all other party states under a multistate licensure privilege must be deactivated until all encumbrances have been removed from the advanced practice registered nurse's multistate license. All home state disciplinary orders that impose adverse action against an advanced practice registered nurse's multistate license must include a statement that the advanced practice registered nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.
 - 3. This compact does not override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any advanced practice registered nurse for the duration of the advanced practice registered nurse's participation in an alternative program.

ARTICLE VI - COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE INFORMATION

1. All party states shall participate in a coordinated licensure information system of all advanced practice registered nurses, licensed registered nurses, and licensed practical/vocational nurses. This system includes information on the licensure and disciplinary history of each advanced practice registered nurse, as submitted by party states, to assist in the coordinated administration of advanced practice registered nurse licensure and enforcement efforts.
2. The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.
3. All licensing boards promptly shall report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials), and advanced practice registered nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic and/or and confidential under state law.
4. ~~Current significant investigative information and participation in nonpublic or confidential alternative programs must be transmitted through the coordinated licensure information system only to party state licensing boards.~~
5. Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.
- ~~6.5.~~ Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.
- ~~7.6.~~ Any information contributed to the coordinated licensure information system which is subsequently required to be expunged by the laws of the party state contributing the information must be removed from the coordinated licensure information system.
- ~~8.7.~~ The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which must include, at a minimum:
 - a. Identifying information;
 - b. Licensure data;
 - c. Information related to alternative program participation information; and
 - d. Other information that may facilitate the administration of this compact, as determined by commission rules.

- 9-8. The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

**ARTICLE VII - ESTABLISHMENT OF THE INTERSTATE COMMISSION OF
ADVANCED PRACTICE REGISTERED NURSE COMPACT ADMINISTRATORS**

1. The party states hereby create and establish a joint public agency known as the interstate commission of advanced practice registered nurse compact administrators.
 - a. The commission is an instrumentality of the party states.
 - b. Venue is proper, and judicial proceedings by or against the commission must be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
 - c. This compact may not be construed to be a waiver of sovereign immunity.
2. Membership, voting, and meetings.
 - a. Each party state must have and be limited to one administrator. The head of the state licensing board or designee is the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission must be filled in accordance with the laws of the party state in which the vacancy exists.
 - b. Each administrator is entitled to one vote with regard to the promulgation of rules and creation of bylaws and otherwise must have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.
 - c. The commission shall meet at least once during each calendar year. Additional meetings must be held as set forth in the bylaws or rules of the commission.
 - d. All meetings are open to the public, and public notice of meetings must be given in the same manner as required under the rulemaking provisions in article VIII.
 - e. The commission may convene in a closed, nonpublic meeting if the commission must discuss:
 - (1) Noncompliance of a party state with its obligations under this compact;
 - (2) The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

- (3) Current, threatened, or reasonably anticipated litigation;
 - (4) Negotiation of contracts for the purchase or sale of goods, services, or real estate;
 - (5) Accusing any person of a crime or formally censuring any person;
 - (6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
 - (7) Disclosure of information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (8) Disclosure of investigatory records compiled for law enforcement purposes;
 - (9) Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or
 - (10) Matters specifically exempted from disclosure by federal or state statute.
- f. If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons for those actions, including a description of the views expressed. All documents considered in connection with an action must be identified in such minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.
3. By a majority vote of the administrators, the commission shall prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including:
- a. Establishing the fiscal year of the commission;
 - b. Providing reasonable standards and procedures:
 - (1) For the establishment and meetings of other committees; and
 - (2) Governing any general or specific delegation of any authority or function of the commission;
 - c. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission shall make public a copy of the

- vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;
- d. Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission;
 - e. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws exclusively govern the personnel policies and programs of the commission; and
 - f. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment ~~and/or~~ and reserving of all of its debts and obligations.
4. The commission shall publish its bylaws and rules, and any amendments to the bylaws and rules, in a convenient form on the website of the commission.
 5. The commission shall maintain its financial records in accordance with the bylaws.
 6. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.
 7. The commission may:
 - a. Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules have the force and effect of law and are binding in all party states;
 - b. Bring and prosecute legal proceedings or actions in the name of the commission. However, the standing of any licensing board to sue or be sued under applicable law may not be affected;
 - c. Purchase and maintain insurance and bonds;
 - d. Borrow, accept, or contract for services of personnel, including employees of a party state or nonprofit organizations;
 - e. Cooperate with other organizations that administer state compacts related to the regulation of nursing, including sharing administrative or staff expenses, office space, or other resources;
 - f. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
 - g. Accept any and all appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same. However, at all times the commission shall strive to avoid any appearance of impropriety ~~and/or~~ or conflict of interest;

- h. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal, or mixed. However, at all times the commission shall strive to avoid any appearance of impropriety;
 - i. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;
 - j. Establish a budget and make expenditures;
 - k. Borrow money;
 - l. Appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators, or their representatives, and consumer representatives, and other such interested persons;
 - m. Issue advisory opinions:
 - n. Provide and receive information from, and to cooperate with, law enforcement agencies;
 - n-o. Adopt and use an official seal; and
 - o-p. Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of advanced practice registered nurse licensure and practice.
8. Financing of the commission.
- a. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
 - b. The commission may also levy on and collect an annual assessment from each party state to cover the cost of ~~the~~its operations and, activities of the ~~interstate commission, and its staff which must be in a total amount sufficient to cover~~ its annual budget as approved each year. The aggregate annual assessment amount must, if any, must be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.
 - c. The commission may not incur obligations of any kind before securing the funds adequate to meet the same, nor may the commission pledge the credit of any of the party states, except by, and with the authority of, such party state.
 - d. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission.
9. Qualified immunity, defense, and indemnification.

- a. The administrators, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against which the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. However, this subdivision may not be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.
- b. The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against which the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein may be construed to prohibit that person from retaining that person's own counsel and the actual or alleged act, error, or omission may not result from that person's intentional, willful, or wanton misconduct.
- c. The commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

ARTICLE VIII - RULEMAKING

1. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments become binding as of the date specified in each rule or amendment and have the same force and effect as provisions of this compact.
2. Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.
3. Before promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:
 - a. On the website of the commission; and
 - b. On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.
4. The notice of proposed rulemaking must include:

- a. The proposed time, date, and location of the meeting at which the rule will be considered and voted upon;
 - b. The text of the proposed rule or amendment, and the reason for the proposed rule;
 - c. A request for comments on the proposed rule from any interested person; and
 - d. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.
5. Before adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which must be made available to the public.
6. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.
7. The commission shall publish the place, time, and date of the scheduled public hearing.
 - a. Hearings must be conducted in a manner providing each person that wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings must be recorded, and a copy must be made available upon request.
 - b. This section may not be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.
8. If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.
9. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.
10. By majority vote of all administrators, the commission shall take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
11. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing. However, the usual rulemaking procedures provided in this compact and in this section must be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:
 - a. Meet an imminent threat to public health, safety, or welfare;
 - b. Prevent a loss of commission or party state funds; or

- c. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.
12. The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions must be posted on the website of the commission. The revision may be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing, and delivered to the commission, before the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

ARTICLE IX - OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

1. Oversight.
 - a. Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.
 - b. The commission is entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the commission, and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or promulgated rules.
2. Default, technical assistance, and termination.
 - a. If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:
 - (1) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default ~~and/or~~ any other action to be taken by the commission; and
 - (2) Provide remedial training and specific technical assistance regarding the default.
 - b. If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
 - c. Termination of membership in this compact must be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board, the defaulting state's licensing board, and each of the party states.

- d. A state whose membership in this compact has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
 - e. The commission may not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated, unless agreed upon in writing between the commission and the defaulting state.
 - f. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorneys' fees.
3. Dispute resolution.
- a. Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.
 - b. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.
 - c. If the commission cannot resolve disputes among party states arising under this compact:
 - (1) The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.
 - (2) The decision of a majority of the arbitrators is final and binding.
4. Enforcement.
- a. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
 - b. By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation, including reasonable attorneys' fees.
 - c. The remedies herein are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE X - EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

1. This compact comes into limited effect at such time as this compact has been enacted into law in ~~tenseven~~ party states for the sole purpose of establishing and convening the commission to adopt rules relating to its operation ~~and the advanced practice registered nurse uniform licensure requirements.~~
2. ~~On the date of the commission's adoption of the advanced practice registered nurse uniform licensure requirements, all remaining provisions of this compact, and rules adopted by the commission, come into full force and effect in all party states.~~
3. Any state that joins this compact after the commission's initial adoption of the advanced practice registered nurse uniform licensure requirements are subject to all rules that have been previously adopted by the commission.
- 4.3. Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal does not take effect until six months after enactment of the repealing statute.
- 5.4. A party state's withdrawal or termination does not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring before the effective date of such withdrawal or termination.
- 6.5. This compact may not be construed to invalidate or prevent any advanced practice registered nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that does not conflict with the provisions of this compact.
- 7.6. This compact may be amended by the party states. An amendment to this compact does not become effective and binding upon any party state until it is enacted into the laws of all party states.
- 8.7. Representatives of nonparty states to this compact must be invited to participate in the activities of the commission, on a nonvoting basis, before the adoption of this compact by all states.

ARTICLE XI - CONSTRUCTION AND SEVERABILITY

This compact must be liberally construed so as to effectuate the purposes of this compact. The provisions of this compact are severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance is not affected thereby. If this compact is held to be contrary to the constitution of any party state, this compact remains in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 312

SENATE BILL NO. 2221

(Senators Meyer, Anderson, Bekkedahl)
(Representatives Kasper, Keiser, O'Brien)

AN ACT to create and enact a new subsection to section 43-15-10 of the North Dakota Century Code, relating to the powers of the state board of pharmacy; to amend and reenact section 43-15-01 of the North Dakota Century Code, relating to the practice of pharmacy; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-15-01 of the North Dakota Century Code is amended and reenacted as follows:

43-15-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Administration" means the direct application of a drug to the body of a patient. The term includes:
 - a. The emergency maintenance of a drug delivery device used in home infusion therapy by a qualified home pharmacist if nursing service is not available;
 - b. ~~Upon immunization and vaccination by injection of an individual who is at least three years of age upon~~ an order by a practitioner authorized to prescribe such a drug or by written protocol with a physician or nurse practitioner and subsequently reported as a childhood immunization and other information if required to the state's immunization information system pursuant to section 23-01-05.3;
 - ~~(1) Immunization and vaccination by injection of an individual who is at least eleven years of age; and~~
 - ~~(2) Influenza vaccination by injection or by live, attenuated influenza vaccine of an individual who is at least five years of age;~~
 - c. Provision of other drugs to an individual who is at least ~~eighteen~~three years of age upon the order of a practitioner authorized to prescribe such a drug; and
 - d. Provision of drugs to an individual receiving emergency services in a health care facility upon an order or by established written protocol.
2. "Automated dispensing system" means a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, counting, labeling, and dispensing of medications and which collects, controls, and monitors all transaction information.

3. "Board" means the state board of pharmacy.
4. "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device:
 - a. As the result of a practitioner's prescription drug order or initiative based on the practitioner, patient, and pharmacist relationship in the course of professional practice; or
 - b. For the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing.

Compounding also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

5. "Confidential information" means individually identifiable health information maintained by the pharmacist in the patient's records or which is communicated to the patient as part of a patient counseling.
6. "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for a consideration.
7. "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, which is required under federal or North Dakota law to be prescribed by a practitioner and dispensed by a pharmacist.
8. "Dispense" or "dispensing" means the preparation and delivery of a prescription drug, pursuant to a lawful order of a practitioner or a nurse licensed under chapter 43-12.1 who is authorized by the practitioner to orally transmit the order that has been reduced to writing in the patient's record, in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.
9. "Distribute" means the delivery of a drug other than by dispensing or administering.
10. "Drug" or "drugs" means:
 - a. Articles recognized as drugs in the official United States pharmacopeia, official national formulary, official homeopathic pharmacopeia, other drug compendium, or any supplement to any of them;
 - b. Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal;
 - c. Articles other than food intended to affect the structure or any function of the body of man or other animals; and
 - d. Articles intended for use as a component of any articles specified in subdivision a, b, or c.
11. "Drug regimen review" includes the following activities:

- a. Evaluation of the prescription drug orders and patient records for:
 - (1) Known allergies;
 - (2) Rational therapy-contraindications;
 - (3) Reasonable dose and route of administration; and
 - (4) Reasonable directions for use.
 - b. Evaluation of the prescription drug orders and patient records for duplication of therapy.
 - c. Evaluation of the prescription drug orders and patient records for interactions:
 - (1) Drug-drug;
 - (2) Drug-food;
 - (3) Drug-disease; and
 - (4) Adverse drug reactions.
 - d. Evaluation of the prescription drug orders and patient records for proper utilization, including overutilization or underutilization, and optimum therapeutic outcomes.
12. "Emergency pharmacy practice" means in the event a pharmacist receives a request for a prescription refill and the pharmacist is unable to obtain refill authorization from the prescriber, the pharmacist may dispense and bill using a pharmacist national provider identifier a one-time emergency refill of up to a ~~seventy-two hour~~thirty-day supply of the prescribed medication, provided that:
- a. The prescription is not for a controlled substance listed in schedule II;
 - b. The pharmaceutical is essential to the maintenance of life or to the continuation of therapy;
 - c. In the pharmacist's professional judgment, the interruption of therapy might reasonably produce undesirable health consequences or may cause physical or mental discomfort;
 - d. The pharmacist properly records the dispensing; and
 - e. The dispensing pharmacist notifies the prescriber of the emergency dispensing within a reasonable time after the one-time emergency refill dispensing.
13. "Labeling" means the process of preparing and affixing of a label to any drug container exclusive, however, of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any label shall include all information required by federal and North Dakota law or regulation.

14. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a drug:
 - a. By a pharmacist or practitioner as an incident to dispensing or administering of a drug in the course of the person's professional practice; or
 - b. By a practitioner or by the practitioner's authorization under supervision for the purpose of or as an incident to research, teaching, or chemical analysis and not for sale.
15. "Manufacturer" means a person engaged in the manufacture of drugs in facilities located within North Dakota.
16. "Medicine" means a drug or combination of drugs, used in treating disease in man or other animals.
17. "Nonprescription drugs" means medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.
18. "Original package" means the original carton, case, can, box, vial, bottle, or other receptacle, put up by the manufacturer or wholesaler or distributor, with label attached, making one complete package of the drug article.
19. "Person" means an individual, corporation, limited liability company, partnership, association, or any other legal entity.
20. "Pharmaceutical care" is the provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process as defined in the rules of the board.
21. "Pharmacist" means a person to whom the board has issued a license to practice the profession of pharmacy whose license has not expired or been suspended.
22. "Pharmacy" or "drugstore" means every store or shop where drugs, medicines, or chemicals are dispensed, displayed for sale, or sold, at retail for medicinal purposes, or where prescriptions are compounded, and which is duly registered by the board.
23. "Pharmacy technician" means a person registered by the board who is employed by a pharmacy to assist licensed pharmacists in the practice of pharmacy by performing specific tasks delegated by and under the immediate personal supervision and control of a licensed pharmacist, as permitted by the board.

24. "Practice of pharmacy" means the interpretation, evaluation, and monitoring of prescription orders and patient drug therapy; the compounding, dispensing, labeling of drugs and devices except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and devices; the participation in drug selection, drug monitoring, drug administration, drug regimen review, the provision of these acts or services necessary as a primary health care provider of pharmaceutical care, and drug utilization evaluations; the proper and safe storage of drugs and devices and the maintenance of proper records for this storage; the responsibility for advising, consulting, and educating if necessary or if regulated, patients, public, and other health care providers on the rational, safe, and cost-effective use of drugs including therapeutic values, content, hazards, and appropriate use of drugs and devices; the participation in interpreting and applying pharmacokinetic data and other pertinent laboratory data to design safe and effective drug dosage regimens; if appropriate and if regulated, the participation in drug research either scientific or clinical as investigator or in collaboration with other investigators for the purposes of studying the effects of drugs on animals or human subjects, with other drugs or chemicals, and with drug delivery devices; emergency pharmacy practice; prescriptive practices as limited under this chapter; the performance of laboratory tests to provide pharmaceutical care services which are waived under the Federal Clinical Laboratory Improvement Act of 1988 [Pub. L. 100-578, section 2; 102 Stat. 2903; 42 U.S.C. 263a et seq.], as amended; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.
25. "Practitioner" means an individual licensed, registered, or otherwise authorized by the jurisdiction in which the individual is practicing to prescribe drugs in the course of professional practice.
26. "Prescription" means any order for drugs or medical supplies, if such order is written or signed or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed physician, optometrist, dentist, veterinarian, or other practitioner, licensed by law to prescribe and administer such drugs or medical supplies intended to be filled, compounded, or dispensed by a pharmacist or any order for drugs or medical supplies transmitted orally by a nurse licensed under chapter 43-12.1 as written and signed by such a duly licensed physician, optometrist, dentist, veterinarian, or other practitioner.
27. "Prescription drug or legend drug" means a drug which, under federal law is required, prior to being dispensed or delivered, to be labeled with one of the following:
- a. "Caution: Federal law prohibits dispensing without prescription";
 - b. "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian"; or
 - c. Rx only;
- or a drug which is required by any applicable federal or North Dakota law or rule to be dispensed on prescription only or is restricted to use by practitioners only.

28. "Public health issues" include immunizations, tobacco cessation, and other issues deemed appropriate by the board.

29. "Radiopharmaceutical service" means, but is not limited to, the compounding, dispensing, labeling, and delivery of radiopharmaceuticals; the participation in radiopharmaceutical selection and radiopharmaceutical utilization reviews; the proper and safe storage and distribution of radiopharmaceuticals; the maintenance of radiopharmaceutical quality assurance; the responsibility for advising, where necessary or where regulated, of therapeutic values, hazards, and use of radiopharmaceuticals; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of radiopharmaceuticals.

29.30. "Wholesaler" means a person with facilities located in this state who buys for resale and distribution to persons other than consumers.

¹⁹⁸ **SECTION 2.** A new subsection to section 43-15-10 of the North Dakota Century Code is created and enacted as follows:

To establish limited prescriptive authority through a statewide protocol for public health issues within the scope of practice for a pharmacist. The board shall adopt rules to establish standards of care.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 22, 2021

Filed March 23, 2021

¹⁹⁸ Section 43-15-10 was also amended by section 360 of House Bill No. 1247, chapter 352.

CHAPTER 313

SENATE BILL NO. 2279

(Senators Klein, Anderson, Luick)
(Representatives Dockter, Tveit)

AN ACT to amend and reenact section 43-15-31.5 of the North Dakota Century Code, relating to permitting a pharmacy technician to administer drugs under the authority of a pharmacist; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁹ **SECTION 1. AMENDMENT.** Section 43-15-31.5 of the North Dakota Century Code is amended and reenacted as follows:

43-15-31.5. Administration of drugs - Rules.

A pharmacist who administers drugs must have authority from the board. ~~The authority to administer a drug may not be delegated.~~ The board shall adopt rules to establish educational and operational requirements for a pharmacist to obtain and maintain authority to administer drugs. The board may adopt rules to establish educational and operational requirements to allow a pharmacy technician to administer a drug under the immediate personal supervision and control of a pharmacist. Rules adopted by the board under this section must include:

1. Educational requirements, which include, at a minimum:
 - a. Basic immunology, including the human immune response;
 - b. The mechanism of immunity, adverse effects, dose, and administration schedule of available vaccines and approved medication and immunization;
 - c. Current immunization guidelines and recommendations of the centers for disease control and prevention;
 - d. Management of adverse events, including identification, appropriate response, documentation, and reporting;
 - e. Physiology and techniques of administration of drugs; and
 - f. Recordkeeping requirements established by law, rule, and regulation or established standards of care.
2. A requirement an authorized pharmacist shall obtain and maintain current certification in cardiopulmonary resuscitation or basic cardiac life support.
3. Requirements for content of practitioner orders and protocols.

¹⁹⁹ Section 43-15-31.5 was also amended by section 361 of House Bill No. 1247, chapter 352.

4. Requirements relating to the reporting of the administration to a patient's primary health care provider and to the state department of health.
5. Requirements relating to environments in which drugs may be administered.

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

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 314

SENATE BILL NO. 2128

(Senators Lee, Anderson, K. Roers)
(Representatives D. Anderson, Dobervich, Weisz)

AN ACT to amend and reenact section 43-17-42 of the North Dakota Century Code, relating to the corporate practice of medicine by nonprofit entities and charitable trusts; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-17-42 of the North Dakota Century Code is amended and reenacted as follows:

43-17-42. Employment of physicians by hospitals - Employment of physicians by nonprofit entities and charitable trusts for hyperbaric oxygen therapy.

1. Notwithstanding any other provision of law, a hospital licensed under chapter 23-16 may employ directly or indirectly a physician ~~provided that~~ if the employment relationship between the physician and hospital is evidenced by a written contract ~~containing. The written contract must contain~~ language to the effect that the hospital's employment relationship with the physician may not affect the exercise of the physician's independent judgment in the practice of medicine, and the physician's independent judgment in the practice of medicine is in fact unaffected by the physician's employment relationship with the hospital. Under this ~~section~~subsection a hospital ~~may not be deemed to be~~is not engaged in the practice of medicine.
2. Notwithstanding any other provision of law, a nonprofit entity or charitable trust may employ directly or indirectly a physician to conduct hyperbaric oxygen therapy if the employment relationship between the physician and nonprofit entity or charitable trust is evidenced by a written contract. The written contract must contain language to the effect the nonprofit entity's or charitable trust's employment relationship with the physician may not affect the exercise of the physician's independent judgment in the practice of medicine, and the physician's independent judgment in the practice of medicine is in fact unaffected by the physician's employment relationship with the nonprofit entity or charitable trust. Under this subsection a nonprofit entity or charitable trust is not engaged in the practice of medicine.

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

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 315

SENATE BILL NO. 2051

(Industry, Business and Labor Committee)
(At the request of the State Board of Plumbing)

AN ACT to amend and reenact sections 43-18-04, 43-18-06, and 43-18-08 of the North Dakota Century Code, relating to employees of the state board of plumbing and fees for applications, examinations, renewals, and late renewals for plumbers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-18-04 of the North Dakota Century Code is amended and reenacted as follows:

43-18-04. Office and officers of board.

The members of the board shall elect from their number a president, a vice president, and a treasurer, and they shall select a secretary, but the office of secretary and treasurer may be held by the same person. The secretary or secretary-treasurer need not be a member of the board ~~but must be a licensed plumber. The board shall have its headquarters at the state capital.~~

SECTION 2. AMENDMENT. Section 43-18-06 of the North Dakota Century Code is amended and reenacted as follows:

43-18-06. Board may hire and fix compensation of employees - Incur necessary expenses.

The board may employ an executive director; inspectors, who must be registered plumbers; ~~and such stenographers and assistants~~ administrative staff, as may be necessary; ~~and. The board~~ shall fix the compensation of such employees, and may incur such other expenses as may be required. All such salaries and expenses must be paid only out of such moneys as may be in the state plumbing board fund. The executive director may serve as the secretary or secretary-treasurer of the board.

SECTION 3. AMENDMENT. Section 43-18-08 of the North Dakota Century Code is amended and reenacted as follows:

43-18-08. Duties of board.

The board shall:

1. Enforce the provisions of this chapter.
2. Prescribe rules and regulations not inconsistent with the provisions of this chapter for the examination, regulation, and licensing of plumbers, either as master plumbers, journeyman plumbers, plumber's apprentices, or any of such classifications.
3. Adopt rules that set fees for licensure which may include a fee for:

- a. An examination, within the limits established by this chapter.
- b. An application, not to exceed one hundred dollars.
- c. A renewal, within the limits established by this chapter.
- d. A late renewal, not to exceed one hundred dollars.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 316

HOUSE BILL NO. 1258

(Representatives Louser, Adams, Boschee, Mock, Roers Jones, Steiner, Vetter)
(Senators D. Larsen, Meyer, J. Roers)

AN ACT to amend and reenact sections 43-23-02, 43-23-03, 43-23-04, 43-23-05, 43-23-08, 43-23-08.2, 43-23-09, 43-23-10, 43-23-11.1, 43-23-12, 43-23-13.1, 43-23-14.1, 43-23-16, 43-23-19, 43-23.1-14, 43-23.2-02, and 43-23.2-03 of the North Dakota Century Code, relating to real estate commission administration and real estate licensing; to repeal chapter 43-23.4 of the North Dakota Century Code, relating to real estate broker trust accounts; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-23-02 of the North Dakota Century Code is amended and reenacted as follows:

43-23-02. Commission - Term - Duties - Records.

The governor shall appoint each member of the commission for a term of five years. Terms must be staggered so the term of one member expires each year. At the expiration of the term of any member of the commission, the governor shall appoint a successor for a term of five years. A commissioner may not serve more than two consecutive five-year terms. In the event of a vacancy on the commission for any reason the governor shall appoint a member for the unexpired term of that member.

A majority of the commission, in a duly assembled meeting, may perform and exercise all of the duties and powers devolving on the commission. The commission may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04.

~~The commission shall adopt a seal with North Dakota real estate commission engraved on the seal, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the commission, duly certified and authenticated by the seal of such commission, must be received in evidence in all courts equally and with like effect as the original.~~

SECTION 2. AMENDMENT. Section 43-23-03 of the North Dakota Century Code is amended and reenacted as follows:

43-23-03. Commission office - Executive director.

The commission shall employ an executive director who shall furnish bond as required by the commission and who shall keep a record of all proceedings, transactions, communications, and official acts of the commission, be and who is custodian of all moneys received for licenses which must, by the executive director, be deposited shall deposit for safekeeping in depositories designated by the commission. The executive director must be is the custodian of all records of the commission and shall perform such other duties as the commission may require. The commission is authorized to may fix the salary of the executive director, to employ such other employees as may be necessary to properly carry out the provisions of this chapter, to fix salaries and prescribe duties of such employees, and to make such

other expenditures as are necessary to carry out the provisions of this chapter. The commission shall meet annually and upon call by the executive director upon a written request of three or more members of the commission. ~~The place of meeting of the said commission must be at the office of the executive director.~~ The location of the office of the executive director must be at such places within the state as the commission may designate. The commission shall maintain all files, records, and property of the commission at the office of the executive director.

SECTION 3. AMENDMENT. Section 43-23-04 of the North Dakota Century Code is amended and reenacted as follows:

43-23-04. Commission - Compensation.

The members of the commission ~~shall be entitled to receive fifty dollars per diem, not to exceed the daily compensation rate a member of the legislative assembly is entitled to receive under section 54-35-10 for attendance at a legislative management committee meeting, as determined by the commission in the annual budget process,~~ for each day actually engaged in the service of the commission and ~~must~~ be paid actual and necessary traveling expenses to be paid only from the fund derived from fees collected in the administration of this chapter. All moneys or fees collected or received by the commission must be deposited and disbursed in accordance with section 54-44-12.

SECTION 4. AMENDMENT. Section 43-23-05 of the North Dakota Century Code is amended and reenacted as follows:

43-23-05. Real estate license required.

~~No~~A person may not act as a real estate broker or real estate salesperson, or advertise or assume to act as ~~such a~~ real estate broker or real estate salesperson, without a license issued by the real estate commission. ~~No~~A person is not entitled to collect any fees, compensation, or commission as a real estate broker or real estate salesperson without having first complied with the provisions of this chapter. ~~No~~A copartnership, association, corporation, or limited liability company may not be granted a license, unless at least one partner, shareholder, member, manager, or officer of the copartnership, association, corporation, or limited liability company, actually engaged as a real estate broker ~~or real estate salesperson as defined herein,~~ holds a license as a real estate broker, and unless every employee who acts as a real estate salesperson for ~~such the~~ copartnership, association, corporation, or limited liability company holds a license as a real estate salesperson.

SECTION 5. AMENDMENT. Section 43-23-08 of the North Dakota Century Code is amended and reenacted as follows:

43-23-08. License standards.

1. Licenses and ~~the license~~ renewals thereof may be granted only to persons who bear a good reputation for honesty, truthfulness, and fair dealing and who are competent to transact the business of a real estate broker or a real estate salesperson in such manner as to safeguard the interest of the public, and whose real estate license has not been revoked in this or any other state within two years ~~prior to before~~ the date of application. To determine the competency of applicants, the commission shall prescribe and hold examinations at designated times and places.
2. In addition to the requirements established by subsection 1, an applicant for a broker's or salesperson's license must be at least eighteen years of age.

3. Every applicant for a license as a real estate broker:
 - a. ~~Shall~~Must have been actively engaged as a licensed real estate salesperson for a period of at least ~~one year~~two years preceding the date of application, ~~which, beginning July 1, 1979, is increased to two years;~~ or
 - b. ~~Shall~~Must have had experience as determined by the commission to be substantially equal to that which a licensed real estate salesperson would ordinarily receive during a period of ~~one year, which, beginning July 1, 1979, is increased to two years.~~
4. As a prerequisite for licensure, an applicant for a salesperson's license shall furnish to the commission evidence the applicant has successfully completed at least ninety hours in courses of study approved by the commission. An applicant for a broker's license must have successfully completed an additional sixty hours in courses of study approved by the commission. An applicant for a salesperson's license may take the licensing examination before fulfillment of the prerequisite educational requirement; however, the commission may not issue a salesperson's license to an applicant unless satisfactory evidence of completion of this prerequisite educational requirement is furnished to the commission. An applicant for a broker's license must have satisfactorily fulfilled the educational requirement before taking the broker's licensing examination.
5. If the commission finds ~~that~~ an applicant could not acquire employment as a licensed real estate salesperson because of conditions existing in the area where the salesperson resides, ~~then~~ the experience requirements established in subdivisions a and b of subsection 3 may be waived by the commission. The educational requirements of subsection 4 may not be waived by the commission, but guidelines may be established ~~whereby~~by which applicants who have engaged in certain educational courses of study which are closely related to the real estate profession may be deemed to have satisfied this requirement.
6. The commission may adopt reasonable rules and regulations pursuant to the provisions of chapter 28-32 relative to procedures for licensing, approval of coursework, and for the type of certification or proof of coursework completion that must be submitted.

SECTION 6. AMENDMENT. Section 43-23-08.2 of the North Dakota Century Code is amended and reenacted as follows:

43-23-08.2. License renewal - Continuing education required.

1. The commission may establish the conditions under which each applicant for renewal of a broker's or salesperson's license, in addition to the requirements of section 43-23-08, shall submit proof of participation in approved continuing education. In establishing the conditions for continuing education, the commission may determine the required number of hours, the frequency and conditions of reporting requirements, and all other terms and conditions of continuing education compliance. The commission shall set standards for the approval of ~~lectures, seminars, courses of instruction, and correspondence~~education courses that qualify for satisfaction of this requirement, and shall maintain a current list of ~~lectures, seminars, courses of instruction, and correspondence~~education courses so approved. ~~Lectures, seminars, courses of instruction, and correspondence courses may not~~

~~require passing of a test to qualify for satisfaction of this requirement. Licensees must have the option of attending an approved course of instruction in person or taking an approved correspondence course. Attendance at a course or the completion of a correspondence an education course must be documented in accordance with procedures established by the commission. The commission may adopt rules concerning implementation of this section pursuant to chapter 28-32.~~

2. A license may not be renewed by the commission unless the proper certification showing fulfillment of the continuing education requirements of this section and the appropriate licensing fees are submitted to the commission in accordance with section 43-23-13.1.
3. The commission may exempt licensees from the continuing education requirements of this section for reasons relating to the licensee's health, military service, or for other good cause. Licensees who have held a real estate license for fifteen continuous years on January 1, 1984, are exempt from the requirements of this section.

SECTION 7. AMENDMENT. Section 43-23-09 of the North Dakota Century Code is amended and reenacted as follows:

43-23-09. License application.

Every application for a real estate broker's license or a real estate salesperson's license must be in writing upon blanks prepared by the commission and contain such data and information as the commission may require.

SECTION 8. AMENDMENT. Section 43-23-10 of the North Dakota Century Code is amended and reenacted as follows:

43-23-10. Nonresident brokers - Reciprocity - Consent to service.

A nonresident broker regularly engaged in the real estate business as a vocation and who maintains a definite place of business and is licensed in ~~some other~~another state, which offers the same privileges to the licensed brokers of this state, may not be required to maintain a place of business within this state. The commission shall recognize the license issued to a real estate broker by another state as satisfactorily qualifying the nonresident broker for license as a broker; provided, ~~that the nonresident broker has qualified for license in the broker's own state and also that the other state permits licenses to be issued to licensed brokers in this state.~~ Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against ~~such~~the applicant in the proper court of any county of the state in which a claim for relief may arise, in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state, on any member of the commission, or the executive director, ~~said~~the consent stipulating and agreeing that ~~such~~the service of ~~such~~the process or pleading shall be taken and held in all courts to be as valid and binding as if due service had been made upon ~~said~~the applicant in this state. The consent must be duly acknowledged. Any service of process or pleading must be by duplicate copies, one of which must be filed in the office of the commission and the other immediately forwarded by registered mail to the last-known main office of the applicant against whom ~~said~~the process or pleading is directed, and no default in ~~any such~~the proceedings or action may be taken except upon affidavit or certificate of the commission or the executive director, that a copy of ~~said~~the process or pleading was mailed to the defendant as herein required under this section, and no judgment by default may not be taken in any such action or proceeding until after

thirty days from the date of mailing of ~~such~~the process or pleading to the nonresident defendant.

SECTION 9. AMENDMENT. Section 43-23-11.1 of the North Dakota Century Code is amended and reenacted as follows:

43-23-11.1. Investigations, grounds for refusal, suspension or revocation of license - Hearing - Appeal.

1. The commission upon its own motion may investigate, and upon the verified complaint in writing of any person, shall, investigate the activities of any licensee or any person ~~who~~that assumes to act in such capacity within the state, and has the power to suspend or revoke a license, impose a monetary fine and actual costs incurred by the commission in the investigation and prosecution of the complaint, require course attendance, or issue a letter of reprimand, or any combination thereof, ~~when~~if the licensee, in performing or attempting to perform any of the acts included within the scope of this chapter, has performed one or more of the following:
 - a. Making a material false statement in the licensee's application for a license or in any information furnished to the commission.
 - b. Making any substantial and willful misrepresentation with reference to a real estate transaction which is injurious to any party.
 - c. Making any false promise of a character such as to influence, persuade, or induce a party to a real estate transaction to that person's injury or damage.
 - d. Acting for more than one party in a transaction without the knowledge and consent of all parties to that transaction for whom the licensee acts.
 - e. ~~Failure~~Failing to account for or to remit, within a reasonable time, any moneys coming into the licensee's possession belonging to others; commingling funds of others with the licensee's own, failing to keep such funds of others in an escrow or trust account with a bank or other recognized depository in this state, or keeping records relative to the deposit, which must contain such information as may be prescribed by the rules and regulations of the commission relative thereto.
 - f. ~~Been~~Being convicted or ~~pleaded~~pleading guilty or nolo contendere before any court of any felony, or of a misdemeanor involving theft, forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or other similar offense. A certified copy of the record of conviction is conclusive evidence of conviction in such cases.
 - g. Claiming or taking of any secret or undisclosed amount of compensation or commission or the failure of a licensee to reveal to the licensee's principal or employer the full amount of ~~such~~the licensee's compensation or commission in connection with any acts for which a license is required under this chapter.
 - h. Failing or refusing upon demand to produce any document, book, or record in the licensee's possession or under that person's control, concerning any real estate transaction under investigation by the commission.

- i. Offering real property for sale or lease without the knowledge and consent of the owner or the owner's authorized agent or on any terms other than those authorized by the owner or agent.
- j. Refusing, because of race, color, national origin, ~~or ethnic group, religion, sex, age, physical or mental disability, or status with respect to marriage or public assistance~~ to show, sell, lease, or rent any real estate to prospective renters, lessees, or purchasers.
- k. Failing or refusing upon demand to furnish copies of any document pertaining to any transaction dealing with real estate to any person whose signature is affixed ~~thereto~~ to the document.
- l. Paying compensation or commission in connection with any real estate sale, lease, or other transaction to any person ~~whethat~~ is not licensed as a real estate broker or real estate salesperson under this chapter.
- m. Failing to disclose to an owner the licensee's intention or true position if the licensee directly or indirectly through a third party purchases for the licensee or acquires or intends to acquire any interest in or any option to purchase property ~~whichthat~~ has been listed with the licensee's office for sale or lease.
- n. ~~Failure~~Failing to include a fixed date of expiration in any written listing agreement and ~~failure~~failing to leave a copy of ~~suchthe~~ agreement with the principal.
- o. ~~Failure by a~~A broker ~~failing~~ to deliver to the party or parties represented by the broker a complete detailed closing statement in every real estate transaction, at the time ~~saidthe~~ transaction is consummated, showing all of the receipts and disbursements handled by ~~suchthe~~ broker for the party or parties represented by the broker, and to retain true copies of ~~suchthe~~ statements in the broker's files.
- p. Violating any provisions of this chapter or rule or regulation ~~promulgated~~adopted by the commission.
- q. ~~Violation of any provision of such realtor's code of ethics as the commission has or may promulgate and adopt.~~
- r. Accepting a commission or valuable consideration as a real estate salesperson for the performance of any of the acts specified in this chapter, or by rule or regulation of the commission, from any person except the licensed real estate broker under whom the individual is licensed as a salesperson.
- s.r. If the licensee is a broker, allowing any unlicensed salesperson to do any act or engage in any activity regulated by this chapter or under rule or regulation of the commission; which is carried on in the name of or under the authority of the broker.
- t.s. ~~Failure of a~~A salesperson ~~failing~~ to place with that person's~~salesperson's~~ employing broker for deposit in the brokerage trust account all real estate trust moneys received by the salesperson within twenty-four hours of the time of receipt; or failure of the employing broker to place ~~suchthe~~ moneys

for deposit within twenty-four hours of the time of receipt from the salesperson. Provided that if trust money is received on a day prior to before a holiday or on another day prior to before which the depository is closed where the trust fund is maintained, the moneys must then be deposited during the next business day of the depository.

- u.t. ~~Failure of the~~The licensee ~~failing~~ to reduce an offer to writing when a proposed purchaser requests ~~that such~~the offer be submitted to the seller, or failure of the licensee to submit all offers to a seller when ~~such~~the offers are received prior to before the seller accepting an offer in writing and until the broker has knowledge of ~~such~~the acceptance.
- v.u. Any other conduct, whether of the same or of a different character than specified in this subsection, which constitutes dishonesty or fraudulent conduct, whether arising within or without the pursuit of that person's licensed privilege.
- w.v. Any conduct ~~which~~that in the determination of the commission does not meet the generally accepted standard of expertise, care, or professional ability expected of real estate brokers or salespersons, provided that any disciplinary measures by the commission under this subdivision must be limited to the issuance of a letter of reprimand to the offending licensee.
2. If the commission declines or fails to approve an application submitted to ~~it~~the commission, ~~it~~the commission immediately shall immediately give notice of that fact to the applicant, and upon request from ~~such~~the applicant, filed within twenty days after the receipt of ~~such~~the notice, shall fix a time and place for hearing, of which twenty days' notice must be given to ~~such~~the applicant and to other persons interested or protesting, to offer evidence relating to the application. In such cases the commission shall fix the time for such hearing on a date within sixty days from receipt of the request for the particular hearing, provided the time of hearing may be continued from time to time with the consent of the applicant. As a result of such hearing, the commission may either approve the application if all other applicable provisions of this chapter have been met, and permit the applicant to take the examination to determine whether the applicant ~~shall~~must be licensed, or ~~it~~the commission may sustain ~~it~~the commission's prior decision refusing to approve the application.
 3. A license may not be revoked or suspended, a monetary fine or actual costs may not be imposed, course attendance may not be required, nor any letter of reprimand issued except after hearing before the commission with a copy of the charges having been duly served upon the licensee and upon sustaining of the charges for suspension, revocation, fine, payment of actual costs incurred, required course attendance, or reprimand. The provisions of chapter 28-32 apply to and govern all proceedings for suspension, revocation, fine, payment of actual costs incurred, required course attendance, or reprimand of licenses or licensees.
 4. In any order or decision issued by the commission in resolution of a disciplinary proceeding in which disciplinary action is imposed against a licensee, the commission may direct the licensee to pay a fine not to exceed ~~two thousand five hundred~~five thousand dollars and actual costs, including attorney's fees, incurred by the commission in the investigation and prosecution of the case. All fines collected must be deposited in the commission's license fee account.

SECTION 10. AMENDMENT. Section 43-23-12 of the North Dakota Century Code is amended and reenacted as follows:

43-23-12. Broker's place of business - License of employed salesperson.

1. Every ~~person~~individual, partnership, association, corporation, or limited liability company licensed as a real estate broker is required to have and maintain a definite place of business within this state, for the transaction of real estate business, ~~except as provided in section 43-23-10. The certificate of registration~~license as broker and the ~~certificate~~license of each real estate salesperson ~~employed by such~~licensed under that broker must be prominently displayed in said office or the licensee's name and license number listed on the broker's website. The said place of business must be designated in the license, and ~~no~~ license issued under the authority of this chapter may ~~not~~ authorize the licensee to transact business ~~at any other address~~under any other broker. In case of removal from the designated address~~broker~~, the licensee shall make application to the commission before ~~said~~the removal or within ~~ten~~five days after ~~said~~the removal, designating the new location of such office, whereupon the commission immediately shall ~~forthwith~~ issue a new license for the new location for the unexpired period. The broker's home may qualify as ~~such~~the place of business.
2. All licenses issued to real estate salespersons ~~shall~~must designate the ~~employer~~broker of ~~such~~the salespersons. Prompt notice in writing, within ~~ten~~five days, must be given to the commission by any real estate salesperson of a change of ~~employer~~broker, and of the name of the licensed broker into whose ~~employ~~supervision the salesperson is about to enter, and a new license ~~shall thereupon~~must be issued by the commission to ~~such~~the salesperson for the unexpired term of the original license, upon the return to the commission of the license previously issued. The change of ~~employer or employment~~broker by any licensed real estate salesperson, without notice to the commission ~~as aforesaid~~, shall automatically ~~cancel~~cancel that person's license. Upon termination of a real estate salesperson's ~~employment~~supervision by a broker, the broker ~~employer~~immediately shall ~~forthwith~~ return the salesperson's license ~~to notify the commission for cancellation in writing~~. It is unlawful for any real estate salesperson to perform any of the acts contemplated by this chapter either directly or indirectly after that person's ~~employment~~supervision by a broker has been terminated and ~~license as a salesperson has been returned for cancellation, until said~~the license has been reissued by the commission to a new broker.

SECTION 11. AMENDMENT. Section 43-23-13.1 of the North Dakota Century Code is amended and reenacted as follows:

43-23-13.1. License renewal.

Every person licensed to practice as a real estate broker or real estate salesperson ~~must~~shall register annually with the commission and pay the appropriate annual renewal fee as provided in section 43-23-13. The application for renewal must be accompanied by such certification as required by this chapter and rules of the commission to show compliance with the educational requirements of sections 43-23-08 and 43-23-08.2, and ~~is to~~must be submitted to the commission with the appropriate fee no later than the application deadline set by the commission. A licensee ~~who~~that fails to file a timely application for the renewal of any license and pay the renewal fee on or before the application deadline may file a late renewal application, together with the required educational certification, before ~~March~~

~~first January fifteenth~~ of the subsequent year and shall pay, in addition to the renewal fee, a late fee as set by the commission for each month or fraction thereof ~~of a month~~ after the application deadline. Any license not renewed by ~~March first January fifteenth~~ must be canceled. The cancellation must be performed without any notice or opportunity for hearing. Any person whose license has been canceled and ~~whowhich~~ desires relicensure must be required to satisfy the application and examination requirements for prospective licensees in accordance with this chapter and rules of the commission.

~~No~~A licensee may not engage in any activity after December thirty-first of any year for which a license is required under this chapter unless that person's license has been renewed by the commission.

SECTION 12. AMENDMENT. Section 43-23-14.1 of the North Dakota Century Code is amended and reenacted as follows:

43-23-14.1. Handling of funds by brokers.

Except as otherwise provided in this section, every broker ~~shall~~, at all times, shall maintain in the broker's name or firm name, a separate, noninterest-bearing trust account designated as such in a federally insured financial institution in this state in which the broker ~~shall immediately shall~~ place as a demand deposit all funds not the broker's own coming into the broker's possession, in accordance with rules adopted by the commission. This requirement extends to funds in which the broker may have some future interest or claim and includes earnest money deposits. ~~Provided, the deposit of funds may be made in an interest-bearing account in a federally insured bank, trust company, savings and loan association, or credit union if all parties having an interest in the funds have agreed in writing and if a copy of the agreement is maintained on file by the broker.~~ A broker may not commingle the broker's personal funds or other funds in a trust account, except that a broker may deposit and keep a sum not to exceed five hundred dollars in the account from the broker's personal funds, which sum must be specifically identified and deposited to cover service charges related to the trust account. In conjunction with the account, the broker shall maintain at the broker's usual place of business, books, records, contracts, and other necessary documents so that the adequacy of the account may be determined at any time. Trust accounts and other records must be open to inspection by the commission and ~~its~~the commission's duly authorized agents at all times during regular business hours at the broker's usual place of business.

A broker ~~whothat~~ does not accept trust funds in real estate brokerage transactions and ~~whowhich~~ has applied for and received a waiver from the real estate commission is not required to maintain a designated trust account. However, if a broker does not maintain a trust account and later receives trust funds in a real estate brokerage transaction, the broker shall open a designated trust account as required by this section and deposit any trust funds in accordance with rules adopted by the commission. A broker shall maintain a record tracking the earnest money associated with all transactions even if the funds are deposited directly with the title company and the broker does not take possession of the funds.

SECTION 13. AMENDMENT. Section 43-23-16 of the North Dakota Century Code is amended and reenacted as follows:

43-23-16. Licensee list.

The executive director shall ~~publish, at least annually, maintain~~ a list online of the names and addresses of all licensees licensed by the board under the provisions of this chapter, together with such other information relative to the enforcement of the

provisions of this chapter as the board may deem of interest to the public. ~~One of such lists must be mailed to the recorder in each county, unless the board of county commissioners designates a different official, and must be held as a public record. Such lists must also be provided by the executive director to any person in this state upon request, and to all licensed brokers without charge.~~

SECTION 14. AMENDMENT. Section 43-23-19 of the North Dakota Century Code is amended and reenacted as follows:

43-23-19. Errors and omissions insurance required of salespersons and brokers - Rules.

The real estate commission shall adopt rules pursuant to chapter 28-32 requiring as a condition of licensure that, ~~effective January 1, 2002, and thereafter,~~ all real estate salespersons and brokers, except those ~~whowhich~~ hold inactive licenses, carry errors and omissions insurance covering all activities contemplated under this chapter.

SECTION 15. AMENDMENT. Section 43-23.1-14 of the North Dakota Century Code is amended and reenacted as follows:

43-23.1-14. Cease and desist ordersOrders.

1. ~~IfThe commission may issue an order requiring a person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter if the commission determines after notice and hearing that a person has:~~

- a. Violated any provision of this chapter;
- b. Directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of an interest in subdivided lands;
- c. Made any substantial change in the plan of disposition and development of the subdivided lands ~~subsequent to~~after the order of registration without obtaining prior written approval from the commission;
- d. Disposed of any subdivided lands ~~whichthat~~ have not been registered with the commission; or
- e. Violated any lawful order or rule or regulation of the commission;

~~it may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter.~~

2. If the commission makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, ~~itthe commission may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the commission, whenever possible, by telephone or otherwise shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order must include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanentcommence an action in the district court of the county in which the act or practice occurred~~

for an injunction to enforce compliance with this chapter. The commission is not required to give any bond for commencing this action. Upon a showing of a violation the district court may enjoin the act or practice and may make any order necessary to conserve, protect, and disburse any funds involved.

SECTION 16. AMENDMENT. Section 43-23.2-02 of the North Dakota Century Code is amended and reenacted as follows:

43-23.2-02. Fees paid into fund.

1. In addition to the appropriate licensing fees paid by real estate brokers and salespersons, ~~each person licensed for the calendar year 1976 as a real estate broker or salesperson shall pay, at the time of application for such license, a separate fee in the amount of twenty dollars which must be credited into the education, research, and recovery fund. Each person so licensed for the calendar year 1977 shall pay a like fee in the amount of twenty dollars which must be credited into the fund. Thereafter, any person who is licensed as a real estate broker or salesperson for the first time, either for the calendar year 1978 or for a subsequent calendar year, shall pay a fee of twenty dollars at the time of obtaining such~~the license which must be credited into the education, research, and recovery fund. Except for assessments paid into the fund as provided in subsection 2, any person obtaining a broker's or salesperson's license for the first time ~~which becomes effective for the calendar year 1978 or for a subsequent calendar year, shall pay the fee of twenty dollars into the fund only once.~~
2. If, on June thirtieth of any year, following the establishment of the real estate education, research, and recovery fund, the amount remaining in the fund is less than sixty thousand dollars, every licensed real estate broker and salesperson, when renewing that ~~individual's~~person's license, shall pay, in addition to the annual renewal fee, a sum not to exceed twenty dollars, which must have been determined by the commission to be sufficient to restore the balance in the fund to at least sixty thousand dollars.
3. The commission shall maintain a minimum of sixty thousand dollars in the fund for recovery purposes. Such funds must be invested and reinvested by the commission and interest from ~~said~~the investments must be deposited to the credit of the fund. Sufficient liquidity must be maintained so that moneys are available to satisfy all claims ~~which~~that are processed through the commission by means of the procedures established in this chapter.
4. The commission, in ~~its~~the commission's discretion, may use any moneys in the fund in excess of sixty thousand dollars, regardless of whether ~~it~~the excess is from education, research, and recovery fund fees or accrued interest thereon, for the following purposes:
 - a. To promote the advancement of education and research in the field of real estate for the benefit of those licensed under chapter 43-23.
 - b. To underwrite educational seminars and other forms of educational projects for the benefit of real estate licensees.
 - c. To establish a real estate chair or courses at North Dakota institutions of higher learning for the purpose of making such courses available to licensees and the general public.

- d. To contract for a particular educational or research project in the field of real estate to further the purposes of chapter 43-23.
5. The executive director of the commission shall furnish a bond in the amount of sixty thousand dollars, upon such conditions as the commission may prescribe.

SECTION 17. AMENDMENT. Section 43-23.2-03 of the North Dakota Century Code is amended and reenacted as follows:

43-23.2-03. Claims against fund - Orders for payment.

When any aggrieved person obtains a final judgment in any court of competent jurisdiction against any person licensed under chapter 43-23, on grounds of fraudulent, deceptive, or dishonest practices, or conversion of trust funds arising directly out of any act or transaction when the judgment debtor was licensed and performed acts for which a license is required under chapter 43-23, ~~and which act or transaction occurred on or after July 1, 1975,~~ the aggrieved person may, upon obtaining such final judgment, file an application in the court in which the judgment was entered for an order directing payment out of the fund in the amount of the actual and direct loss up to the sum of fifteen thousand dollars, unpaid on the judgment, provided that nothing contained within this chapter may be construed to obligate the fund for more than fifteen thousand dollars per transaction regardless of the number of persons aggrieved or parcels of real estate involved in the transaction. The application must be verified and must be served on the commission and upon the judgment debtor and an affidavit of service filed with the court.

SECTION 18. REPEAL. Chapter 43-23.4 of the North Dakota Century Code is repealed.

Approved March 15, 2021

Filed March 15, 2021

CHAPTER 317

SENATE BILL NO. 2122

(Senators Bekkedahl, Bakke, Kreun)
(Representatives Paur, Sanford)

AN ACT to create and enact a new section to chapter 43-26.1 of the North Dakota Century Code, relating to permitting physical therapists to order musculoskeletal medical imaging; and to amend and reenact subsection 14 of section 43-26.1-01 of the North Dakota Century Code, relating to the scope of practice of physical therapists.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 14 of section 43-26.1-01 of the North Dakota Century Code is amended and reenacted as follows:

14. "Practice of physical therapy" means:

- a. Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in movement and mobility, and disabilities or other health and movement-related conditions to determine a diagnosis for physical therapy, prognosis, and plan of therapeutic intervention, and to assess the ongoing effects of intervention. The term includes ordering musculoskeletal imaging consisting of plain film radiographs to be performed by a professional authorized by chapter 43-62 and interpreted by a licensed physician trained in radiology interpretation, and using these results to determine if a referral to another health care provider is necessary or indicates the necessary treatment is within the physical therapist's scope of practice.
- b. Alleviating impairments, functional limitations in movement and mobility, and disabilities by designing, implementing and modifying therapeutic interventions that may include therapeutic exercise; neuromuscular education; functional training related to positioning, movement, and mobility in self-care and in-home, community, or work integration or reintegration; manual therapy; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective, and supportive devices and equipment related to positioning, movement, and mobility; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physiotherapy; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction.
- c. Engaging as a physical therapist in reducing the risk of injury, impairment, functional limitation and disability, including the promotion and maintenance of fitness, health, and wellness in populations of all ages.
- d. Engaging as a physical therapist in administration, consultation, education, and research.

SECTION 2. A new section to chapter 43-26.1 of the North Dakota Century Code is created and enacted as follows:

Ordering imaging.

A physical therapist may order musculoskeletal imaging consisting of plain film radiographs if the physical therapist holds a clinical doctorate degree in physical therapy or has completed a board-approved formal medical imaging training program.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 318

HOUSE BILL NO. 1151

(Representatives Devlin, Rohr, M. Ruby, Weisz)
(Senators Lee, K. Roers)

AN ACT to create and enact two new sections to chapter 43-28 of the North Dakota Century Code, relating to telehealth and the practice of dentistry; to amend and reenact sections 43-28-01, 43-28-03, and 43-28-04 of the North Dakota Century Code, relating to the membership of the state board of dental examiners and the definition of telehealth; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-28-01 of the North Dakota Century Code is amended and reenacted as follows:

43-28-01. Definitions.

As used in this chapter and chapter 43-20, unless the context otherwise requires:

1. "Accredited dental school" means a dental school, college, or university accredited by the commission on dental accreditation of the American dental association or its successor.
2. "Advertising" means to invite the attention of or give notice to the public, by any means, medium, or manner whatsoever of any fact, information, or data pertaining to or being conducive of the practice of dentistry in this state.
3. "Board" means the state board of dental examiners.
4. "Certificate of registration" means a written statement of the board declaring that a licensed dentist has paid the biennial registration fee required by this chapter.
5. "Dentist" means an individual who has a license to practice in this state and who holds a valid biennial certificate of registration.
6. "License" means the right, authority, or permission granted by the board to practice dentistry in this state.
7. "Practice of dentistry" means examination, diagnosis, treatment, repair, administration of local or general anesthetics, prescriptions, or surgery of or for any disease, disorder, deficiency, deformity, discoloration, condition, lesion, injury, or pain of the human oral cavity, teeth, gingivae, and soft tissues, and the diagnosis, surgical, and adjunctive treatment of the diseases, injuries, and defects of the upper and lower human jaw and associated structures.
8. "Telehealth" has the same meaning as in section 26.1-36-09.15.

SECTION 2. AMENDMENT. Section 43-28-03 of the North Dakota Century Code is amended and reenacted as follows:

43-28-03. State board of dental examiners - Members - Appointment - Terms of office - Oath - Vacancies.

The state board of dental examiners consists of ~~seventy-nine~~ members appointed by the governor. The membership of the board must include ~~five~~^{six} dentist members, at least one of whom is a board-eligible or board-certified oral and maxillofacial surgeon; ~~one dental hygienist member;~~ one dental assistant member; and one independent consumer member. Appointment to the board is for a term of five years, with terms of office arranged so that ~~one term expires~~no more than two terms expire on March sixteenth of each year, ~~except that each fifth year there must be two new board members appointed, one of whom is a dentist and the other a dental hygienist and two years later two new board members must be appointed, one of whom is a dentist, and one of whom is a consumer member. The first five-year term of the consumer member commences on July 1, 1993, and continues through March 15, 1998.~~ Each member of the board shall hold office until a successor is appointed and qualified. ~~Persons~~An individual appointed to the board shall ~~qualify~~qualifies by taking the oath required of civil officers. ~~No~~^A member may ~~not~~ serve more than ten years or two 5-year terms of office. If a member of the board is absent from two consecutive regular meetings, the board may declare a vacancy to exist. All vacancies on the board must be filled by the governor by appointment.

SECTION 3. AMENDMENT. Section 43-28-04 of the North Dakota Century Code is amended and reenacted as follows:

43-28-04. Qualifications and appointment of members of the board - Limited vote.

1. An individual may not be appointed as a dentist member of the board unless that individual:
 - a. Is a dentist licensed and registered under this chapter; and
 - b. Is actively engaged in the practice of dentistry and has been so engaged in this state for at least five years immediately preceding the appointment.
2. An individual may not be appointed as the dental hygienist member of the board unless that individual:
 - a. Is a licensed and registered dental hygienist in accordance with chapter 43-20; and
 - b. Is actively engaged in the practice of dental hygiene and has been so engaged in this state for at least five years immediately preceding the dental hygienist's appointment.
3. An individual may not be appointed as the dental assistant member of the board unless that individual:
 - a. Is a registered dental assistant in accordance with chapter 43-20; and
 - b. Is actively practicing as a registered dental assistant and has been so practicing in this state for at least five years immediately preceding the dental assistant's appointment.
4. An individual may not be appointed as the independent consumer member of the board unless that individual:

- a. Has been a resident of North Dakota for five years immediately preceding appointment;
- b. Has no personal or family or financial relationship with the dental profession; and
- c. Is not a dentist, a dental hygienist, a dental assistant, a physician, a nurse, or the spouse of an individual engaged in any of those occupations.

4-5. The dental hygienist, dental assistant, and independent consumer member of the board shall exercise full voting privileges in all areas except that the dental hygienist may not participate in the clinical examination of dentists for licensure and the dental assistant and independent consumer member may not participate in the clinical examination of dentists or hygienists for licensure.

SECTION 4. A new section to chapter 43-28 of the North Dakota Century Code is created and enacted as follows:

Standard of care and professional ethics - Telehealth.

A dentist is held to the same standard of care and ethical standards, whether practicing traditional in-person dentistry or telehealth. The following apply in the context of telehealth:

1. Professional ethical standards require a dentist to practice only in areas in which the dentist has demonstrated competence, based on the dentist's training, ability, and experience.
2. A dentist may not practice telehealth unless a bona fide dentist-patient relationship is established in person or through telehealth. A dentist practicing telehealth shall verify the identity of the patient seeking care and shall disclose to the patient the dentist's identity, physical location, contact information, and licensure status.
3. Before a dentist initially diagnoses or treats a patient for a specific illness, disease, or condition, the dentist shall perform an examination or evaluation. A dentist may perform an examination or evaluation entirely through telehealth if the examination or evaluation may be performed in accordance with the standard of care required for an in-person dental examination or evaluation. A dentist may not use telehealth to perform an initial examination or evaluation in circumstances in which the standard of care necessitates an in-person dental examination.
 - a. An appropriate telehealth examination or evaluation may include an examination utilizing secure videoconferencing in conjunction with store-and-forward technology or appropriate diagnostic testing that would be required during an in-person examination or evaluation or an examination conducted with an appropriately licensed intervening dental health care provider, practicing within the scope of the dental health care provider's profession, providing necessary physical findings to the dentist during a live, two-way telehealth encounter. An examination or evaluation consisting only of a static online questionnaire or an audio conversation does not meet the standard of care.

- b. The use of telehealth does not expand the scope of practice for a dental health care provider, and may not be used to circumvent the licensure requirements established for dental health care providers in this state.
- c. A dentist who practices telehealth in this state must have adequate knowledge of the availability and location of local dentists and dental health care providers to provide followup care to a patient following a dental telehealth encounter, including emergent and acute care facilities, in order to enable a patient to receive followup care. Once a dentist conducts an appropriate examination or evaluation, whether in-person or by telehealth, and establishes a patient-dentist relationship, subsequent followup care may be provided as deemed appropriate by the treating dentist, or by another dentist licensed by the board designated by the treating dentist to act temporarily in the treating dentist's absence.
- 4. A dentist practicing telehealth is subject to all North Dakota laws governing the adequacy of dental records and the provision of dental records to the patient and other dental health care providers treating the patient.
- 5. A dentist practicing telehealth must have procedures for providing in-person services or for the referral of a patient requiring dental services that cannot be provided by telehealth to another dentist who practices in the area of the state and the patient can readily access.

SECTION 5. A new section to chapter 43-28 of the North Dakota Century Code is created and enacted as follows:

Prohibition - Waivers.

A dentist practicing dentistry may not require a patient to sign a form or statement waiving the patient's right to file a complaint against the dentist with an appropriate state entity or shielding the dentist from liability for injury resulting from a dental encounter.

SECTION 6. APPLICATION. The governor shall appoint the members of the board for staggered terms so no more than two members' terms expire each year. Notwithstanding section 43-28-03, a member appointed under this section may not serve more than two full five-year terms but may serve more than ten years.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 319

SENATE BILL NO. 2095

(Industry, Business and Labor Committee)
(At the request of the Private Investigative and Security Board)

AN ACT to amend and reenact sections 43-30-01 and 43-30-10, subsection 6 of section 43-30-10.1, and section 43-30-16 of the North Dakota Century Code, relating to the private investigative security board's executive director and the board's authority to impose penalties and injunctions for unlicensed activity, issue citations for unauthorized practice, and impose administrative fees; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-30-01 of the North Dakota Century Code is amended and reenacted as follows:

43-30-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the private investigative and security board.
2. "Employee" means an employee under a contract of employment as defined in chapter 34-01, and not an independent contractor as defined by the common-law test.
3. "Executive director" means a person appointed by the board on a full-time or part-time basis to be responsible and accountable to the board for the proper administration of the board's duties.
4. "License" includes a registration issued by the board.
- 4.5. "Licensee" includes an individual who is registered by the board.
- 5.6. "Private investigative service" means, for a fee, reward, or other consideration, undertaking any of the following acts for the purpose of obtaining information for others:
 - a. Investigating the identity, habits, conduct, movements, whereabouts, transactions, reputation, or character of any person or organization;
 - b. Investigating the credibility of persons;
 - c. Investigating the location or recovery of lost or stolen property, missing persons, owners of abandoned property or escheated property, or heirs to estates;
 - d. Investigating the origin of and responsibility for libels, losses, accidents, or damage or injuries to persons or property;

- e. Investigating the affiliation, connection, or relationship of any person, firm, or corporation with any organization, society, or association, or with any official, representative, or member thereof;
 - f. Investigating the conduct, honesty, efficiency, loyalty, or activities of employees, persons seeking employment, agents, or contractors and subcontractors;
 - g. Investigating or obtaining evidence to be used before any authorized investigating committee, board of award, board of arbitration, administrative body, or officer or in preparation for trial of civil or criminal cases; or
 - h. Investigating the identity or location of persons suspected of crimes or wrongdoing.
- 6-7.** "Private security service" means furnishing for hire security officers or other persons to:
- a. Protect persons or property;
 - b. Prevent or detect theft or the unlawful taking of goods, wares, or merchandise, or to prevent the misappropriation or concealment of goods, wares, merchandise, money, bonds, stocks, choses in action, notes, or other valuable documents or papers;
 - c. Control, regulate, or direct the flow of or movements of the public, whether by vehicle or otherwise, to assure protection of private property;
 - d. Prevent or detect intrusion, unauthorized entry or activity, vandalism, or trespass on private property;
 - e. Perform the service of a security officer or other person for any of these purposes; or
 - f. Transport money or negotiable securities to or from a financial institution or between business locations on a regular or daily basis, except for mail delivery.

SECTION 2. AMENDMENT. Section 43-30-10 of the North Dakota Century Code is amended and reenacted as follows:

43-30-10. Penalty - Injunction - Unlicensed activity.

Any person who violates this chapter or rules adopted under this chapter, or any person who provides a private investigative service or private security service without a current license issued by the board, or falsely states or represents that the person has been or is an investigative officer or employed by an investigative or security officer or agency is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of an injunction is available to restrain and enjoin violations of any provisions of this chapter, without proof of actual damages sustained by any person. An injunction does not preclude criminal prosecution and punishment of a violator. The board is not liable for the lost income, costs, or any other expenses that may be incurred by a person against whom an injunction is sought, and the board may not be required to provide security or a bond. The board may seek costs for reimbursement of expenses for obtaining an injunction, including attorney's fees. In

addition to issuing the injunction, the court may impose an administrative fee consistent with section 43-30-10.1 if the person has violated a provision of this chapter. The board may seek an injunction, impose administrative fees, or seek an order of abatement through an administrative action or in district court.

SECTION 3. AMENDMENT. Subsection 6 of section 43-30-10.1 of the North Dakota Century Code is amended and reenacted as follows:

6. An appeal must be heard under the procedures contained in chapter 28-32, unless the citation is brought in district court.

²⁰⁰ **SECTION 4. AMENDMENT.** Section 43-30-16 of the North Dakota Century Code is amended and reenacted as follows:

43-30-16. Examination, license, and registration fees.

The board may establish by rule and charge the following fees:

1. The fee to be paid by an applicant for an examination to determine the applicant's fitness to receive a license as a private investigator or a license to provide private security services may not exceed one hundred dollars.
2. The fee to be paid by an applicant for the initial issuance or the renewal of a license as a private investigator or a license to provide private security services may not exceed one hundred fifty dollars. A late fee not to exceed fifty dollars may be charged for each month the renewal fee is due and unpaid.
3. The fee to be paid by an applicant to apply for a license to conduct a private security or detective agency may not exceed one hundred dollars.
4. The fee for the issuance or the renewal of a license to conduct a private security or detective agency may not exceed three hundred dollars. A late fee not to exceed one hundred dollars may be charged for each month the renewal fee is due and unpaid.
5. The one-time fee to be paid by an applicant for the issuance of a private security training certificate may not exceed twenty-five dollars.
6. The annual fee to be paid by an applicant for the issuance of an armed ~~private security~~ certificate may not exceed ~~twenty-five~~^{thirty} dollars. A late fee not to exceed ten dollars may be charged for each month the renewal fee is due and unpaid.
7. The fee to be paid for the issuance of a duplicate license may not exceed twenty dollars.
8. The initial registration fee to provide private investigative service or private security service may not exceed ~~twenty-five~~^{thirty} dollars. The fee for the renewal of a registration to provide private investigative service or private security service may not exceed ~~twenty-five~~^{thirty} dollars. A late fee not to exceed ten dollars may be charged for each month the renewal fee is due and unpaid.

²⁰⁰ Section 43-30-16 was also amended by section 1 of House Bill No. 1463, chapter 497, and section 1 of Senate Bill No. 2096, chapter 321.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 320

SENATE BILL NO. 2126

(Senators Kreun, Clemens, Myrdal)
(Representatives Jones, O'Brien)

AN ACT to amend and reenact section 43-30-03 of the North Dakota Century Code, relating to the membership of the private investigative and security board; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-30-03 of the North Dakota Century Code is amended and reenacted as follows:

43-30-03. Private investigative and security board.

The governor shall appoint a private investigative and security board. The board must consist of not ~~less~~fewer than five nor more than eleven members appointed for staggered four-year terms. ~~Appointees to~~When making appointments, the governor shall consider whether there is member representation from the western, central, and eastern geographic regions of the state. Each member of the board must be knowledgeable in private investigative or private security matters. A majority of the members of the board must be actively engaged in the private investigative or security profession, with at least one member actively engaged in law enforcement. Members of the board may not receive ~~any~~ compensation for their service on the board, but ~~they~~ are entitled to ~~be reimbursed~~receive reimbursement for their expenses incurred in performing ~~their~~official duties in the amounts provided by law for state employees.

SECTION 2. APPLICATION. This Act applies to board appointments made on and after the effective date of this Act.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 321

SENATE BILL NO. 2096

(Industry, Business and Labor Committee)
(At the request of the Private Investigative and Security Board)

AN ACT to create and enact a new subsection to section 43-30-16 of the North Dakota Century Code, relating to application and renewal fees for armed first responder course instructor certification; and to amend and reenact subsection 7 of section 62.1-02-14 of the North Dakota Century Code, relating to licensing of instructors of armed first responders in schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰¹ **SECTION 1.** A new subsection to section 43-30-16 of the North Dakota Century Code is created and enacted as follows:

The initial application fee for a certified course instructor for an armed first responder training certification may not exceed four hundred dollars. A fee for renewal of a course instructor certification for an armed first responder program may not exceed three hundred dollars.

²⁰² **SECTION 2. AMENDMENT.** Subsection 7 of section 62.1-02-14 of the North Dakota Century Code is amended and reenacted as follows:

7. The plan submitted by the school to the superintendent of public instruction must require the selected individual to complete ~~training equivalent to the South Dakota school sentinel program as established on August 1, 2019, or~~ complete the course established by the private investigative and security board. The private investigative and security board shall establish standards equivalent to the South Dakota school sentinel program and may license and certify course instructors, audit the course, and set administrative fees for licensure and certification.

Approved March 29, 2021

Filed March 30, 2021

²⁰¹ Section 43-30-16 was also amended by section 1 of House Bill No. 1463, chapter 497, and section 4 of Senate Bill No. 2095, chapter 319.

²⁰² Section 62.1-02-14 was also amended by section 3 of House Bill No. 1463, chapter 497.

CHAPTER 322

HOUSE BILL NO. 1345

(Representatives Heinert, Jones, Klemin, Meier, Satrom, Vetter)
(Senators Larson, Luick, Myrdal)

AN ACT to amend and reenact sections 43-31-07, 43-31-09, 43-31-10, and 43-31-14 of the North Dakota Century Code, relating to the licensing of detection of deception examiners and to repeal sections 43-31-07.1 and 43-31-16 of the North Dakota Century Code, relating to internship licenses and exemptions from testing requirements of detection of deception examiners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-31-07 of the North Dakota Century Code is amended and reenacted as follows:

43-31-07. Qualifications of applicant.

~~A person~~An individual is qualified to receive a license as an examiner ~~if the applicant:~~

1. ~~Who is~~is at least twenty-one years of age.
2. ~~Who establishes that the person is a person of honesty, truthfulness, integrity, and moral fitness~~Within the last five years has not pled guilty or nolo contendere to, been found guilty of, or been released from incarceration or probation for, violation of a law of the United States which is a felony offense or any state or local ordinance that is a felony offense.
3. ~~Who has not been convicted of an offense determined by the attorney general to have a direct bearing upon a person's ability to serve the public as an examiner, or who, following~~Following conviction of any offense or release from incarceration or probation, is determined, pursuant to section 12.1-33-02.1, to be rehabilitated, or who has not been released or discharged under other than honorable conditions from any of the armed services of the United States.
4. ~~Who has passed a test conducted by the attorney general,~~Has not been released or under the attorney general's supervision, to determine~~discharged under other than honorable conditions from any of the applicant's competency to obtain a license to practice as an examiner~~armed services of the United States.
5. ~~Who has~~Has satisfactorily completed a polygraph examiners course certified by either the American polygraph association or the American association of police polygraphists, or approved by the attorney general and has.
6. Has satisfactorily completed not less than six months of internship training under the supervision of a licensed polygraph examiner.

SECTION 2. AMENDMENT. Section 43-31-09 of the North Dakota Century Code is amended and reenacted as follows:

43-31-09. Contents of license - Posting.

A license must be prominently displayed at the principal place of business of every examiner or may be in the possession of the examiner when conducting examinations in a location other than the examiner's principal place of business. Each license must be signed by the attorney general and must be issued under the seal of the attorney general's office.

SECTION 3. AMENDMENT. Section 43-31-10 of the North Dakota Century Code is amended and reenacted as follows:

43-31-10. Revocation or suspension.

The attorney general may refuse to issue or renew or may suspend or revoke a license for any one of the following grounds:

1. Material misstatement in the application for original license or in the application for any renewal license under this chapter.
2. Willful disregard or violation of this chapter or of any regulation or rule issued pursuant thereto.
3. Conviction of an offense determined by the attorney general to have a direct bearing upon a person's ability to serve the public as an examiner, or when the attorney general determines, following a person's conviction of any offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.
4. Making any willful misrepresentation or false promises or causing to be printed any false or misleading advertisement for the purpose of directly or indirectly obtaining business or trainees.
5. ~~Having demonstrated incompetency to act as an examiner as defined under this chapter.~~
6. Allowing one's license under this chapter to be used by an unlicensed person in violation of the provisions of this chapter.
- ~~7-6.~~ Willfully aiding or abetting another in the violation of this chapter or of any rule issued by the attorney general pursuant thereto.
- ~~8-7.~~ The licenseholder has been adjudged mentally ill, mentally deficient, or in need of mental treatment.
- ~~9-8.~~ Failing, within a reasonable time, to provide information requested by the attorney general as the result of a formal or informal complaint to the attorney general, which would indicate a violation of this chapter.

SECTION 4. AMENDMENT. Section 43-31-14 of the North Dakota Century Code is amended and reenacted as follows:

43-31-14. Examination and license ~~License~~ fees.

1. ~~The fee to be paid by an applicant for examination to determine the applicant's fitness to receive an examiner's license is fifty dollars.~~

2. The annual license fee is thirty-five dollars, and is due and payable on or before October first of each year. A reinstatement fee of fifty dollars is required in addition to the annual license fee for each license renewal applied for after ~~September thirtieth~~October first.
- ~~3-2.~~ The fee to be paid for the issuance of a duplicate license is five dollars.
- ~~4-3.~~ The fee to be paid for an internship license, and for the extension or renewal thereof, is twenty-five dollars.

SECTION 5. REPEAL. Sections 43-31-07.1 and 43-31-16 of the North Dakota Century Code are repealed.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 323

SENATE BILL NO. 2187

(Senators K. Roers, Burckhard, Hogan)
(Representatives Devlin, Dobervich, Rohr)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 and sections 43-44-09.1, 43-44-09.2, 43-44-10.1, 43-44-18, 43-44-19, 43-44-20, and 43-44-21, relating to criminal history background checks and licensure and regulation of nutritionists and dietitians; to amend and reenact sections 43-44-01, 43-44-02, 43-44-03, 43-44-05, 43-44-06, 43-44-07, 43-44-08, 43-44-09, 43-44-10, 43-44-12, 43-44-13, 43-44-15, 43-44-16, and 43-44-17 of the North Dakota Century Code, relating to the regulation and licensure of nutritionists and dietitians; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰³ **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The board of dietetic practice for applications for licensure or renewal under chapter 43-44, except that criminal history record checks need not be made unless required by the board.

SECTION 2. AMENDMENT. Section 43-44-01 of the North Dakota Century Code is amended and reenacted as follows:

43-44-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the board of dietetic practice.
2. "Board for certification of nutrition specialists" means the entity that serves as the credentialing agency for certified nutrition specialists.
3. "Certified nutrition specialist" means an individual certified as a nutrition specialist by the board for certification of nutrition specialists that authorizes the individual to use the title "certified nutrition specialist" and the abbreviation "CNS" to indicate the individual is a certified nutrition specialist.
4. "Commission on dietetic registration" means the credentialing agency for the academy of nutrition and dietetics.

²⁰³ Section 12-60-24 was also amended by section 1 of House Bill No. 1073, chapter 98, section 2 of House Bill No. 1073, chapter 98, section 18 of House Bill No. 1247, chapter 352, section 1 of House Bill No. 1253, chapter 164, section 1 of Senate Bill No. 2062, chapter 452, section 1 of Senate Bill No. 2110, chapter 218, section 1 of Senate Bill No. 2131, chapter 378, section 1 of Senate Bill No. 2174, chapter 447, section 1 of Senate Bill No. 2338, chapter 379.

5. "Degree" means a degree received from a college or university that was a United States regionally accredited body recognized by the council for higher education accreditation and the United States department of education at the time the degree was received or validated foreign equivalent.
6. "Dietetics" means the integration, application, and communication of practice principles derived from integrating knowledge of the food, nutrition, biochemistry, physiology, management, and behavioral and social science, business, and basic sciences to achieve and maintain the health of people by providing optimal nutrition assessment and nutrition care services status of an individual. The primary function of the practice of dietetics is the provision of medical nutrition therapy.
3. "Dietitian" includes dietician.
4. "General nutrition services" means the counseling of individuals or groups in the selection of food to meet normal nutritional needs, and the assessment of nutritional needs of individuals or groups by planning, organizing, coordinating, and evaluating the nutritional components of community health services.
- 5-7. "Evidence-based" or "evidence-based practice" means an approach to health care through which health practitioners use the best evidence available, to make decisions for individuals, groups, and populations.
8. "Foreign practitioner" means an individual who holds and maintains a license in good standing to engage in the practice of dietetics and nutrition in a state or jurisdiction other than this state and who is not the subject of a pending disciplinary action in any state or jurisdiction.
9. a. "General nonmedical nutrition information" may include information on any of the following:
 - (1) Principles of good nutrition, menu planning, and food preparation.
 - (2) Food that should be included in the normal daily diet.
 - (3) The essential nutrients needed by the human body.
 - (4) The recommended amounts of essential nutrients in the human body.
 - (5) The actions of nutrients in the human body.
 - (6) The effects of deficiencies or excesses of nutrients in the human body.
 - (7) Foods, herbs, and supplements that are good sources of essential nutrients in the human body.
- b. The term does not include the provision of medical nutrition therapy.
10. "General supervision" means the qualified supervisor is onsite and present where nutrition care services are provided or is immediately available to the individual being supervised by means of electronic communications and maintains continual involvement in the appropriate aspects of patient care.

and has primary responsibility for all nutrition care services rendered by an individual.

11. "Licensed nutritionist" means a personan individual licensed to provide general nutrition services as provided in this chapteras a nutritionist under this chapter who may be referred to or hold oneself out as a nutritionist.
- 6-12. "Licensed registered dietitian" means a personan individual licensed to practice dietetics as provided in this chapteras a dietitian under this chapter who may be referred to or hold oneself out as a dietitian, dietitian nutritionist, nutritionist, or a dietician.
- 7-13. "Medical nutrition therapy" means the provision of nutrition care services for the treatment or management of a disease or medical condition. The term includes the provision of any part or all of the following services:

 - a. Interpreting anthropometric, biochemical, clinical, and dietary data in acute and chronic disease states and recommending or ordering nutrient needs based on the dietary data, including tube feedings and parenteral nutrition.
 - b. Food and nutrient counseling, including food and prescription drug interactions.
 - c. Developing and managing food service operations, including operations for the management or treatment of disease or medical conditions, with the primary function of nutrition care or recommending or ordering therapeutic diets.
 - d. Medical weight control.
14. "Medical weight control" means medical nutrition therapy for the purpose of reducing, maintaining, or gaining weight.
15. "Nonmedical weight control" means the provision of services for the purpose of reducing, maintaining, or gaining weight which does not constitute the treatment of a disease or medical condition. The term includes weight control services for healthy population groups to achieve or maintain a healthy weight.
16. "Nutrition" means the science of food and nutrients, including the action, interaction, and balance of food and nutrients in relation to health and disease and the process by which humans ingest, absorb, transport, utilize, and excrete food substances. The primary function of the practice of nutrition is the provision of medical nutrition therapy.
17. "Nutrition assessment" means the screening and evaluation of the nutrition of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine their nutritional needs and recommend appropriate nutritional intake including enteral and parenteral nutritionssystematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, and dietary data to make decisions about the nature and cause of nutrition-related problems. The mere collection of data itself does not constitute nutrition assessment. The term includes an ongoing, dynamic process that:

- a. Involves an initial data collection and a reassessment and analysis of client or community needs; and
- b. Provides the foundation for nutrition diagnosis and nutritional recommendations, including enteral and parenteral nutrition.

8-18. a. "Nutrition care services" includes:

- a. Providing nutrition assessment.
- b. Planning or providing of food appropriate for physical and medical needs.
- c. Providing nutrition counseling to meet both normal and therapeutic needs.
- d. Providing general nutrition services and related nutrition activities means the provision of any part or all of the following services within a systematic process:
 - (1) Assessing and evaluating the nutritional needs of individuals and groups, and determining resources and constraints in the practice setting, including ordering laboratory tests to check and track nutrition status, creating dietary plans and orders, and monitoring the effectiveness of the plans and orders.
 - (2) Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints.
 - (3) Providing nutrition counseling in health and disease.
 - (4) Developing, implementing, and managing nutrition care systems.
 - (5) Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.
 - (6) Ordering therapeutic diets.
- b. The term does not include the retail sale of food products or vitamins, the giving of general nonmedical nutrition information, or the providing of nonmedical weight control by unlicensed individuals.

19. "Nutrition counseling" means the advice and assistance provided by a licensed registered dietitian or licensed nutritionist to an individual or group on nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparations consistent with cultural background, socioeconomic status, and therapeutic needs.

20. "Nutrition diagnosis" means identifying and labeling nutritional problems managed and treated by a licensed registered dietitian or licensed nutritionist. The term does not include the medical differential diagnosis of the health status of an individual.

21. "Nutrition intervention" means purposefully planned actions and nutrition counseling intended to positively change a nutrition-related behavior, risk factor, environmental condition, or aspect of the health status for an individual.

22. "Nutrition monitoring and evaluation" means identifying patient outcomes relevant to a nutrition diagnosis and comparing the outcomes with the patient's previous health status, intervention goals, or reference standards to determine the progress made in achieving desired outcomes of nutrition care and whether planned interventions should be continued or revised.
23. "Onsite supervision" means the qualified supervisor is present in the department or facility or virtual platform at which nutrition care services are provided, is immediately available to the individual being supervised and maintains continual involvement in the appropriate aspects of patient care, and has primary responsibility for all nutrition care services rendered by an individual.
24. "Practice of dietetics and nutrition" means the integration and application of scientific principles derived from the study of food, nutrition, biochemistry, metabolism, nutrigenomics, physiology, food management, and behavioral and social sciences in achieving and maintaining health throughout the life span and in providing nutrition care services in person and via telehealth, including medical nutrition therapy, for the purpose of disease management and prevention, or to treat or rehabilitate an illness, injury, or condition.
25. "Provisional license" means a license granted to an applicant who has submitted the information required in section 43-44-12 and applied for examination but has not completed the examination successfully yet.
26. "Qualified supervisor" means:
- a. If supervising the provision of medical nutrition therapy, an individual who is:
 - (1) A certified nutrition specialist or a registered dietitian nutritionist;
 - (2) A licensed nutritionist who has met the education and experience qualifications under section 43-44-07, a licensed dietitian nutritionist, or a licensed registered dietitian; or
 - (3) A health care provider licensed or otherwise authorized under the laws of any state to provide nutrition care services to treat or manage a disease or medical condition.
 - b. If supervising the provision of nutrition care services that do not constitute medical nutrition therapy, an individual who either meets the requirements of paragraph 1 of subdivision a or an individual with at least three years of clinical nutrition experience who holds a master's or doctoral degree with a major course of study in dietetics, human nutrition, foods and nutrition, community nutrition, public health nutrition, naturopathic medicine, nutrition education, nutrition, nutrition science, clinical nutrition, applied clinical nutrition, nutrition counseling, nutrition and functional medicine, nutritional biochemistry, nutrition and integrative health, or an equivalent course of study as approved by the board.
27. "Registered dietitian" or "registered dietitian nutritionist" means an individual registered as a dietitian or a dietitian nutritionist with the commission on dietetic registration which authorizes the individual to use the title "registered

dietitian nutritionist" or "registered dietitian" and the abbreviation "RDN" or "RD".

28. "Telehealth" means the use of electronic information and telecommunications technologies to provide services under this chapter to support clinical health care, patient and professional health-related education, public health, and health administration between a licensee in one location and an individual in another location.
29. "Therapeutic diet" means a diet intervention prescribed by a physician or other authorized nonphysician practitioner which provides food or nutrients via oral, enteral, or parenteral routes, or a combination thereof, as part of treatment of disease or diagnosed clinical conditions to modify, eliminate, decrease, or increase identified micronutrients and macronutrients in the diet.

SECTION 3. AMENDMENT. Section 43-44-02 of the North Dakota Century Code is amended and reenacted as follows:

43-44-02. Board of dietetic practice - Membership - Terms - Meetings.

1. The governor shall appoint a board of dietetic practice, consisting of five members, all of whom must be residents of the state at the time of their appointment. ~~The persons~~individuals appointed must have been engaged in the teaching or rendering of dietetics or ~~general nutrition services~~ to the public, or in research in dietetics or ~~general nutrition services~~ for three years immediately preceding their appointment. Three board members must be licensed registered dietitians and one member must be a licensed nutritionist. ~~The members first appointed to the board need not be licensed under this chapter for appointment to their first term on the board, but must possess the qualifications necessary for licensure under this chapter.~~ One member must be appointed to represent consumers of health services.
2. ~~The governor, prior to September 1, 1985, shall appoint two board members for a term of one year, two for a term of two years, and one for a term of three years. Appointments made thereafter are for terms of three years, but no person~~individual may be appointed to serve more than two consecutive full or partial terms. Terms begin on the first day of September and end on the last day of August or until successors are appointed. An appointment of any member to serve out the remaining term of any position on the board ~~that~~which becomes vacant must be made in the same manner as the original appointment for that position.
3. The governor may remove any board member for good cause after giving that member a written statement of the reasons for removal and after that member has had an opportunity for a hearing.
4. The board shall meet during September of each calendar year and select a chairperson. At least one additional meeting must be held before September of the next calendar year. Other meetings may be convened at the call of the chairperson or the written request of any two board members. All meetings of the board are open to the public, except that the board may hold closed sessions to ~~approve an examination, or upon request of an applicant who fails an examination, to prepare a response indicating any reason for the applicant's failure~~review patient medical records, review patient testimony, and for other reasons as referenced in section 44-04-19.2.

5. Members of the board receive no compensation for their services, but are entitled to mileage and travel expenses as provided in sections 54-06-09 and 44-08-04, and per diem as set by the board.

SECTION 4. AMENDMENT. Section 43-44-03 of the North Dakota Century Code is amended and reenacted as follows:

43-44-03. Board powers, and duties, and authority.

1. The board shall administer, coordinate, and enforce this chapter, evaluate the qualifications, and approve an examination for licensure under this chapter. The board shall keep any records and minutes as are necessary to carry out ~~its~~the board's functions.
2. The board may:
 - 1- a. Issue subpoenas, examine witnesses, administer oaths, and investigate allegations of practices violating this chapter.
 - 2- b. Adopt rules pursuant to chapter 28-32, to implement this chapter, including rules relating to professional licensure and the establishment of ethical standards of practice for licensed registered dietitians and licensed nutritionists.
 - c. Provide interpretive guidance on this chapter.

SECTION 5. AMENDMENT. Section 43-44-05 of the North Dakota Century Code is amended and reenacted as follows:

43-44-05. Fees.

The board shall set and collect fees for application, initial license, renewal of license, late renewal, and ~~limited permit~~provisional license. These fees must be set in such an amount ~~not to exceed two hundred fifty dollars~~ as to reimburse the board, to the extent feasible, for the cost of the services rendered. ~~The board shall waive initial licensure and renewal licensure fees for active duty military and active duty military spouses serving in the United States armed forces in North Dakota.~~

SECTION 6. AMENDMENT. Section 43-44-06 of the North Dakota Century Code is amended and reenacted as follows:

43-44-06. License required - Title - Abbreviations.

~~A person may not practice or represent as able to practice as a dietitian, or use the title "dietitian", "registered dietitian", "licensed dietitian", or "licensed registered dietitian", or the abbreviations "RD", "LD", or "LRD" unless so licensed under this chapter. A licensed registered dietitian may use the title "licensed registered dietitian" and the abbreviation "LRD". A person may not practice, or represent that the person is able to practice, as a licensed nutritionist using the title "licensed nutritionist" or the abbreviation "LN" unless so licensed under this chapter. A licensed nutritionist may use the title "licensed nutritionist" and the abbreviation "LN"~~

1. Use of an earned, federally trademarked nutrition credential is not prohibited, but such use does not give an individual the right to practice dietetics or nutrition, provide medical nutrition therapy, or use the general titles of dietitian or nutritionist, unless an individual is licensed under this chapter. Notwithstanding any law to the contrary, all of the following are permissible:

- a. An individual registered with the commission on dietetic registration may use the title "registered dietitian" and "registered dietitian nutritionist" and the designation of "RD" or "RDN".
 - b. An individual certified by the board of certification of nutrition specialists may use the title "certified nutrition specialist" and the designation "CNS".
 - c. An individual certified by the American clinical board of nutrition may use the title "diplomate, American clinical board of nutrition" and use the designation "DACBN".
2. A person not licensed under this chapter may not do any of the following:
- a. Provide medical nutrition therapy with or without compensation.
 - b. Use or allow a business entity or a business entity's employees, agents, or representatives to use any of the following titles or abbreviations in association with a person's name:
 - (1) Dietitian nutritionist or nutritionist.
 - (2) Dietitian or dietician.
 - (3) Nutrition counselor or nutrition specialist.
 - (4) LRD, LDN, or LN.
 - (5) Nutritional therapy practitioner or nutritional therapy consultant.
 - (6) Certified nutrition therapy practitioner.
 - (7) Master nutrition therapist.
 - (8) Licensed dietitian nutritionist, licensed registered dietitian, or licensed nutritionist.
 - (9) Any other designation, words, letters, or insignia in connection with a name indicating an offer or eligibility to provide medical nutrition therapy or indicating a license to practice dietetics and nutrition or provide medical nutrition therapy unless licensed under this chapter.
3. This section does not prohibit an individual from using an earned title trademarked by the United States patent and trademark office.

SECTION 7. AMENDMENT. Section 43-44-07 of the North Dakota Century Code is amended and reenacted as follows:

43-44-07. Requirements for licensure - Licensed nutritionist.

1. An applicant for licensure as a licensed nutritionist ~~must~~shall file a written application with the board, submit any fees required by the board, and submit proof of completion of the following requirements:
 - a. ~~Have satisfactorily completed academic requirements required by the board, and have received a baccalaureate degree in the field of dietetics~~

or food and nutrition, as approved by the board, from an accredited college or university;

- b. Have received a master's or doctorate degree in human nutrition, nutrition education, foods and nutrition, or public health nutrition from an accredited college or university, or have received a master's or doctorate degree in a related field that meets eligibility requirements of the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization;
- c. Maintain membership in one of the following organizations: American institute of nutrition, American society for clinical nutrition, or the American board of nutrition; or
- d. Present evidence to the board regarding employment and competence as a nutritionist before July 1, 1985, and the inability to meet the criteria of subdivision a, b, or c. Have received a master's or doctoral nutrition degree or validated foreign equivalent with a major course of study in human nutrition, foods and nutrition, community nutrition, public health nutrition, nutrition education, nutrition, nutrition science, clinical nutrition, applied clinical nutrition, nutrition counseling, nutrition and functional medicine, nutritional biochemistry, nutrition and integrative health, or a comparable course of study, or a master's or doctoral degree or validated foreign equivalent, in a field of clinical health care from a college or university accredited at the time of graduation from the appropriate regional accrediting agency recognized by the council on higher education accreditation and the United States department of education, and have completed coursework leading to competence in medical nutrition therapy which must consist of the following courses:
 - (1) Fifteen semester hours of clinical or life sciences, including such courses as chemistry, organic chemistry, biology, molecular biology, biotechnology, botany, genetics, genomics, neuroscience, experimental science, immunotherapy, pathology, pharmacology, toxicology, research methods, applied statistics, biostatistics, epidemiology, energy production, molecular pathways, hormone and transmitter regulations and imbalance, and pathophysiologic basis of disease. At least three semester hours must be in human anatomy and physiology or the equivalent.
 - (2) Fifteen semester hours of nutrition and metabolism, including such courses as nutrition assessment, developmental nutrition, nutritional aspects of disease, human nutrition, macronutrients, micronutrients, vitamins and minerals, clinical functional medicine nutrition, molecular metabolism, nutrition, nutritional biochemistry, nutrition and digestive health, and public health nutrition. At least six semester hours must be in biochemistry or an equivalent as approved by the board.
- b. The applicant must have completed a board-approved internship or a documented, supervised practice experience demonstrating competency in nutrition care services and the provision of medical nutrition therapy of not less than one thousand hours including at least two hundred hours of nutrition assessment, two hundred hours of nutrition intervention, education, counseling, or management, and two hundred hours of nutrition monitoring or evaluation. A minimum of seven hundred hours of

supervised practice experience is required in professional work settings and no more than three hundred hours can be in alternate supervised experiences such as observational client-practitioner interactions, simulation, case studies, and role playing. This experience must be under the supervision of a qualified supervisor. A qualified supervisor shall provide onsite supervision of an applicant's supervised practice experience in the provision of medical nutrition therapy and provide general supervision of an applicant's provision of other nutrition care services that do not constitute medical nutrition therapy.

c. The applicant meets one of the following criteria:

(1) The applicant has successfully completed a board-approved examination such as the certification examination for nutrition specialists administered by the board for certification of nutrition specialists or the diplomate examination administered by the American clinical board of nutrition; or

(2) The applicant has either a valid certification with the board for certification of nutrition specialists that gives the applicant the right to use the term "certified nutrition specialist" or "CNS" or a valid certification with the American clinical board of nutrition which gives the applicant the right to use the term "diplomate, American clinical board of nutrition" or "DACBN".

d. The applicant shall complete a background check or fingerprinting if requested by the board.

2. An applicant for renewal of a license as a licensed nutritionist ~~must~~:

a. ~~Comply~~Shall comply with subsection 1.

b. ~~Have~~Must have satisfactorily completed continuing education requirements as specified and approved by the board.

c. Shall complete a background check or fingerprinting if requested by the board.

SECTION 8. AMENDMENT. Section 43-44-08 of the North Dakota Century Code is amended and reenacted as follows:

43-44-08. Requirements for licensure - Licensed registered dietitian.

1. Applicants for licensure as a licensed registered dietitian ~~must~~shall file a written application with the board, submit any fees required by the board, and submit proof of completion of the following requirements:

a. ~~Comply with subsection 1 of section 43-44-07.~~

b. Have satisfactorily completed the education and experience requirements for registered dietitians nutritionists approved by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.

- e-b. Have satisfactorily completed the examination approved and administered by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.
 - c. Have a current valid registration with the commission on dietetic registration which gives the applicant the right to use the term "registered dietitian" or "registered dietitian nutritionist".
 - d. Complete a background check or fingerprinting if requested by the board.
2. Applicants for renewal of licensure as a licensed registered dietitian ~~must~~:
- a. ~~Comply~~Shall comply with subsection 1.
 - b. ~~Have~~Must have satisfactorily completed continuing education requirements specified by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.
 - c. Shall complete a background check or fingerprinting if requested by the board.

SECTION 9. AMENDMENT. Section 43-44-09 of the North Dakota Century Code is amended and reenacted as follows:

43-44-09. Waiver of requirements for licensure of dietitians.

~~Upon application, the board shall grant a license to any person certified prior to July 1, 1985, as a registered dietitian by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization. Upon application of any person certified by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization after July 1, 1985, the board may waive the examination, education, and experience requirements and grant the applicant a license if the board determines that the requirements for certification are equivalent to the related requirements for licensure in this chapter.~~

SECTION 10. Section 43-44-09.1 of the North Dakota Century Code is created and enacted as follows:

43-44-09.1. Grandfathering of licensed nutritionists.

An individual who meets the requirements for licensure and holds a license as a licensed nutritionist on the effective date of this Act and is practicing or residing in this state on the effective date of this Act is eligible to maintain and renew a license as a licensed nutritionist if the applicant furnishes evidence satisfactory to the board that the applicant has met continuing education as required by the board.

SECTION 11. Section 43-44-09.2 of the North Dakota Century Code is created and enacted as follows:

43-44-09.2. Scope of practice.

- 1. A licensed registered dietitian and licensed nutritionist shall provide nutrition care services using systematic, evidence-based, problem-solving methods of the nutrition care process to think critically and make decisions to address nutrition-related problems and provide safe, effective, quality nutrition services

- and medical nutrition therapy for patients and clients in both clinical and community settings.
2. A licensed registered dietitian or licensed nutritionist may accept or transmit oral, verbal, delegated, or electronically transmitted orders from the referring provider consistent with applicable laws and rules, including any protocols established to implement medical nutrition therapy.
 3. A licensed registered dietitian or licensed nutritionist may order patient diets, including therapeutic diets, in accordance with the provisions of this chapter. Oral therapeutic diets may be ordered by either a licensed registered dietitian or a licensed nutritionist. Therapeutic diets include enteral and parenteral nutrition therapy, which consist of specialized enteral or intravenous solutions and may be ordered only by an individual licensed under this chapter who also meets one of the following criteria:
 - a. The individual is a registered dietitian nutritionist registered with the commission on dietetic registration;
 - b. The individual is a certified nutrition support clinician certified by the national board of nutrition support certification; or
 - c. The individual meets other requirements as determined by the board, consistent with competencies necessary for evaluating, ordering, and administering enteral and parenteral nutrition.
 4. This chapter does not limit the ability of any other licensed health care practitioner in this state to order therapeutic diets if the ordering of therapeutic diets falls within the scope of the license held by the health care practitioner.
 5. A licensed registered dietitian or licensed nutritionist who has met the qualifications under section 43-44-07 or 43-44-08 may order medical laboratory tests related to nutritional therapeutic treatments consistent with state law.
 6. A licensed registered dietitian or licensed nutritionist may implement prescription drug dose adjustments for specific disease treatment protocols within the limits of the licensed registered dietitian's or licensed nutritionist's knowledge, skills, judgment, and current evidence-informed clinical practice guidelines as indicated in a facility approved protocol and as approved and delegated by the licensed prescriber. This subsection does not allow licensees to prescribe or initiate drug treatment. A licensed registered dietitian and licensed nutritionist may be authorized to prescribe vitamin and mineral supplements or discontinue unnecessary vitamins and minerals.

SECTION 12. AMENDMENT. Section 43-44-10 of the North Dakota Century Code is amended and reenacted as follows:

43-44-10. Persons excepted from license requirement.

This chapter does not prevent or restrict the practice, services, or activities of:

1. Persons licensed to practice medicine, nursing, pharmacy, or dentistryA licensed health care practitioner duly licensed in accordance with title 43 who is acting within the scope of the individual's licensed profession, consistent with the accepted standards of theirthe practitioner's profession, if the persons

~~depractitioner~~ does not represent themselves ~~the practitioner~~ as a licensed registered dietitians ~~dietitian, nutritionist, or licensed nutritionists~~ nutritionist.

2. ~~Any person pursuing a course of study in an approved program leading to a degree in the field of dietetics from an accredited college or university, if a student or trainee, working under the onsite supervision of a qualified supervisor while fulfilling an experience requirement or pursuing a course of study to meet the licensure requirements of section 43-44-07 or 43-44-08, for a time period of no more than five years after the student or trainee completed the course requirements for licensure and the person~~ student or trainee is designated by a title which ~~that~~ clearly indicates that person's ~~individual's~~ status as a student or trainee.
3. ~~Any person in the process of fulfilling the experience requirements of section 43-44-07 or 43-44-08, if the activities and services constitute a part of the experience necessary to meet the requirements of those sections and the person is designated by a title which clearly indicates that person's status as a student or trainee~~ An individual providing support activities related to medical nutrition therapy, if the individual works under the general supervision of a registered dietitian licensed by this board, licensed nutritionist licensed by this board, or other health care practitioner licensed by the appropriate North Dakota board whose licensed scope of practice includes the provision of nutrition care services for the purpose of managing a disease or medical condition.
4. ~~Any person who does not meet the requirements of subdivision a, b, or c of subsection 1 of section 43-44-07, and who provides nutrition care services, including weight control programs, under the supervision of a licensed registered dietitian, a dietitian licensed in another state that has licensure requirements considered by the board to be at least as stringent as the requirements for licensure under this chapter, or a dietitian registered by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.~~
5. ~~A person practicing dietetics or~~ An individual providing general nutrition care services for the purpose of treating or managing a disease or medical condition ~~as a duty of serving in the armed forces.~~
- 6-5. ~~Any person practicing dietetics in this state for no more than ten days annually, if the person has met the commonly accepted standards for the practice of dietetics specifically defined by the board~~ A foreign practitioner providing nutrition care services for the purpose of treating or managing a disease or medical condition in this state if the practitioner is acting within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license if the services are provided through a remote means and are a continuation of an existing relationship between the foreign practitioner and the individual receiving the services which was formed in the state or jurisdiction in which the foreign practitioner is currently licensed.
- 7-6. ~~Any person practicing dietetics~~ A foreign practitioner providing nutrition care services for the purpose of treating or managing a disease or medical condition ~~in this state for more than ten days annually who has pending before the board an application for licensure as a licensed registered dietitian under this chapter~~ if the practitioner is acting within the scope of practice designated by the foreign practitioner's license and this title without obtaining a license if

the services are provided in consultation with a person licensed by the board and if the foreign practitioner has no direct communication in this state with the individual receiving the services except in the presence of the individual licensed by the board. Both the foreign practitioner and the individual licensed by the board are responsible for the services provided.

- 8-7. An educator who is in the employ of a federal, state, county, or municipal agency, or other political subdivision, or an elementary or secondary school, or an accredited institution of higher education insofar as the activities and services are part of the duties of the employee's position and do not involve provision of medical nutrition therapy; or who is in the employ or service of a nonprofit organization approved by the board.
- 9-8. ~~Any person~~An individual having received a baccalaureate degree in home economics or family and consumer sciences, if the ~~person~~individual does not represent that the ~~person~~individual is a licensed registered dietitian, nutritionist, or licensed nutritionist, insofar as the services and activities are within the scope of that ~~person's~~individual's education and training.
- 10-9. ~~A person~~An individual who markets or distributes food, food materials, herbs, or dietary supplements, or any ~~person~~individual who engages in the advising of the use of those products, or the preparation of those products, or the counseling of individuals or groups in the selection of products to meet normal nutritional needs, if that ~~person~~individual does not represent that that ~~person~~individual is a licensed registered dietitian, nutritionist, or licensed nutritionist.
10. An individual from providing nutrition information, individualized nutrition recommendations, health coaching, holistic and wellness education, guidance, motivation, behavior change management, nonmedical weight control, or other nutrition care services if the services do not constitute medical nutrition therapy and the individual does not hold the individual out as a licensed registered dietitian, nutritionist, or licensed nutritionist or as a provider of medical nutrition therapy or otherwise violate provisions of this chapter.
11. An individual providing medical weight control services for individuals with prediabetes or obesity:
- a. Under a program of instruction approved in writing by one of the following:
- (1) A licensed registered dietitian or licensed nutritionist in this state;
- (2) A dietitian nutritionist or nutritionist licensed in another state that has licensure requirements at least as stringent as the licensure requirements under this chapter, as determined by the board;
- (3) A registered dietitian nutritionist; or
- (4) A certified nutrition specialist; or
- b. As part of a plan of care overseen by a health care practitioner licensed in this state and acting within the scope of the individual's licensed profession, consistent with the accepted standards of the practitioner's profession to provide nutrition care services for the purpose of treatment or management of a disease or medical condition.

12. An individual who provides nutrition care services without remuneration to family members.

SECTION 13. Section 43-44-10.1 of the North Dakota Century Code is created and enacted as follows:

43-44-10.1. Qualified supervision.

1. A qualified supervisor must be licensed in this state if supervising an applicant providing medical nutrition therapy to an individual in this state. A qualified supervisor who obtained a doctoral degree outside the United States must have a degree validated by the board as equivalent to the doctoral degree conferred by a United States regionally accredited college or university.
2. The board may adopt rules as necessary and appropriate to implement or clarify onsite supervision.

SECTION 14. AMENDMENT. Section 43-44-12 of the North Dakota Century Code is amended and reenacted as follows:

43-44-12. Limited permitsProvisional license.

A limited permit to practice as a licensed registered dietitian must be issued by the board upon application and submission of evidence of successful completion of the education and experience requirements under subdivision b of subsection 1 of section 43-44-08. The limited permit expires one year from the date of issuance. The limited permit may be renewed for a period not to exceed six months upon submission to the board of a satisfactory explanation for the applicant's failure to become licensed within the original one-year period. An applicant for a provisional license shall file a written application with the board, submit any fees required by the board, complete a criminal history background check if requested by the board, and submit evidence of successful completion of the academic and supervised practice requirements during the five-year period after completion of the academic and supervised practice requirements specified under subdivisions a and b of subsection 1 of section 43-44-07 or subdivision a of subsection 1 of section 43-44-08. A provisional license must be available to an applicant with the applicant's initial application for examination and the applicant may practice only under the supervision of a licensed registered dietitian or a licensed nutritionist who meets requirements under subsection 1 of section 43-44-07. A provisional license expires automatically upon receiving notice of failure of the licensure examination but may be renewed a maximum of one time until the date of the next examination, at which time the provisional license automatically expires and must be surrendered to the board.

SECTION 15. AMENDMENT. Section 43-44-13 of the North Dakota Century Code is amended and reenacted as follows:

43-44-13. Reciprocity.

The board shall grant a license to anyan applicant who presents proof of current licensure in good standing without any limitations on the license, as a dietitian or nutritionist in another state whichthat has licensure requirements considered by the board to be at least as stringent as the requirements for licensure under this chapter.

SECTION 16. AMENDMENT. Section 43-44-15 of the North Dakota Century Code is amended and reenacted as follows:

43-44-15. Suspension and revocation of license - Refusal to renew.

1. The board may deny a license, refuse to renew a license, suspend a license, or revoke a license, or may impose probationary conditions on a licensee if the licensee or applicant has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct includes:
 - a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.
 - b. Being guilty of unprofessional conduct as defined by rules adopted by the board, or violating any code of ethics adopted by the ~~academy of nutrition and dietetics or its predecessor or successor organization~~ board.
 - c. Being convicted of an offense, as defined by section 12.1-01-04, that the board determines has a direct bearing upon a person's ability to serve the public as a licensed registered dietitian or a licensed nutritionist or, following conviction of any offense, if the board determines that the person is not sufficiently rehabilitated under section 12.1-33-02.1.
 - d. Violating any lawful order or rule of the board.
 - e. Violating this chapter.
2. A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board after a hearing pursuant to rules adopted by the board. An application for reinstatement may be made to the board one year from the date of the revocation of a license. The board may at its discretion accept or reject an application to consider such reinstatement.

SECTION 17. AMENDMENT. Section 43-44-16 of the North Dakota Century Code is amended and reenacted as follows:

43-44-16. Injunction.

The civil remedy of injunction is available to the board to restrain and enjoin violations of this chapter. The board may apply to an appropriate court for an order enjoining violations of this chapter, and upon a showing by the board that a person has violated or is about to violate this chapter, the court may grant an injunction or a restraining order, or take other appropriate action.

SECTION 18. AMENDMENT. Section 43-44-17 of the North Dakota Century Code is amended and reenacted as follows:

43-44-17. Penalty.

Any~~A~~ person ~~who~~~~that~~ violates this chapter is guilty of a class B misdemeanor. Each act of such unlawful practice constitutes a distinct and separate offense.

SECTION 19. Section 43-44-18 of the North Dakota Century Code is created and enacted as follows:

43-44-18. Costs.

The board may assess the attorney fees of disciplinary actions against a licensee or person found to be in violation of this chapter or rules adopted by the board. Costs recovered pursuant to this section are the property of the board.

SECTION 20. Section 43-44-19 of the North Dakota Century Code is created and enacted as follows:

43-44-19. Telehealth.

1. The provision of medical nutrition therapy and nutrition care services for the purpose of treating or managing a disease or medical condition provided by way of telehealth to an individual in this state is not prohibited under this chapter if:
 - a. Telehealth is appropriate for the individual receiving the services;
 - b. The level of care provided meets the required level of care for that individual and:
 - (1) The level of care complies with applicable regulations and laws;
 - (2) Personal health information is protected; and
 - (3) Documentation of nutrition care services are included in the medical records of the patient.
2. An individual providing services regulated by this chapter via telehealth shall comply with, and is subject to, all licensing and disciplinary provisions of this chapter.

SECTION 21. Section 43-44-20 of the North Dakota Century Code is created and enacted as follows:

43-44-20. Limited practice without a license.

Upon prior written application to the board, a foreign practitioner practicing under this section may provide medical nutrition therapy or nutrition care services for the purpose of treating or managing a disease or medical condition in this state under section 43-51-05 if the practitioner is acting within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the board if the services are provided for no more than thirty full or partial days per year. The one-year period commences on the date the written application is approved by the board. An application from a foreign practitioner under this section must include verified documentation from the appropriate licensing authority which identifies the requirements for licensure in that jurisdiction and which confirms that the practitioner is licensed and in good standing in that jurisdiction and any other information requested by the board. The board may require payment of a fee of twenty-five dollars or other fee established by the board by administrative rule, not to exceed the higher of twenty-five dollars or one-tenth of the fee for an annual license from the board, as a condition of approving an application under this section. A foreign practitioner is subject to the regulatory and disciplinary provisions of section 43-51-08 and this chapter.

SECTION 22. Section 43-44-21 of the North Dakota Century Code is created and enacted as follows:

43-44-21. Criminal history record checks.

1. The board may require an applicant for licensure or renewal to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided in

section 12-60-24. Refusal to consent to a criminal history record check may constitute grounds for the board to deny licensure to an applicant. All costs associated with obtaining a background check are the responsibility of the applicant.

2. The board may request a criminal history record check for an applicant returning to active status as a licensed registered dietitian or licensed nutritionist.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 324

SENATE BILL NO. 2175

(Senators Meyer, Anderson, Burckhard, Hogue)
(Representatives Nathe, Vetter)

AN ACT to amend and reenact subsection 3 of section 15.1-13-17 and sections 43-51-01, 43-51-11, 43-51-11.1, and 43-51-11.2 of the North Dakota Century Code, relating to occupational licensure of members of the military and military spouses; and to provide for a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 15.1-13-17 of the North Dakota Century Code is amended and reenacted as follows:

3. The board shall grant a teaching license to an applicant who is a military spouse or military member who meets the requirements of section 43-51-11.1.

SECTION 2. AMENDMENT. Section 43-51-01 of the North Dakota Century Code is amended and reenacted as follows:

43-51-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Board" means a board, commission, or other agency of state government created or identified in this title to regulate a particular occupation or profession and the education standards and practices board.
 - a. The term does not include the:
 - (1) State board of accountancy;
 - (2) State electrical board;
 - (3) North Dakota real estate appraiser qualifications and ethics board;
 - (4) State real estate commission;
 - (5) Secretary of state with respect to contractor licensing;
 - (6) North Dakota board of medicine; and
 - (7) State board of dental examiners.
 - b. The term includes any other agency of state government which is created or identified outside this title to regulate a particular occupation or profession if the agency elects, by administrative rule, to invoke the authority in this chapter.

2. "Foreign practitioner" means an individual who currently holds and maintains a license in good standing to engage in an occupation or profession in a state or jurisdiction other than this state and who is not the subject of a pending disciplinary action in any state or jurisdiction.
3. "Good standing" means a foreign practitioner holds a current license that is not issued on a temporary or restricted basis, is not encumbered or on probation, and is not suspended or revoked.
4. "License" means a license, certificate, permit, or similar authorization to practice an occupation or profession which is issued by a government agency in another state or jurisdiction that imposes requirements for obtaining and maintaining a license which are comparable to the requirements imposed in this state to obtain and maintain a license to practice the same profession or occupation.
5. "Military member" means a member of the armed forces of the United States or a reserve component of the armed forces of the United States stationed in this state in accordance with military orders or stationed in this state before a temporary assignment to duties outside of this state.
6. ~~"Military spouse" means a foreign practitioner who is the spouse of a military member of the armed forces of the United States or a reserve component of the armed forces of the United States stationed in this state in accordance with military orders or stationed in this state before a temporary assignment to duties outside of this state.~~
- 6-7. "Occupation or profession" means activity for which a license is required from a board or similar activity for which a license is required in another state or jurisdiction.

SECTION 3. AMENDMENT. Section 43-51-11 of the North Dakota Century Code is amended and reenacted as follows:

43-51-11. Members of military - License renewal.

1. A board shall adopt rules to provide for or shall grant on a case-by-case basis exceptions to the board's license renewal requirements in order to address renewal compliance hardships that may result from:
 - a. Activation of more than thirty days of a licensee who is a member of the national guard or ~~armed forces of the United States~~ military member.
 - b. Service in the theater or area of armed conflict by a licensee who is a military ~~member of the regular active duty armed forces of the United States~~.
2. For purposes of this section, the term board includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, North Dakota board of medicine, and state board of dental examiners.

SECTION 4. AMENDMENT. Section 43-51-11.1 of the North Dakota Century Code is amended and reenacted as follows:

43-51-11.1. Military spouses and military members - Licensure.

1. A board shall adopt rules regarding licensure of a military spouse or a military member or shall grant on a case-by-case basis exceptions to the board's licensing standards to allow a military spouse or military member to practice the occupation or profession in the state if upon application to the board:
 - a. The military spouse or military member demonstrates competency in the occupation or profession through methods or standards determined by the board ~~which must include experience in the occupation or profession for at least two of the four years preceding the date of application under this section; and~~
 - b. The board determines the issuance of the license will not substantially increase the risk of harm to the public. A board with authority to require an applicant to submit to a statewide and national criminal history record check under section 12-60-24 may order such a record check under this subdivision.
2. A board shall issue a provisional license or temporary permit to a military spouse or military member for which the licensure requirements under subsection 1 have been substantially met. A board may not charge a military spouse or military member any fees for a provisional license or temporary permit under this subsection. A provisional license or temporary permit issued under this subsection may not exceed two years and remains valid while the military spouse or military member is making progress toward satisfying the unmet licensure requirements. A military spouse or military member may practice under a provisional license or temporary permit issued under this subsection until any of the following occurs:
 - a. The board grants or denies the military spouse or military member a North Dakota license under subsection 1 or grants a North Dakota license under the traditional licensure method;
 - b. The provisional license or temporary permit expires;
 - c. The military spouse or military member fails to comply with the terms of the provisional license or temporary permit; or
 - d. The board revokes the provisional license or temporary permit based on a determination revocation is necessary to protect the health and safety of the residents of the state.
3. A board that may elect to subject the board to this chapter under subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to a military spouse or military member in the same manner as provided under subsections 1 and 2 regardless of whether the board has adopted rules to subject the board to this chapter.
4. A military spouse or military member issued a license under this section has the same rights and duties as a licensee issued a license under the traditional licensure method.
5. If within thirty days of receipt of a completed application under subsection 1 the board does not grant or deny a license under subsection 1 or does not issue a provisional license or temporary permit under subsection 2, the board

automatically shall issue a provisional license or temporary permit. A provisional license or temporary permit issued under this subsection remains valid until the board grants or denies the application for licensure under subsection 1 or issues a provisional license or temporary permit under subsection 2.

6. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, North Dakota board of medicine, and state board of dental examiners.

SECTION 5. AMENDMENT. Section 43-51-11.2 of the North Dakota Century Code is amended and reenacted as follows:

43-51-11.2. Members of the military and military spouses - Licensure applications.

1. On each licensure application and renewal form, a board shall inquire and maintain a record of whether an applicant or licensee is a military member of the military or military spouse. If an applicant self-identifies as and provides the board with satisfactory proof of being a military spouse or military member, the board immediately shall commence the process to issue a license, provisional license, or temporary permit under section 43-51-11.1.
2. Annually, on forms developed by the department of commerce, each board shall report to the department of commerce regarding military member and military spouse data.
3. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, North Dakota board of medicine, and state board of dental examiners.

SECTION 6. OCCUPATIONAL LICENSURE BOARDS - REPORT TO DEPARTMENT OF COMMERCE. During the 2021-22 interim, each occupational and professional board shall review its licensure laws and rules to determine whether the laws and rules are consistent with this Act. Before August 2022, on a form developed by the department of commerce, each occupational and professional board shall submit a report to the department of commerce on the status and outcome of that board's review of its laws and rules.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 325

SENATE BILL NO. 2164

(Senators Lee, Hogan, K. Roers)
(Representatives Pyle, Schauer)

AN ACT to create and enact section 43-51-10.1 of the North Dakota Century Code, relating to occupational rules in cases of emergencies; and to amend and reenact sections 43-51-04 and 43-51-12 of the North Dakota Century Code, relating to occupational licensure in cases of emergencies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-51-04 of the North Dakota Century Code is amended and reenacted as follows:

43-51-04. Emergency practice without a license.

Upon prior written notice to the appropriate board, a foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the board, if the services are provided for a period of time not to exceed sixty consecutive days in a calendar year and are provided in response to a disaster or emergency declared by the appropriate authority in this state. The notice provided by a foreign practitioner under this section must include verified documentation from the appropriate licensing authority which identifies the requirements for licensure in that jurisdiction and which confirms that the practitioner is licensed and in good standing in that jurisdiction and any other information requested by the board. A notice provided under this section, if accompanied by sufficient documentation, is deemed to be accepted unless denied by the board. If a notice under this section is denied, the foreign practitioner immediately shall cease providing services under this section and may not resume providing services until after a successful appeal of the board's decision under chapter 28-32 or after an application for privileges under this section is reviewed and approved by the board.

SECTION 2. Section 43-51-10.1 of the North Dakota Century Code is created and enacted as follows:

43-51-10.1. Emergency rules - Emergencies or disasters.

If a disaster or emergency is declared in this state, a board may adopt emergency rules under chapter 28-32 which are contrary to title 43 if the rules are necessary to abate an imminent peril that threatens the health, safety, or welfare of the public. Rules adopted under this section are valid until thirty days after the end of the disaster or emergency declaration.

SECTION 3. AMENDMENT. Section 43-51-12 of the North Dakota Century Code is amended and reenacted as follows:

43-51-12. Foreign practitioners - Emergency practice exemption.

Notwithstanding contrary provisions of law, a foreign practitioner may practice in a disaster or an emergency declared in this state, practice as a member of an organ

harvesting team, or practice on board an ambulance as part of the ambulance treatment team.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 326

SENATE BILL NO. 2061

(Industry, Business and Labor Committee)
(At the request of the State Board of Integrative Health Care)

AN ACT to create and enact section 43-57-02.1 of the North Dakota Century Code, relating to compensation for members of the state board of integrative health care.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 43-57-02.1 of the North Dakota Century Code is created and enacted as follows:

43-57-02.1. Compensation - Expenses of board.

A member of the board is entitled to receive for each day during which the member actually is engaged in the performance of the duties of the member's office per diem as determined by the board and mileage as provided in section 54-06-09. The secretary of the board is entitled to receive salary or other compensation and allowance for clerical and other expenses of the board as the board determines.

Approved March 22, 2021

Filed March 23, 2021

OFFICES AND OFFICERS

CHAPTER 327

HOUSE BILL NO. 1461

(Representatives Pollert, K. Koppelman, Louser)
(Senators Burckhard, Klein, Wardner)

AN ACT to create and enact a new section to chapter 16.1-13 and section 44-02-03.1 of the North Dakota Century Code, relating to filling vacancies in offices of members of the legislative assembly; to amend and reenact sections 44-02-03 and 54-03-01.13 of the North Dakota Century Code, relating to filling vacancies in offices of members of the legislative assembly; and to repeal section 16.1-13-10 of the North Dakota Century Code, relating to vacancies in offices of members of the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 16.1-13 of the North Dakota Century Code is created and enacted as follows:

Death or disqualification of legislative candidate.

If a candidate for an office of a member of the legislative assembly who has died or become disqualified for the office receives enough votes to be elected except for the death or disqualification, a vacancy in the office is deemed to exist, and must be filled according to section 44-02-03.1. If an individual elected to the legislative assembly dies or becomes disqualified after the election but before the individual's term of office begins, a vacancy in the office exists and must be filled according to section 44-02-03.1 as if the individual's term of office had begun. An individual is disqualified for an office if the individual fails to meet the qualifications under law for the office.

SECTION 2. AMENDMENT. Section 44-02-03 of the North Dakota Century Code is amended and reenacted as follows:

44-02-03. Vacancy in state or district office - How filled.

Any vacancy in a state or district office, except in the office of a member of the legislative assembly, must be filled by appointment by the governor. The governor may not fill a vacancy in the office of a member of the legislative assembly. A vacancy in the office of a supreme court justice or district court judge must be filled as provided in chapter 27-25. If during a vacancy in the office of governor, the lieutenant governor and the secretary of state are impeached, displaced, resign, or die, or from mental or physical disease or otherwise become incapable of performing the duties of the office of governor as provided by sections 2 and 7 of article V of the Constitution of North Dakota, then the succession to the office of governor is the speaker of the house, president pro tem of the senate, attorney general, in the order named. Each succeeding person named shall hold the office of governor until the vacancy is filled

by election or until any disability of the preceding person in the line of succession is removed.

SECTION 3. Section 44-02-03.1 of the North Dakota Century Code is created and enacted as follows:

44-02-03.1. Vacancy in legislative assembly.

1. If a vacancy in the office of a member of the legislative assembly occurs, the secretary of state shall notify the chairman of the legislative management of the vacancy. The secretary of state need not notify the chairman of the legislative management of the resignation of a member of the legislative assembly when the resignation was made under section 44-02-02.
2. Upon receiving notification of a vacancy, the chairman of the legislative management shall notify the district committee of the political party the former member represented, or the member-elect or deceased or disqualified candidate would have represented, in the district in which the vacancy exists. The district committee shall hold a meeting within twenty-one days after receiving the notification and select an individual to fill the vacancy. If the former member, member-elect, or deceased or disqualified candidate was elected as an independent candidate or if the district committee does not make an appointment within twenty-one days after receiving the notice from the chairman of the legislative management, the chairman of the legislative management shall appoint a resident of the district to fill the vacancy.
3. If a vacancy occurs because a member-elect died or became disqualified, or a candidate who died or became disqualified received a sufficient number of votes to be elected except for the death or disqualification, the term of an individual appointed to fill the vacancy begins on the first day of December of the year in which the vacancy occurs.
4. Except as provided in subsection 6:
 - a. If the office with the vacancy would not have been placed on the next general election ballot after the vacancy occurs had the member, member-elect, or candidate whose death, disqualification, or resignation created the vacancy been able and qualified to fulfill the term, the individual appointed to fill the vacancy shall serve until a successor is elected at and qualified following the next general election that is at least ninety-four days after the vacancy occurs.
 - b. If the office with the vacancy would have been placed on the next general election ballot after the vacancy occurs had the member, member-elect, or candidate whose death, disqualification, or resignation created the vacancy been able and qualified to fulfill the term and:
 - (1) The next general election is scheduled to take place less than ninety-four days after the vacancy occurs:
 - (a) The individual appointed to fill the vacancy shall serve until a successor is elected at and qualified following the next general election that is at least ninety-four days after the vacancy occurs; and

- (b) The elected successor shall serve through November thirtieth of the following even-numbered year.
- (2) The next general election is scheduled to take place at least ninety-four days after the vacancy occurs, the individual appointed shall serve until a successor is elected at and qualified following the next general election.
5. If a special election to fill the vacancy is called by the governor according to subsection 6, the individual elected at the special election shall serve for the remainder of the term of office which would have been served by the individual whose death, disqualification, or resignation created the vacancy.
6. The qualified electors of a legislative district in which a vacancy in the office of a member of the legislative assembly occurs due to the death, disqualification, or resignation of a member of the legislative assembly during the member's term of office may petition for a special election to be called by the governor to fill the vacancy. The petition must include the signatures of qualified electors equal in number to at least four percent of the resident population of the legislative district as determined by the last federal decennial census and must be presented to the secretary of state within thirty days following an appointment being made according to subsection 2. If the secretary of state determines the petition contains the required number of signatures of qualified electors of the affected legislative district, the secretary of state shall notify the governor that a special election is required to be called to fill the vacancy. Upon receiving the notice, the governor shall issue a writ of election directed to the secretary of state commanding the secretary of state to hold a special election to fill the vacancy at a time designated by the governor. A special election under this section must conform to the applicable election deadlines found in title 16.1 and may be called to coincide with a regularly scheduled primary or general election provided the special election is called by the fifteenth day before the deadline for candidates to file for office before a regularly scheduled primary or general election. A special election under this section may not be scheduled to occur during the time from a general election through eighty days following the adjournment of the next ensuing regular session of the legislative assembly.
7. The secretary of state must be notified of an appointment made by a district committee or the chairman of the legislative management according to this section. Upon notification, the secretary of state shall issue the appointee a certificate of appointment and an oath of office for the appointee to complete and file with the secretary of state.
8. For purposes of addressing vacancies in offices of members of the legislative assembly, an individual is disqualified for an office if the individual fails to meet the qualifications under law for the office.

SECTION 4. AMENDMENT. Section 54-03-01.13 of the North Dakota Century Code is amended and reenacted as follows:

54-03-01.13. Staggering of terms of members of the legislative assembly.

1. A senator and two representatives must be elected from each even-numbered district in 2012 for a term of four years.

2. A senator and two representatives must be elected from each odd-numbered district in 2014 for a term of four years. However, a senator and two representatives from district seven must be elected in 2012 for a term of two years.
3. Except as provided in subsection 4, the term of office of a member of the legislative assembly elected in an odd-numbered district in 2010 for a term of four years and who as a result of legislative redistricting is placed in an even-numbered district terminates December 1, 2012.
4. A member of the legislative assembly who was elected from an odd-numbered district in 2010 for a term of four years and who as a result of legislative redistricting is placed in an even-numbered district may continue to serve the remainder of the term for which the member was elected beyond December 1, 2012, if the member changes the member's place of residence to a location in the odd-numbered district which is within the geographic area of the odd-numbered district from which the member was elected by March 15, 2012, and certifies in writing to the secretary of state and the chairman of the legislative management that the member has established a new residence in that district as determined by section 54-01-26. If the member does not establish residency within the district from which the member was elected by March 15, 2012, the term of office of that member terminates on December 1, 2012.
5. The term of office of a member of the legislative assembly in an odd-numbered district with new geographic area that was not in that member's district for the 2010 election and which new geographic area has a 2010 population that is more than twenty-five percent of the ideal district population terminates on December 1, 2012.
6. ~~Notwithstanding section 16.1-13-10, a vacancy caused in an odd-numbered district as a result of legislative redistricting must be filled at the 2012 general election by electing a member to a two-year term of office.~~

SECTION 5. REPEAL. Section 16.1-13-10 of the North Dakota Century Code is repealed.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 328

HOUSE BILL NO. 1349

(Representatives Devlin, Karls)
(Senators Dwyer, Lee, Oban)

AN ACT to create and enact subsection 12 of section 44-04-19.1, a new section to chapter 44-04, and subsection 6 of section 50-24.8-12 of the North Dakota Century Code, relating to open record and meeting laws; to amend and reenact subsection 9 of section 44-04-17.1, sections 44-04-18.27 and 44-04-19, subsections 1 and 2 of section 44-04-20, and section 44-04-30 of the North Dakota Century Code, relating to open record and meeting laws; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 9 of section 44-04-17.1 of the North Dakota Century Code is amended and reenacted as follows:

9. a. "Meeting" means a formal or informal gathering or a work session, whether in person or through any electronic means ~~such as telephone or videoconference~~, of:
 - (1) A quorum of the members of the governing body of a public entity regarding public business; or
 - (2) Less than a quorum of the members of the governing body of a public entity regarding public business, if the members attending one or more of ~~such~~ the smaller gatherings collectively constitute a quorum and if the members hold the gathering for the purpose of avoiding the requirements of section 44-04-19.
- b. "Meeting" does not include:
 - (1) A chance or social gathering at which public business is not considered;
 - (2) Emergency operations during a disaster or emergency declared under section 37-17.1-10 or an equivalent ordinance if a quorum of the members of the governing body are present but are not discussing public business as the full governing body or as a task force or working group;
 - (3) The attendance of members of a governing body at meetings of any national, regional, or state association to which the public entity, the governing body, or individual members belong; ~~and~~
 - (4) Training seminars ~~whereat~~ which no other public business is considered or discussed; ~~and~~
 - (5) Administration of examinations by a regulatory board when no other public business is considered or discussed.

- c. Notwithstanding subdivisions a and b, as applied to the legislative assembly, "meeting" means any gathering subject to section 14 of article IV of the Constitution of North Dakota.

SECTION 2. AMENDMENT. Section 44-04-18.27 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18.27. Applications for public employment - Hiring process - Confidential records and open records.

If a public entity or any person delegated authority by a public entity to review applications or make hiring decisions receives applications from three or more applicants who meet the minimum qualifications for a vacant position, the public entity or other person shall designate three or more of the qualified applicants as finalists for further consideration before the public entity or other person may issue an offer of employment to fill the position. However, if the public entity or other person does not wish to consider any of the applications further and decides not to make an offer of employment for the vacant position, the public entity need not designate any finalist. The applications and any records related to the applications which contain information that could reasonably be used to identify an applicant are confidential, ~~except records related to finalists are open to the public after exempt.~~ Once the finalists are designated, the applications and related records of the finalists are open to the public. The public entity or other person reviewing applications on behalf of the public entity shall comply with all requirements for an executive session to discuss ~~confidential exempt~~ applications. If, by the close of the application period for a vacant position, a public entity receives applications from fewer than three applicants who meet the minimum qualifications, the applications and records related to the applications are open to the public. A public entity may adopt policies regarding the release of exempt records under this section.

SECTION 3. AMENDMENT. Section 44-04-19 of the North Dakota Century Code is amended and reenacted as follows:

44-04-19. Access to public meetings.

Except as otherwise specifically provided by law, all meetings of a public entity must be open to the public. That portion of a meeting of the governing body of a public entity as defined in subdivision c of subsection 13 of section 44-04-17.1 which does not regard public business is not required to be open under this section.

1. This section is violated when any person is denied access to a meeting under this section, unless such refusal, implicitly or explicitly communicated, is due to a lack of physical space in the meeting room for the ~~person or persons seeking access or lack of electronic capacity to allow public viewing of the meeting through electronic means.~~
2. For purposes of this section, if the meeting is held in person, the meeting room must be accessible to, and the size of the room must accommodate, the number of persons reasonably expected to attend the meeting. If the meeting is held by electronic means, the electronic capacity must accommodate the number of persons reasonably expected to attend the meeting remotely.
3. The right of a person to attend a meeting under this section includes the right to photograph, to record on audiotape or videotape and to broadcast live on radio or television the portion of the meeting that is not held in executive session, provided that there is no active interference with the conduct of the

meeting. The exercise of this right may not be dependent upon the prior approval of the governing body. However, the governing body may impose reasonable limitations on recording activity to minimize the possibility of disruption of the meeting.

4. For meetings subject to this section ~~when one or more of the members of the governing body is participating by telephone or video, a speakerphone or monitor must be provided at the location specified, if the meeting is held through any electronic means, the information necessary to join or view the meeting electronically must be included in the notice issued under section 44-04-20.~~

SECTION 4. Subsection 12 of section 44-04-19.1 of the North Dakota Century Code is created and enacted as follows:

12. Unless subject to subsection 6 of section 44-04-18, active litigation records are exempt from section 44-04-18. For purposes of this subsection, "active litigation records" means records obtained, compiled, or prepared by a public entity or the attorney representing a public entity for the purpose of litigation unless the records already have been filed publicly or the litigation is completed.

SECTION 5. AMENDMENT. Subsections 1 and 2 of section 44-04-20 of the North Dakota Century Code are amended and reenacted as follows:

1. Unless otherwise provided by law, public notice must be given in advance of all meetings of a public entity as defined in section 44-04-17.1, including executive sessions, ~~conference call meetings, and videoconferences and meetings held remotely.~~ Unless otherwise specified by law, resolution, or ordinance, or as decided by the public entity, notices required by this section need not be published.
2. The notice required in this section must contain the date, time, and location of the meeting and, if practicable, the topics to be considered. However, the lack of an agenda in the notice, or a departure from, or an addition to, the agenda at a meeting, does not affect the validity of the meeting or the actions taken thereat. The notice also must ~~also~~ contain the general subject matter of any executive session expected to be held during the meeting. For meetings to be held by telephone or videoconference, or other electronic means, the location of the meeting and ~~the place the meeting is held is the location of a speakerphone or monitorelectronic address and any other information necessary to allow the public to join or view the electronic meeting as required under section 44-04-19.~~

SECTION 6. AMENDMENT. Section 44-04-30 of the North Dakota Century Code is amended and reenacted as follows:

44-04-30. Records of the state fire marshal, fire departments, and rural fire protection districts confidential.

1. a. An investigation record of the state fire marshal, a fire department, or a rural fire protection district is confidential until the investigation:
 - (1) Is closed and not referred for further criminal investigation or prosecution; or

(2) The criminal investigation is no longer active under section 44-04-18.7.

- b. This subsection does not restrict the release of the name and identifiable biographical information of a child under section 12.1-35-03.
2. Standard operating procedures written for emergency response, prefire action plans, plans of a building, pipeline, electrical system, or any other infrastructure plan in the ~~handspossession~~ of ~~the state fire marshal~~, a fire department, or rural fire protection district are exempt from section 44-04-18.
3. Individually identifiable health information obtained by ~~the state fire marshal~~, a fire department, or ~~a~~ rural fire protection district is confidential.
4. An image of a victim of a fire is an exempt record.

SECTION 7. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Medical records or medical information - Exempt.

Unless otherwise provided by law, a medical record or a record containing medical information in the possession of a public entity is an exempt record.

SECTION 8. Subsection 6 of section 50-24.8-12 of the North Dakota Century Code is created and enacted as follows:

6. An active investigation record of the Medicaid fraud control unit is an exempt record unless the investigation is closed and not referred for further investigation or adjudication.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 329

SENATE BILL NO. 2276

(Senators Lee, Dwyer, Hogue)
(Representatives Nathe, Roers Jones)

AN ACT to amend and reenact section 44-04-18.3 of the North Dakota Century Code, relating to confidentiality of law enforcement personnel records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-04-18.3 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18.3. Records of juvenile court supervisors and probation officers and law enforcement and correctional employees - Law enforcement work schedules - Confidential informants.

1. ~~Any~~Except as provided in subsection 5, a telephone number and the home address of a prosecutor, supreme court justice, district court judge, judicial referee, juvenile court director or probation officer, an employee of a law enforcement agency, employee of a state or local correctional facility, and an employee of the department of corrections and rehabilitation are confidential. Information contained in a personnel record of an employee of the department of corrections and rehabilitation may not be disclosed to an inmate in the legal custody of the department of corrections and rehabilitation confined in a jail, prison, or other correctional facility unless authorized by the director of the department of corrections and rehabilitation. Information contained in a personnel record of a law enforcement officer of a state or local law enforcement agency or in the personnel record of a correctional employee of a correctional facility subject to chapter 12-44.1 may not be disclosed to an inmate confined in a state correctional facility or correctional facility subject to chapter 12-44.1 unless authorized by the employing agency.
2. Records or other information that would reveal the identity, or endanger the life or physical well-being, of an undercover law enforcement officer is confidential. For purposes of this subsection, an "undercover law enforcement officer" means a full-time, salaried employee of a local or state law enforcement agency who acts surreptitiously or poses as someone other than a law enforcement officer while engaging in the investigation of a violation of law.
3. Any record containing the work schedule of employees of a law enforcement agency is exempt.
4. A law enforcement officer or prosecutor, within the scope of the employment of the officer or prosecutor, may provide assurances of confidentiality to a person providing information regarding violations of the law. Any information that would identify or provide a means of identifying a confidential informant, if the identity of the informant is not otherwise publicly known, is confidential and may be disclosed only as permitted by law.

5. A home address of an individual in subsection 1 which is included in a geographic information system, a property title record, or tax parcel data is confidential only if an individual in subsection 1 or the individual's employer submits a written request to the custodian of the records. The request will remain confidential for the remainder of a calendar year and must be renewed annually.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 330

HOUSE BILL NO. 1335

(Representatives Kempenich, Bellew, Jones, Kading, M. Ruby, Simons)
(Senators O. Larsen, Myrdal)

AN ACT to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to reservation of powers not granted to the federal government.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Reservation of powers not granted to the federal government.

Pursuant to the tenth amendment to the Constitution of the United States, public officials and employees in this state need not carry out or comply with an executive order of the president of the United States, a regulation of a federal agency or department, or a federal statute infringing on powers reserved to the several states.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 331

HOUSE BILL NO. 1344

(Representatives Kempenich, Hatlestad, Kreidt)

AN ACT to amend and reenact section 44-08-05.1 of the North Dakota Century Code, relating to the reporting by any public officer, employee, or any other individual who has knowledge of an actual or possible law violation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰⁴ **SECTION 1. AMENDMENT.** Section 44-08-05.1 of the North Dakota Century Code is amended and reenacted as follows:

44-08-05.1. Payments - Purchasing card authority - Penalty.

1. Any public officer or employee who has the power to approve a payment for travel expenses or any other expenditure of public funds shall determine before approving the payment:
 - a. That the expenditure for travel or other expenditures were for lawful and official purposes.
 - b. If for employee travel reimbursement, the sums claimed for travel expenses are actually due the individual who is seeking reimbursement, allowance, or payment.
 - c. If the payment is for expenditure other than travel expense, that the expenditure is lawful and that the payment contains no false claims.
2. The director of the office of management and budget, the state board of higher education, the governing body of any political subdivision, and the board of any school district may establish and administer a purchasing card system for use by its officers, employees, representatives, or agents. If the director of the office of management and budget establishes a cooperative purchasing contract under section 54-44.4-13, each participating government entity is responsible for its purchasing card system.
3. An employee of the office of management and budget designated by the director of the office of management and budget, on behalf of all state agencies, may review and approve payments made with a purchasing card and make payments. The director of the office of management and budget may designate the state agencies that are required to use the purchasing card system.
4. Any public officer or employee who fraudulently uses a purchasing card or knowingly approves a payment for false or unlawful claims or which does not otherwise meet the requirements of this section for approval may be subject to criminal prosecution under title 12.1. Any public officer or employee who,

²⁰⁴ Section 44-08-05.1 was also amended by section 1 of House Bill No. 1127, chapter 397.

without the use of ordinary care and diligence, uses a purchasing card or approves a payment for false or unlawful claims or which does not otherwise meet the requirements of this section for approval is personally liable for any funds improperly expended.

5. Any public officer, employee, or any other individual who has knowledge of an actual or possible violation of this section shall make that information known to the attorney general or the appropriate state's attorney. The attorney general or appropriate state's attorney ~~shall~~may investigate any alleged violation. If there is probable cause to believe that a violation has occurred, the attorney general or appropriate state's attorney shall initiate a criminal prosecution under title 12.1 or a civil suit against the public officer or employee for the recovery of the funds as may actually have been improperly paid, or may initiate a prosecution and a civil suit.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 332

SENATE BILL NO. 2068

(Political Subdivisions Committee)

(At the request of the Office of Management and Budget)

AN ACT to amend and reenact subsection 5 of section 44-11-02 of the North Dakota Century Code, relating to the obligations to prosecute the removal of an official.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 44-11-02 of the North Dakota Century Code is amended and reenacted as follows:

5. Upon receipt of the recommendation of the attorney general, the governor shall determine whether to proceed with the appointment of a special commissioner. If the governor decides not to appoint a special commissioner, the governor shall notify the individuals who filed the petition and summarize the reasons for the decision. If the governor decides to appoint a special commissioner, the governor shall request that a prosecutor draft and serve the official complaint against the officer.
 - a. When the officer sought to be removed is other than the state's attorney, the state's attorney ~~or other competent attorney, upon request of the governor, for the county involved or in which the political subdivision or office is located, upon request of the governor,~~ shall appear and prosecute. Upon approval of the governor, the state's attorney may contract with a state's attorney from another county or other competent attorney, or request the attorney general to prosecute the proceedings.
 - b. When the proceedings are brought to remove the state's attorney, the ~~governor shall request the attorney general or other competent attorney to~~ shall appear on behalf of the state and prosecute such proceedings. Upon approval of the governor, the attorney general may contract with a state's attorney or other competent attorney.

Approved April 12, 2021

Filed April 13, 2021

PROPERTY

CHAPTER 333

HOUSE BILL NO. 1221

(Representatives Porter, D. Anderson, Damschen, M. Ruby)
(Senators Erbele, Kannianen)

AN ACT to amend and reenact section 47-05-17 of the North Dakota Century Code, relating to an exemption from a prohibition against severing hunting rights from surface estates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-05-17 of the North Dakota Century Code is amended and reenacted as follows:

47-05-17. Severance of the right of access for hunting access prohibited.

The right of access to land to shoot, shoot at, pursue, take, attempt to take, or kill any game animals or game birds; search for or attempt to locate or flush any game animals and game birds; lure, call, or attempt to attract game animals or game birds; hide for the purpose of taking or attempting to take game animals or game birds; and walk, crawl, or advance toward wildlife while possessing implements or equipment useful in the taking of game animals or game birds may not be severed from the surface estate. This section does not apply to deeds, instruments, or interests in property recorded or executed before August 1, 2007.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 334

SENATE BILL NO. 2247

(Senators Meyer, Larson)
(Representatives Boschee, B. Koppelman)

AN ACT to amend and reenact section 47-10-02.1 of the North Dakota Century Code, relating to property disclosure requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-10-02.1 of the North Dakota Century Code is amended and reenacted as follows:

47-10-02.1. Property disclosure - Requirements - Exceptions.

1. ~~This~~Unless the transaction is exempted under subsection 7, this section applies to a transaction for the sale, exchange, or purchase of real property if:
 - a. A real estate broker, real estate broker associate, or real estate salesperson who is associated with a real estate brokerage firm represents or assists a party to the transaction; and
 - b. The real property is ~~an owner-occupied primary residence~~a residential dwelling with no more than four units located in this state being sold or exchanged by the owner.
2. ~~Before~~Except as otherwise provided the parties sign an agreement for the sale, exchange, or purchase of real property, the seller shall make a written disclosure to the prospective buyer. The written disclosure must include all material facts of which the seller is aware could adversely and significantly affect an ordinary buyer's use and enjoyment of the property or any intended use of the property of which the seller is aware. The written disclosure must include latent defects, general condition, environmental issues, structural systems, and mechanical issues regarding the property.in an offer to purchase agreement, before the parties sign the final acceptance of the purchase agreement for the sale, exchange, or purchase of the real property, the seller in a transaction subject to subsection 1 shall prepare a written disclosure form and shall make the written disclosure form available to the prospective buyer. The written disclosure form must include all material facts the seller is aware could adversely and significantly affect an ordinary buyer's use and enjoyment of the property or any intended use of the property of which the seller is aware. The written disclosure form must be in the form of the written disclosure form established by the North Dakota real estate commission under subsection 4 or in a substantially similar form and must include latent defects, general condition, environmental issues, structural systems, and mechanical issues regarding the property. The seller shall make~~complete~~ the written disclosure in good faith and based upon the best of the seller's knowledge at the time of the disclosure.
3. ~~Following~~If a real estate broker, real estate broker associate, or real estate salesperson who is associated with a real estate brokerage firm represents or

assists a party to the transaction, following the sale, exchange, or purchase of real property, the brokerage firm shall retain a copy of the written disclosure completed and signed by the seller and signed by the prospective buyer. The brokerage firm's duties under this section do not supersede any other common law or statutory duties.

4. The North Dakota real estate commission shall establish and make available a written disclosure form meeting the requirements of this section. In establishing the form, the commission shall consult with stakeholders, such as professional organizations.
5. If a real estate broker, real estate broker associate, or real estate salesperson who is associated with a real estate brokerage firm violates this section, the state real estate commission may investigate and take disciplinary action under section 43-23-11.1.
6. Unless the transaction is subject to subsection 1 or exempted under subsection 7, the seller of real property that is a residential dwelling with no more than four units located in this state being sold or exchanged by the owner shall comply with the provisions of this subsection. Except as otherwise provided in an offer to purchase agreement, before the parties sign the final acceptance of the purchase agreement for the sale, exchange, or purchase of the real property, the seller in a transaction subject to this subsection shall disclose to the buyer, in writing, all material facts the seller is aware could adversely and significantly affect an ordinary buyer's use and enjoyment of the property or any intended use of the property of which the seller is aware. The written disclosure may be in the form of a written property disclosure form.
7. This section does not apply to transactions for the sale, exchange, or purchase of real property made:
 - a. Pursuant to a court order;
 - b. Between government agencies;
 - c. By a mortgagor in default to a mortgagee;
 - d. Pursuant to a foreclosure sale;
 - e. By a mortgagee or a beneficiary of a deed of trust who acquired the real property by a:
 - (1) Foreclosure;
 - (2) Deed in lieu of foreclosure; or
 - (3) Collateral assignment of beneficial interest;
 - f. By a fiduciary administering a decedent's estate, guardianship, conservatorship, or trust;
 - g. Between co-owners of the real property;
 - h. To a spouse, child, parent, sibling, grandchild, or grandparent; or

- i. If the real property is newly constructed residential real property with no previous occupancy.

Approved April 27, 2021

Filed April 28, 2021

CHAPTER 335

SENATE BILL NO. 2159

(Senators Dever, Larson, Poolman)
(Representatives Bellew, Karls, Toman)

AN ACT to create and enact a new section to chapter 47-10 of the North Dakota Century Code, relating to mobile home park tenant rights; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 47-10 of the North Dakota Century Code is created and enacted as follows:

Mobile home park - Ownership - Transfer of ownership - Tenant rights - Penalty.

1. A person that owns or purchases an existing mobile home park shall:
 - a. Obtain an annual license under section 23-10-03;
 - b. Designate an official local office, except if the mobile home park contains fewer than twenty-six lots, which must be operational on the fifth business day after the change of ownership.
 - c. The mobile home park shall:
 - (1) Have a designated telephone number manned on weekdays between the hours of eight a.m. and five p.m.;
 - (2) Have an operational emergency contact number manned at all times;
 - (3) Designate at least one individual for the property who has the authority to make decisions on behalf of and perform, or direct the performance of, duties imposed on the owner; and
 - (4) Provide a tenant with the contact information of the individual under paragraph 3;
 - d. Provide written notice to a tenant of the mobile home park regarding the change of ownership within five business days after the change of ownership becomes effective. The written notice must include the information required under subdivision c; and
 - e. Acknowledge receipt of tenant inquiries or complaints regarding the park, pursuant to section 23-10-10.1, within two business days of receiving the inquiry or complaint.
2. A person that owns or purchases an existing mobile home park may not require a tenant who owns a mobile home located on the property to sell or

transfer ownership of the home to the owner of the mobile home park, except as otherwise provided by law.

3. A person that owns or purchases an existing mobile home park shall provide a tenant advance written notice of any modifications to park rules or regulations at least thirty days before the date the modifications take effect. Except for the rules and regulations under subsections 4 and 5, upon the effective date of modifications to park rules and regulations, an owner shall provide a tenant who owns a dwelling unit that fails to comply with the park rules and regulations written notice of the failure to comply and provide the tenant three months to remedy the failure or vacate the premises before initiating an action for eviction against the tenant. During the three-month period the tenant shall comply with the park rules and regulations that were in effect before the modifications became effective, including the payment of rent and any other financial obligations under the terms of the lease. During the three-month period, if the tenant provides the owner a signed document from a person in the business of relocating mobile homes declaring it is not possible to relocate the tenant's dwelling unit within the three-month period, the three-month period must be extended to a date when the dwelling unit can be relocated or the date that is two months after the end of the three-month period, whichever date occurs first.
4. A person that owns or purchases an existing mobile home park shall provide a tenant advance written notice of any modifications to park rules and regulations addressing sanitation and safety concerns at least thirty days before the date the modifications take effect.
5. A person that owns or purchases an existing mobile home park shall provide a tenant advance written notice at least thirty days before implementing a rule or regulation regarding the removal of a tongue hitch, or any other modification to the dwelling unit to comply with state or federal housing or financing requirements.
6. Mobile home park rules in effect on the date advance written notice regarding modifications is provided to a tenant remain in effect until the date the modified rules or regulations take effect.
7. A person that purchases an existing mobile home park may not increase the monthly tenant rental obligation for six months if the rental amount was increased within the sixty-day period before the date the new owner acquired ownership of the park.
8. A person that owns or purchases an existing mobile home park may purchase utility services, including water and sewer services on behalf of a tenant, and include the amount in the monthly rental obligation or bill the tenant as a separate charge based on actual usage. An owner may not charge a tenant more than the actual cost per unit amount paid by the landlord to the utility service provider, except for a reasonable administrative fee that may not exceed three dollars. An owner may not charge or back charge for the utility services of a tenant paying for the services as a portion of the tenant's monthly rental obligation, unless the cost of providing the services increases. If the cost of providing utility services increases, an owner of a mobile home park may charge a tenant a reasonable amount to cover the increased cost of providing the service. The owner shall provide the tenant access to the records of meter readings taken at the mobile home lot of the tenant.

9. A person that violates a provision of this section is subject to a civil penalty not exceeding one thousand dollars or actual damages, whichever is less, plus reasonable attorney's fees and costs.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 336

SENATE BILL NO. 2243

(Senators Burckhard, Kannianen)
(Representatives Dockter, Keiser, Longmuir)

AN ACT to amend and reenact subsection 4 of section 47-20.1-02 of the North Dakota Century Code, relating to the definition of the practice of land surveying.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 47-20.1-02 of the North Dakota Century Code is amended and reenacted as follows:

4. "Practice of land surveying" ~~means the assuming of responsibility for the surveying of land for the establishment of corners, lines, boundaries, and monuments, the laying out and subdivision of land, the defining and locating of corners, lines, boundaries, and monuments after they have been established, the survey of land areas for the purpose of determining the topography thereof, the making of topographical delineations, and the preparing of maps and accurate records thereof, when the proper performance of such services requires technical knowledge and skill~~ has the same meaning as in section 43-19.1-02.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 337

SENATE BILL NO. 2048

(Industry, Business and Labor Committee)
(At the request of the Commission on Uniform State Laws)

AN ACT to create and enact chapter 47-30.2 of the North Dakota Century Code, relating to the Revised Uniform Unclaimed Property Act; to amend and reenact sections 9-12-29, 10-19.1-123, 10-33-114, and 15-02-05.2, subsection 3 of section 23.1-15-07, subsections 8 and 9 of section 26.1-55-02, sections 26.1-55-04, 27-05.2-04, and 30.1-20-14, subsection 3 of section 35-20-17, sections 35-36-05, 38-13.1-03, 38-18.1-03, and 44-04-18.25, subsection 3 of section 47-16-07.1, section 54-27-15.1, subsection 6 of section 57-38-57, subsection 8 of section 57-39.2-23, and section 60-01-34 of the North Dakota Century Code, relating to abandoned and unclaimed property; to repeal chapter 47-30.1 of the North Dakota Century Code, relating to the Uniform Unclaimed Property Act; to provide for a report; to provide a penalty; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 9-12-29 of the North Dakota Century Code is amended and reenacted as follows:

9-12-29. Claim of money by creditor - Extinguishment of lien.

The creditor is entitled to claim the amount of money from the county treasurer within nine months of the date of deposit upon a showing to the county treasurer of a satisfaction of the lien, encumbrance, or cloud which includes an indication by the recorder that the satisfaction has been duly recorded. If the creditor does not claim the money in nine months from the date of first publication of the notice, the money, a copy of the debtor's affidavit, and a copy of the published notice must be forwarded by the county treasurer to the state land commissioner for deposit to the credit of the state of North Dakota for the use and benefit of the common schools trust fund of the state. At the same time these items are forwarded to the state land commissioner, the county treasurer shall record in the office of the recorder a notice to the effect that the lien, encumbrance, or cloud affecting or related to the title to the real property, giving the specific legal description of the property, has been discharged by the procedures set out in section 9-12-28 and this section. The debtor shall pay the recorder's fees for recording the county treasurer's notice.

At any time after the original nine-month period, the creditor, or the creditor's heirs, successors, or assigns, may claim the full amount of the original deposit without any interest or penalty from the state administrator of abandoned property in the manner specified in chapter ~~47-30-147-30.2~~ for claiming the proceeds of other abandoned and unclaimed property.

SECTION 2. AMENDMENT. Section 10-19.1-123 of the North Dakota Century Code is amended and reenacted as follows:

10-19.1-123. Deposit with administrator of abandoned property of amount due certain shareholders - Appropriation.

Upon dissolution of a corporation, the portion of the assets distributable to a person who is unknown or cannot be found must be reduced to money and deposited with the administrator of abandoned property for disposition pursuant to chapter ~~47-30-147-30.2~~. The amount deposited is appropriated to the administrator of abandoned property and must be paid over to the person or a legal representative, upon proof satisfactory to the administrator of abandoned property of a right to payment.

SECTION 3. AMENDMENT. Section 10-33-114 of the North Dakota Century Code is amended and reenacted as follows:

10-33-114. Deposit with administrator of abandoned property of amount due certain persons - Appropriation.

Upon dissolution of a corporation, the portion of the assets distributable to a person who is unknown or cannot be found must be reduced to money and deposited with the administrator of abandoned property for disposition pursuant to chapter ~~47-30-147-30.2~~. The amount deposited is appropriated to the administrator of abandoned property and must be paid over to the person or a legal representative, upon proof satisfactory to the administrator of abandoned property of a right to payment.

SECTION 4. AMENDMENT. Section 15-02-05.2 of the North Dakota Century Code is amended and reenacted as follows:

15-02-05.2. Administrator of abandoned property - Employment.

The commissioner of university and school lands shall act as or employ an administrator of abandoned property and shall employ other personnel as necessary for the proper administration of chapter ~~47-30-147-30.2~~ and shall set their salaries, within limits of legislative appropriations. All public officers shall assist the administrator in carrying out the administration of chapter ~~47-30-147-30.2~~.

²⁰⁵ **SECTION 5. AMENDMENT.** Subsection 3 of section 23.1-15-07 of the North Dakota Century Code is amended and reenacted as follows:

3. From the proceeds of the sale of an abandoned motor vehicle, the unit of government or the commercial towing service may reimburse itself for the cost of towing, preserving, and storing the vehicle, and for all notice and publication costs incurred under this chapter. Any remainder from the proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or secured parties for ninety days and then must be delivered to the administrator of the state abandoned property office in accordance with chapter ~~47-30-147-30.2~~.

²⁰⁶ **SECTION 6. AMENDMENT.** Subsection 8 of section 26.1-55-02 of the North Dakota Century Code is amended and reenacted as follows:

8. Within twelve months following a potential match identified as a result of a death master file or revised death master file match, an insurer shall:

²⁰⁵ Section 23.1-15-07 was also amended by section 2 of Senate Bill No. 2098, chapter 213.

²⁰⁶ Section 26.1-55-02 was also amended by section 7 of Senate Bill No. 2048, chapter 337.

- a. Notify the state abandoned property office that a life insurance policy beneficiary or retained asset accountholder has not submitted and completed a claim with the insurer and that the insurer has complied with subsections 2 and 3 and has been unable, after good-faith efforts documented by the insurer, to contact the retained asset accountholder, beneficiary, or beneficiaries and unable to complete the necessary payment; and
- b. Submit any unclaimed life insurance benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the state abandoned property office under chapter ~~47-30-147-30.2~~.

²⁰⁷ **SECTION 7. AMENDMENT.** Subsection 9 of section 26.1-55-02 of the North Dakota Century Code is amended and reenacted as follows:

9. Except as otherwise provided under this chapter, chapter ~~47-30-147-30.2~~ applies to the escheatment of unclaimed life insurance benefits or unclaimed retained asset accounts.

SECTION 8. AMENDMENT. Section 26.1-55-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-55-04. Application.

~~Section 47-30.1-07 and chapter 47-30.1~~Chapter 47-30.2, relating to unclaimed property, ~~apply~~applies to a contract or policy to the extent the laws do not conflict with this chapter.

SECTION 9. AMENDMENT. Section 27-05.2-04 of the North Dakota Century Code is amended and reenacted as follows:

27-05.2-04. Clerk to keep record of fees - Monthly report to county auditor or state treasurer - Continuing appropriation.

A clerk of the district court providing clerk services in accordance with subsection 2 or 6 of section 27-05.2-02 shall keep a public record of all money received as fees for services rendered as clerk. Within three days after the close of each calendar month, the clerk shall file with the county auditor a statement under oath showing the amount of fees received as clerk since the date of the clerk's last report and within three days thereafter the clerk shall deposit with the county treasurer the total sum of such fees which must be used for facilities, except fees that the clerk is directed to deposit with the state treasurer or is authorized expressly to retain. Within three days after the close of each calendar month, a clerk who has become a state employee under subsection 3 or 4 of section 27-05.2-02 shall file with the state treasurer a statement under oath showing the amount of fees received by the clerk since the date of the clerk's last report. Within three days thereafter, the clerk shall deposit with the state treasurer the total sum of fees required to be deposited in the general fund or in a designated special fund. The clerk shall forward to the county treasurer any fees received under section 27-05.2-03 which are not required to be deposited in the state general fund or a designated special fund. Those fees must be used for facilities. A special court receivables fund is established in the state treasury for purposes of depositing any money received by the clerk which is not required to be deposited in the state general fund, a different special fund, or the county treasury

²⁰⁷ Section 26.1-55-02 was also amended by section 6 of Senate Bill No. 2048, chapter 337.

and which is received as bail or restitution, or otherwise received pursuant to an order of the court. Moneys in the special fund are appropriated to the judicial branch on a continuing basis for purposes of refunding bail, forwarding restitution amounts to the entitled recipient, or otherwise making payments as directed by an order of the court. To facilitate making payments from the special fund, the clerk may establish a special account in the Bank of North Dakota or in a banking institution designated as a depository of public funds under chapter 21-04. If money deposited as bail is forfeited, the clerk shall submit the appropriate sum to the state treasurer for deposit in the state general fund. If the clerk is unable to make payments from the special account because the address of the recipient is unknown or the recipient cannot otherwise be located, the clerk shall dispose of the deposited money in accordance with chapter 47-30-147-30.2.

SECTION 10. AMENDMENT. Section 30.1-20-14 of the North Dakota Century Code is amended and reenacted as follows:

30.1-20-14. (3-914) Disposition of unclaimed assets.

If an heir, devisee, or claimant cannot be found, the personal representative shall distribute the missing person's share to the missing person's conservator, if any, otherwise to the unclaimed property administrator under chapter 47-30-147-30.2.

SECTION 11. AMENDMENT. Subsection 3 of section 35-20-17 of the North Dakota Century Code is amended and reenacted as follows:

3. A lienholder may sell a mobile home thirty days after the lienholder mails notice of the lien to the owner of the mobile home and secured parties of record. After the sale, the lienholder shall forward to the former owner any money resulting from the sale of the mobile home in excess of the amount owed to the lienholder for accrued rents, storage, and removal relating to the mobile home. If the location of the former mobile home owner is not known, any money from a sale in excess of the amount owed is presumed abandoned under chapter 47-30-147-30.2.

SECTION 12. AMENDMENT. Section 35-36-05 of the North Dakota Century Code is amended and reenacted as follows:

35-36-05. Sale of property - Application of proceeds.

At any time before the sale, the lessee may pay the amount necessary to satisfy the lien and redeem the lessee's property. If a sale is held, the owner shall satisfy the lien from the proceeds of the sale and hold the balance, if any, for delivery on demand to the lessee or any other recorded lienholder for a period of six months from the date of sale. Any amount not claimed by the lessee from the owner within the six-month period is subject to the reporting requirements of section 47-30.1-0847-30.2-04.

SECTION 13. AMENDMENT. Section 38-13.1-03 of the North Dakota Century Code is amended and reenacted as follows:

38-13.1-03. Administration of trust.

The administration of the trust must comply with the appropriate provisions regulating trusts contained in title 59. Except as provided in this section, trustee or attorney's fees may not be paid from the trust proceeds. All bonuses, rental payments, royalties, and other income must be paid to the trustee until the trust is terminated and notice of its termination is given to all interested parties. The trustee shall distribute all moneys held in the trust to the person entitled to the money upon

the order of the district court. A trust in favor of unlocatable owners must be kept in force until the unlocatable owners of the mineral interests in question have successfully claimed their share of the funds held in trust and have filed the notice as provided in section 38-13.1-04. The creation of a trust in favor of unlocatable owners does not affect the right of a surface owner who succeeds to ownership of a mineral interest upon its lapse under chapter 38-18.1. A person who succeeds to ownership under chapter 38-18.1 owns the mineral interest and the proceeds from the mineral interest from the date of succession. The trustee shall invest funds in a prudent manner. Upon receipt, fifty percent of the moneys paid to the trustee must be credited to the general fund of the county in which the mineral interest is located to defray the costs of administration. Funds held in trust are subject to the laws governing abandoned property as provided in chapter ~~47-30.1-47-30.2~~.

SECTION 14. AMENDMENT. Section 38-18.1-03 of the North Dakota Century Code is amended and reenacted as follows:

38-18.1-03. When mineral interest deemed to be used.

1. A mineral interest is deemed to be used when:
 - a. There are any minerals produced under that interest.
 - b. Operations are being conducted thereon for injection, withdrawal, storage, or disposal of water, gas, or other fluid substances.
 - c. In the case of solid minerals, there is production from a common vein or seam by the owners of such mineral interest.
 - d. The mineral interest on any tract is subject to a lease, mortgage, assignment, or conveyance of the mineral interest recorded in the office of the recorder in the county in which the mineral interest is located.
 - e. The mineral interest on any tract is subject to an order or an agreement to pool or unitize, recorded in the office of the recorder in the county in which the mineral interest is located.
 - f. A proper statement of claim is recorded as provided by section 38-18.1-04.
2. The payment of royalties, bonus payments, or any other payment to a named or unnamed interest-bearing account, trust account, escrow account, or any similar type of account on behalf of a person who cannot be located does not satisfy the requirements of this section and the mineral interest is not deemed to be used for purposes of this section. Interest on such account must be credited to the account and may not be used for any other purpose. A named or unnamed interest-bearing account, trust account, escrow account, or any similar type of account that has been in existence for three years is deemed to be abandoned property and must be treated as abandoned property under chapter ~~47-30.1-47-30.2~~. A lease given by a trustee remains valid.

SECTION 15. AMENDMENT. Section 44-04-18.25 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18.25. Value of property paid or delivered to the administrator of the state abandoned property office - Exempt record.

A record of the value of property paid or delivered to the administrator of the state abandoned property office under section ~~47-30.1-17~~47-30.2-21 is an exempt record.

SECTION 16. AMENDMENT. Subsection 3 of section 47-16-07.1 of the North Dakota Century Code is amended and reenacted as follows:

3. A lessor may apply security deposit money and accrued interest upon termination of a lease towards:
 - a. Any damages the lessor has suffered by reason of deteriorations or injuries to the real property or dwelling by the lessee's pet or through the negligence of the lessee or the lessee's guest.
 - b. Any unpaid rent.
 - c. The costs of cleaning or other repairs which were the responsibility of the lessee, and which are necessary to return the dwelling unit to its original state when the lessee took possession, reasonable wear and tear excepted.

Application of any portion of a security deposit not paid to the lessee upon termination of the lease must be itemized by the lessor. Such itemization together with the amount due must be delivered or mailed to the lessee at the last address furnished lessor, along with a written notice within thirty days after termination of the lease and delivery of possession by the lessee. The notice must contain a statement of any amount still due the lessor or the refund due the lessee. A lessor is not required to pay interest on security deposits if the period of occupancy was less than nine months in duration. Any amounts not claimed from the lessor by the lessee within one year of the termination of the lease agreement are subject to the reporting requirements of section ~~47-30.1-08~~47-30.2-04.

SECTION 17. Chapter 47-30.2 of the North Dakota Century Code is created and enacted as follows:

47-30.2-01. (102) Definitions.

As used in this chapter:

1. "Administrator" means the administrator of the state abandoned property office.
2. "Administrator's agent" means a person with which the commissioner contracts to conduct an examination under sections 47-30.2-54, 47-30.2-55, 47-30.2-56, 47-30.2-57, 47-30.2-58, 47-30.2-59, 47-30.2-60, 47-30.2-61, and 47-30.2-62 on behalf of the administrator. The term includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor.
3. "Apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder.
4. "Board" means the board of university and school lands.
5. "Business association" means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited

liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity, whether or not for profit.

6. "Cashier's check" means a check that:
 - a. Is purchased by a remitter and made payable to a designated payee;
 - b. Is signed by an officer or employee of the financial organization;
 - c. Authorizes payment of the amount shown on the check's face to the payee;
 - d. Is a direct obligation of the financial organization; and
 - e. Is provided to a customer of the financial institution or acquired from the financial institution for remittance purposes.
7. "Commissioner" means the commissioner of university and school lands.
8. "Confidential record" has the same meaning as defined in section 44-04-17.1.
9. "Department" means the department of trust lands.
10. "Domicile" means:
 - a. For a corporation, the state of its incorporation;
 - b. For a business association whose formation requires a filing with a state, other than a corporation, the state of its filing;
 - c. For a federally chartered entity, the state of its home office; and
 - d. For any other holder, the state of its principal place of business.
11. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
12. "Electronic mail" means a communication by electronic means, together with attachments, which is automatically retained and stored and may be readily accessed or retrieved.
13. "Financial organization" means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization, private banker, trust company, credit union, or an organization defined as a bank or banking organization under the laws of this state or of the United States.
14. "Game-related digital content" means digital content that exists only in an electronic game or electronic-game platform.
 - a. The term includes:
 - (1) Game-play currency such as a virtual wallet, even if denominated in United States currency; and

- (2) The following if for use or redemption only within the game or platform or another electronic game or electronic-game platform:
 - (a) Points sometimes referred to as gems, tokens, gold, and similar names; and
 - (b) Digital codes; and
 - b. The term does not include an item that the issuer:
 - (1) Permits to be redeemed for use outside a game or platform for:
 - (a) Money; or
 - (b) Goods or services that have more than minimal value; or
 - (2) Otherwise monetizes for use outside a game or platform.
- 15. "Gift card" means a record that:
 - a. Is usable at:
 - (1) A single merchant; or
 - (2) A specified group of merchants;
 - b. Is prefunded before the record is used; and
 - c. Can be used for purchases of goods or services.
- 16. "Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner, property subject to this chapter.
- 17. "Insurance company" has the same meaning as defined in section 26.1-02-01, and also includes a benevolent society, nonprofit health service corporation, and a health maintenance organization.
- 18. "Loyalty card" means a record given without monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program which may be used or redeemed only to obtain goods or services or a discount on goods or services. The term does not include a record that may be redeemed for money or otherwise monetized by the issuer.
- 19. "Mineral proceeds" means an obligation:
 - a. To pay resulting from the production and sale of minerals, including net revenue interest, royalties, overriding royalties, production payments, and joint operating agreements; or
 - b. For the acquisition and retention of a mineral lease, including bonuses, delay rentals, shut-in royalties, and minimum royalties.
- 20. "Money order" means a payment order for a specified amount of money. The term includes an express money order and a personal money order on which the remitter is the purchaser.

21. "Municipal bond" means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.
22. "Net card value" means the original purchase price or original issued value of a stored-value card, plus amounts added to the original price or value, minus amounts used and any service charge, fee, or dormancy charge permitted by law.
23. "Non-freely transferable security" means a security that cannot be delivered to the administrator by the depository trust clearing corporation or similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer. The term includes a worthless security.
24. "Owner" means a person that has a legal, beneficial, or equitable interest in property subject to this chapter or the person's legal representative when acting on behalf of and in the best interest of the owner. The term includes:
 - a. A depositor, for a deposit;
 - b. A beneficiary, for a trust other than a deposit in trust;
 - c. A creditor, claimant, or payee, for other property; and
 - d. The lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.
25. "Payroll card" means a record that evidences a payroll-card account that is directly or indirectly established through an employer and to which electronic fund transfers of the consumer's wages, salary, or other employee compensation, such as commissions, are made on a recurring basis, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution, or any other person.
26. "Person" means an individual, estate, business association, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.
27. "Property" means tangible property described in section 47-30.2-08 or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder's business or by a government, governmental subdivision, agency, or instrumentality.
 - a. The term includes:
 - (1) All income from or increments to the property; and
 - (2) Property referred to as or evidenced by:
 - (a) Money, virtual currency, interest, or a dividend, check, draft, deposit, or payroll card;
 - (b) A credit balance, customer's overpayment, stored-value card, security deposit, refund, credit memorandum, unpaid wage,

unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance;

(c) A security except for:

(1) A worthless security; or

(2) A security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold, or restriction restricts the holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;

(d) A bond, debenture, note, or other evidence of indebtedness;

(e) Money deposited to redeem a security, make a distribution, or pay a dividend;

(f) An amount due and payable under an annuity contract or insurance policy;

(g) An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing, employee-savings, supplemental-unemployment insurance, or a similar benefit;

(h) Intangible property and any income or increment derived from the intangible property held in a fiduciary capacity for the benefit of another person;

(i) Mineral proceeds; and

(j) An in-store credit for returned merchandise.

b. The term does not include:

(1) Property held in a plan described in Section 529A of the Internal Revenue Code, as amended, [26 U.S.C. 529A];

(2) Game-related digital content;

(3) A loyalty card; or

(4) A gift card.

28. "Putative holder" means a person believed by the administrator to be a holder, until the person pays or delivers to the administrator property subject to this chapter or the administrator or a court makes a final determination that the person is or is not a holder.

29. "Record" has the same meaning as defined in section 44-04-17.1.

30. "Security" means:

a. A security as defined in section 41-08-02;

- b. A security entitlement as defined in section 41-08-02, including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:
 - (1) Registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;
 - (2) Payable to the order of the person; or
 - (3) Specifically indorsed to the person; or
 - c. An equity interest in a business association not included in subdivision a or b.
31. "Sign" means, with present intent to authenticate or adopt a record:
- a. To execute or adopt a tangible symbol; or
 - b. To attach to or logically associate with the record an electronic symbol, sound, or process.
32. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
33. "Stored-value card" means a card, code, or other device, including a merchandise credit or rebate card, which is:
- a. Issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount, whether or not that amount may be increased or reloaded in exchange for payment;
 - b. Redeemable upon presentation at multiple unaffiliated merchants for goods or services or usable at automated teller machines; and
 - c. Not a gift card, payroll card, loyalty card, or game-related digital content.
34. "Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for the following public services:
- a. Transmission of communications or information;
 - b. Production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; or
 - c. Provision of sewage or septic services, or trash, garbage, or recycling disposal.
35. "Virtual currency" means a digital representation of value used as a medium of exchange, unit of account, or store of value, which does not have legal tender status recognized by the United States. The term does not include:
- a. The software or protocols governing the transfer of the digital representation of value;
 - b. Game-related digital content; or

c. A loyalty card or gift card.

36. "Worthless security" means a security whose cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due under this chapter.

47-30.2-02. (103) Inapplicability to foreign transaction.

This chapter does not apply to property held, due, and owing in a foreign country if the transaction out of which the property arose was a foreign transaction.

47-30.2-03. (104) Rulemaking.

The commissioner may adopt rules to implement and administer this chapter.

47-30.2-04. (201) When property presumed abandoned.

Subject to section 47-30.2-12, the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified below:

1. Except as provided in this section, checks held, issued, or owing in the ordinary course of the holder's business which remain uncashed by the owner two years after becoming payable;
2. A traveler's check, fifteen years after issuance;
3. A money order, seven years after issuance;
4. A state or municipal bond, bearer bond, or original-issue-discount bond, three years after the earliest of the date:
 - a. The bond matures;
 - b. The bond is called; or
 - c. The obligation to pay the principal of the bond arises;
5. A debt of a business association, three years after the obligation to pay arises;
6. A payroll card or a demand, savings, or time deposit, including a time deposit that is automatically renewable, five years after the date of maturity of the time deposit or the date of the last indication of interest in the property by the apparent owner, whichever is earlier, provided a time deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner has consented in a record on file with the holder to renewal at or about the time of the renewal. If an apparent owner has another established account with the financial institution and has demonstrated interest in any account under section 47-30.2-12, then all accounts must be considered active;
7. A cashier's check or certified check, two years after issuance;
8. Money or a credit owed to a customer as a result of a retail business transaction, other than in-store credit for returned merchandise, three years after the obligation arose;

9. An amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of the death of the insured or annuitant, as follows:
 - a. With respect to an amount owed on a life or endowment insurance policy, three years after the earlier of the date:
 - (1) The insurance company has knowledge of the death of the insured; or
 - (2) The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy is based; and
 - b. With respect to an amount owed on an annuity contract, three years after the date the insurance company has knowledge of the death of the annuitant.
10. Property distributable by a business association in the course of dissolution, one year after the property becomes distributable;
11. Property held by a court, including property received as proceeds of a class action, three years after the property becomes distributable;
12. Property held by a government or political subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, three years after the property becomes distributable;
13. Wages, commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, one year after the amount becomes payable;
14. A deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable;
15. A security deposit, including interest on the security deposit, made in advance by a person to secure an agreement for rights of services, less any lawsuit deductions, which remains unclaimed by the owner for more than one year after termination of the agreement for which the deposit or advance payment was made;
16. A sum payable as mineral proceeds which has remained unclaimed by the owner for more than three years after it became payable or distributable and the owner's underlying right to receive those mineral proceeds are deemed abandoned. At the time an owner's underlying right to receive mineral proceeds is deemed abandoned, any mineral proceeds then owing to the owner and any proceeds accruing after that time are deemed abandoned;
17. Property not specified in this section or sections 47-30.2-05 through 47-30.2-10, the earlier of three years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

47-30.2-05. (202) When tax-deferred or tax-exempt retirement account presumed abandoned.

1. Subject to section 47-30.2-12, property held in a pension account or retirement account that qualifies for tax deferral or tax exemption under the income tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner three years after the later of:
 - a. The following dates:
 - (1) Except as in paragraph 2, the date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States postal service; or
 - (2) If the second communication is sent later than thirty days after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the United States postal service; or
 - b. The earlier of the following dates:
 - (1) The date the apparent owner becomes seventy-two years of age, if determinable by the holder; or
 - (2) If the Internal Revenue Code, as amended, [26 U.S.C. 1 et seq.] or title 57, requires distribution to avoid a tax penalty, two years after the date the holder:
 - (a) Receives confirmation of the death of the apparent owner in the ordinary course of its business; or
 - (b) Confirms the death of the apparent owner under subsection 2.
2. If a holder in the ordinary course of its business receives notice or an indication of the death of an apparent owner and subdivision b of subsection 1 applies, the holder shall attempt not later than ninety days after receipt of the notice or indication to confirm whether the apparent owner is deceased.
3. If the holder does not send communications to the apparent owner of an account described in subsection 1 by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic-mail communication not later than two years after the apparent owner's last indication of interest in the property. However, the holder promptly shall attempt to contact the apparent owner by first-class United States mail if:
 - a. The holder does not have information needed to send the apparent owner an electronic-mail communication;
 - b. The holder receives notification that the electronic-mail communication was not received; or
 - c. The apparent owner does not respond to the electronic-mail communication not later than thirty days after the communication was sent.

4. If first-class United States mail sent under subsection 3 is returned to the holder undelivered by the United States postal service, the property is presumed abandoned three years after the later of:
 - a. Except as in subdivision b, the date a second consecutive communication to contact the apparent owner sent by first-class United States mail is returned to the holder undelivered;
 - b. If the second communication is sent later than thirty days after the date the first communication is returned undelivered, the date the first communication was returned undelivered; or
 - c. The date established by subdivision b of subsection 1.

47-30.2-06. (203) When other tax-deferred or tax-exempt account presumed abandoned.

Subject to section 47-30.2-12 and except for property described in section 47-30.2-05 and property held in a plan described in Section 529A of the Internal Revenue Code, as amended, [26 U.S.C. 529A] property held in an account or plan, including a health savings account, that qualifies for tax deferral or tax exemption under the income tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner three years after the earlier of:

1. The date, if determinable by the holder, specified in the income tax laws and regulations of the United States by which distribution of the property must begin to avoid a tax penalty, with no distribution having been made; or
2. Thirty years after the date the account was opened.

47-30.2-07. (204) When custodial account for minor presumed abandoned.

1. Subject to section 47-30.2-12, property held in an account established under a state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act is presumed abandoned if it is unclaimed by or on behalf of the minor on whose behalf the account was opened three years after the later of:
 - a. Except as in subdivision b, the date a second consecutive communication sent by the holder by first-class United States mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the United States postal service;
 - b. If the second communication is sent later than thirty days after the date the first communication is returned undelivered, the date the first communication was returned undelivered; or
 - c. The date on which the custodian of the minor, as defined under section 47-24.1-01, is required to transfer the property to the minor or the minor's estate in accordance with the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of the state in which the account was opened.
2. If the holder does not send communications to the custodian of the minor on whose behalf an account described in subsection 1 was opened by first-class United States mail, the holder shall attempt to confirm the custodian of the minor's interest in the property by sending the custodian of the minor an electronic-mail communication not later than two years after the custodian of

the minor's last indication of interest in the property. However, the holder promptly shall attempt to contact the custodian of the minor by first-class United States mail if:

- a. The holder does not have information needed to send the custodian of the minor an electronic-mail communication or the holder believes that the custodian of the minor's electronic-mail address in the holder's records is not valid;
 - b. The holder receives notification that the electronic-mail communication was not received; or
 - c. The custodian of the minor does not respond to the electronic-mail communication not later than thirty days after the communication was sent.
3. If first-class United States mail sent under subsection 2 is returned undelivered to the holder by the United States postal service, the property is presumed abandoned three years after the later of:
 - a. The date a second consecutive communication to contact the custodian of the minor by first-class United States mail is returned to the holder undelivered by the United States postal service; or
 - b. The date established by subdivision c of subsection 1.
4. The property in the account described in subsection 1 ceases to be subject to this section on the date the property is transferred to the minor or to the minor's estate.

47-30.2-08. (205) When contents of safe deposit box presumed abandoned.

Tangible property held in a safe deposit box is presumed abandoned if the property remains unclaimed by the apparent owner three years after the earlier of the:

1. Expiration of the lease or rental period for the box; or
2. Earliest date when the lessor of the box is authorized by law of this state other than this chapter to enter the box and remove or dispose of the contents without consent or authorization of the lessee.

47-30.2-09. (206) When stored-value card presumed abandoned.

1. Subject to section 47-30.2-12, the net card value of a stored-value card, other than a payroll card, is presumed abandoned on the latest of three years after:
 - a. December thirty-first of the year in which the card is issued or additional funds are deposited into the card;
 - b. The most recent indication of interest in the card by the apparent owner; or
 - c. A verification or review of the balance by or on behalf of the apparent owner.
2. The amount presumed abandoned in a stored-value card is the net card value at the time it is presumed abandoned.

47-30.2-10. (208) When security presumed abandoned.

1. Subject to section 47-30.2-12, a security is presumed abandoned three years after:
 - a. The date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States postal service; or
 - b. If the second communication is made later than thirty days after the first communication is returned, the date the first communication is returned undelivered to the holder by the United States postal service.
2. If the holder does not send communications to the apparent owner of a security by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending the apparent owner an electronic-mail communication not later than two years after the apparent owner's last indication of interest in the security. However, the holder promptly shall attempt to contact the apparent owner by first-class United States mail if:
 - a. The holder does not have information needed to send the apparent owner an electronic-mail communication or the holder believes that the apparent owner's electronic-mail address in the holder's records is not valid;
 - b. The holder receives notification that the electronic-mail communication was not received; or
 - c. The apparent owner does not respond to the electronic-mail communication not later than thirty days after the communication was sent.
3. If first-class United States mail sent under subsection 2 is returned to the holder undelivered by the United States postal service, the security is presumed abandoned three years after the date the mail is returned.

47-30.2-11. (209) When related property presumed abandoned.

At and after the time property is presumed abandoned under this chapter, any other property right or interest accrued or accruing from the property and not previously presumed abandoned is also presumed abandoned.

47-30.2-12. (210) Indication of apparent owner interest in property.

1. The period after which property is presumed abandoned is measured from the later of:
 - a. The date the property is presumed abandoned under sections 47-30.2-04, 47-30.2-05, 47-30.2-06, 47-30.2-07, 47-30.2-08, 47-30.2-09, 47-30.2-10, 47-30.2-11, 47-30.2-12, 47-30.2-13, and 47-30.2-14; or
 - b. The latest indication of interest by the apparent owner in the property.
2. Under this chapter, an indication of an apparent owner's interest in property includes:

- a. A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;
 - b. An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;
 - c. Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to an account, underlying security, or interest in a business association;
 - d. Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;
 - e. A deposit into or withdrawal from an account at a financial organization, including an automatic deposit or withdrawal previously authorized by the apparent owner other than an automatic reinvestment of dividends or interest;
 - f. Subject to subsection 5, payment of a premium on an insurance policy; and
 - g. Any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the property exists.
3. An action by an agent or other legal representative of an apparent owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner.
4. A communication with an apparent owner by a person other than the holder or the holder's representative is not an indication of interest in the property by the apparent owner unless a record of the communication evidences the apparent owner's knowledge of a right to the property.
5. If the insured dies or the insured or beneficiary of an insurance policy otherwise becomes entitled to the proceeds before depletion of the cash surrender value of the policy by operation of an automatic-premium-loan provision or other nonforfeiture provision contained in the policy, the operation does not prevent the policy from maturing or terminating.

47-30.2-13. (211) Knowledge of death of insured or annuitant.

- 1. In this section, "death master file" means the United States social security administration death master file or other database or service that is at least as comprehensive as the United States social security administration death master file for determining that an individual reportedly has died.
- 2. With respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but which has not matured by proof of death of the insured or annuitant, the company has knowledge of the death of an insured or annuitant when:

- a. The company receives a death certificate or court order determining that the insured or annuitant has died;
 - b. Due diligence, performed as required under section 26.1-55-02 to maintain contact with the insured or annuitant or determine whether the insured or annuitant has died, validates the death of the insured or annuitant;
 - c. The company conducts a comparison for any purpose between a death master file and the names of some or all of the company's insureds or annuitants, finds a match that provides notice that the insured or annuitant has died, and validates the death; or
 - d. The company:
 - (1) Receives notice of the death of the insured or annuitant from an administrator, beneficiary, policy owner, relative of the insured, or trustee or from a personal representative, or other legal representative of the insured's or annuitant's estate; and
 - (2) Validates the death of the insured or annuitant.
3. The following apply under this section:
- a. A death master file match under subdivision c of subsection 2 occurs if the criteria for an exact or partial match are satisfied as provided by:
 - (1) Law of this state other than this chapter, including chapter 26.1-55; or
 - (2) A rule or policy adopted by the insurance commissioner;
 - b. The death master file match does not constitute proof of death for the purpose of submission to an insurance company of a claim by a beneficiary, annuitant, or owner of the policy or contract for an amount due under an insurance policy or annuity contract.
 - c. The death master file match or validation of the insured's or annuitant's death does not alter the requirements for a beneficiary, annuitant, or owner of the policy or contract to make a claim to receive proceeds under the terms of the policy or contract.
 - d. The company shall make a good-faith effort using available records and information to document the death of the insured or annuitant in accordance with the time frame specified in chapter 26.1-55-02.
4. This chapter does not affect the determination of the extent to which an insurance company before the effective date of this chapter had knowledge of the death of an insured or annuitant or was required to conduct a death master file comparison to determine whether amounts owed by the company on a life or endowment insurance policy or annuity contract were presumed abandoned or unclaimed.

47-30.2-14. (212) Deposit account for proceeds of insurance policy or annuity contract.

If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check or draft writing privileges for the

beneficiary of the policy or contract and, under a supplementary contract not involving annuity benefits other than death benefits, the proceeds are retained by the insurance company or the financial organization where the account is held, the policy or contract includes the assets in the account.

47-30.2-15. (301) Address of apparent owner to establish priority.

In sections 47-30.2-15, 47-30.2-16, 47-30.2-17, 47-30.2-18, 47-30.2-19, and 47-30.2-20, the following apply:

1. The last-known address of an apparent owner is any description, code, or other indication of the location of the apparent owner which identifies the state, even if the description, code, or indication of location is not sufficient to direct the delivery of first-class United States mail to the apparent owner.
2. If the United States postal zip code associated with the apparent owner is for a post office located in this state, this state is deemed to be the state of the last-known address of the apparent owner unless other records associated with the apparent owner specifically identify the physical address of the apparent owner to be in another state.
3. If the address under subsection 2 is in another state, the other state is deemed to be the state of the last-known address of the apparent owner.
4. The address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined under section 47-30.2-16.

47-30.2-16. (302) Address of apparent owner in this state.

The administrator may take custody of property that is presumed abandoned, whether located in this state, another state, or a foreign country if:

1. The last-known address of the apparent owner in the records of the holder is in this state; or
2. The records of the holder do not reflect the identity or last-known address of the apparent owner, but the administrator has determined that the last-known address of the apparent owner is in this state.

47-30.2-17. (303) If records show multiple addresses of apparent owner.

1. Except as in subsection 2, if records of a holder reflect multiple addresses for an apparent owner and this state is the state of the most recently recorded address, this state may take custody of property presumed abandoned, whether located in this state or another state.
2. If it appears from records of the holder that the most recently recorded address of the apparent owner under subsection 1 is a temporary address and this state is the state of the next most recently recorded address that is not a temporary address, this state may take custody of the property presumed abandoned.

47-30.2-18. (304) Holder domiciled in this state.

1. Except as in subsection 2 or section 47-30.2-16 or 47-30.2-17, the administrator may take custody of property presumed abandoned, whether located in this state, another state, or a foreign country, if the holder is domiciled in this state or is this state or a political subdivision, agency, or instrumentality of this state; and
 - a. Another state or foreign country is not entitled to the property because there is no last-known address of the apparent owner or other person entitled to the property in the records of the holder; or
 - b. The state or foreign country of the last-known address of the apparent owner or other person entitled to the property does not provide for custodial taking of the property.
2. Property is not subject to custody of the administrator under subsection 1 if the property is specifically exempt from custodial taking under the law of this state or the state or foreign country of the last-known address of the apparent owner.
3. If a holder's state of domicile has changed since the time property was presumed abandoned, the holder's state of domicile in this section is deemed to be the state where the holder was domiciled at the time the property was presumed abandoned.

47-30.2-19. (305) Custody if transaction took place in this state.

Except as in section 47-30.2-16, 47-30.2-17, or 47-30.2-18, the administrator may take custody of property presumed abandoned whether located in this state or another state if:

1. The transaction out of which the property arose took place in this state;
2. The holder is domiciled in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking under the law of the state of the holder's domicile, the property is not subject to the custody of the administrator; and
3. The last-known address of the apparent owner or other person entitled to the property is unknown or in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking under the law of the state of the last-known address, the property is not subject to the custody of the administrator.

47-30.2-20. (306) Traveler's check, money order, or similar instrument.

The administrator may take custody of sums payable on a traveler's check, money order, or similar instrument presumed abandoned to the extent permissible under 12 U.S.C. 2501 through 2503.

47-30.2-21. (401) Report required by holder.

1. A holder of property presumed abandoned and subject to the custody of the administrator shall report in a record to the administrator concerning the property.

2. A holder may contract with a third party to make the report required under subsection 1.
3. Whether or not a holder contracts with a third party under subsection 2, the holder is responsible:
 - a. To the administrator for the complete, accurate, and timely reporting of property presumed abandoned; and
 - b. For paying or delivering to the administrator property described in the report.
4. A holder may file a negative report if the holder does not have reportable property or safe deposit box contents.

47-30.2-22. (402) Content of report.

1. The report filed under section 47-30.2-21 must:
 - a. Be signed by or on behalf of the holder and verified as to its completeness and accuracy;
 - b. Be filed electronically in a secure format approved by the administrator which protects confidential information of the apparent owner in the same manner as required of the administrator and the administrator's agent under sections 47-30.2-71, 47-30.2-72, and 47-30.2-73;
 - c. Describe the property;
 - d. Except for a traveler's check, money order, or similar instrument, contain the name, if known, last-known address, if known, and social security number or taxpayer identification number, if known or readily ascertainable, of the apparent owner of property with a value of twenty-five dollars or more;
 - e. For an amount held or owing under a life or endowment insurance policy or annuity contract, contain the name and last-known address of the insured, annuitant, or other apparent owner of the policy or contract and of the beneficiary;
 - f. For property held in or removed from a safe deposit box, indicate the location of the property, where it may be inspected by the administrator, and any amounts owed to the holder under section 47-30.2-35;
 - g. Contain the commencement date for determining abandonment under sections 47-30.2-04, 47-30.2-05, 47-30.2-06, 47-30.2-07, 47-30.2-08, 47-30.2-09, 47-30.2-10, 47-30.2-11, 47-30.2-12, 47-30.2-13, and 47-30.2-14;
 - h. State that the holder has complied with the notice requirements of section 47-30.2-26;
 - i. Identify property that is a non-freely transferable security and explain why it is a non-freely transferable security; and
 - j. Contain other information the commissioner prescribes by rules.

2. A report under section 47-30.2-21 may include in the aggregate items valued under twenty-five dollars each. If the report includes items in the aggregate valued under twenty-five dollars each, the administrator may not require the holder to provide the name and address of an apparent owner of an item unless the information is necessary to verify or process a claim in progress by the apparent owner.
3. A report under section 47-30.2-21 may include personal information about the apparent owner or the apparent owner's property to the extent not otherwise prohibited by state and federal law.
4. The administrator and any state employee conducting an examination on the administrator's behalf are exempt from chapter 6-08.1.
5. If a holder has changed the holder's name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder shall include in the report under section 47-30.2-21 the holder's former name or the name of the previous holder, if any, and the known name and address of each previous holder of the property.

47-30.2-23. (403) When report to be filed.

1. Except as otherwise provided under this section, the report under section 47-30.2-21 must be filed before November first of each year and cover the twelve months preceding July first of that year.
2. Subject to subsection 3, the report under section 47-30.2-21 to be filed by a life insurance company must be filed before May first of each year for the immediately preceding calendar year.
3. Before the date for filing the report under section 47-30.2-21, the holder of property presumed abandoned may request the administrator to extend the time for filing. The administrator may grant an extension.
4. The commissioner may grant an extension of the reporting date for good cause in the event of a national or state emergency.

47-30.2-24. (404) Retention of records by holder.

A holder required to file a report under section 47-30.2-21 shall retain records for ten years after the later of the date the report was filed or the last date a timely report was due to be filed, unless a shorter period is provided by rule of the commissioner. The holder may satisfy the requirement to retain records under this section through an agent. The records must contain:

1. The information required to be included in the report;
2. The date, place, and nature of the circumstances that gave rise to the property right;
3. The amount or value of the property;
4. The last address of the apparent owner, if known to the holder; and

5. If the holder sells, issues, or provides to others for sale or issue in this state traveler's checks, money orders, or similar instruments, other than third-party bank checks, on which the holder is directly liable, a record of the instruments while they remain outstanding indicating the state and date of issue.

47-30.2-25. (405) Property reportable and payable or deliverable absent owner demand.

Property is reportable and payable or deliverable under this chapter even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

47-30.2-26. (501) Notice to apparent owner by holder.

1. Subject to subsection 2, the holder of property presumed abandoned shall send to the apparent owner notice by first-class United States mail that complies with section 47-30.2-27 in a format acceptable to the administrator not more than one hundred twenty days before filing the report under section 47-30.2-21 if:
 - a. The holder has in the holder's records an address for the apparent owner which the holder's records do not disclose to be invalid and is sufficient to direct the delivery of first-class United States mail to the apparent owner; and
 - b. The value of the property is twenty-five dollars or more.
2. If an apparent owner has consented to receive electronic mail delivery from the holder, the holder shall send the notice described in subsection 1 both by first-class United States mail to the apparent owner's last-known mailing address and by electronic mail, unless the holder believes that the apparent owner's electronic-mail address is invalid.

47-30.2-27. (502) Contents of notice by holder.

1. Notice under section 47-30.2-26 must contain a heading that reads substantially as follows:

"Notice. The State of North Dakota requires us to notify you that your property may be transferred to the custody of the North Dakota unclaimed property administrator if you do not contact us before (insert date that is thirty days after the date of this notice)."
2. The notice under section 47-30.2-26 must:
 - a. Identify the holder and provide a name, address, telephone number, and electronic-mail address at which to contact the holder;
 - b. Identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;
 - c. State that the property will be turned over to the administrator;
 - d. State that after the property is turned over to the administrator an apparent owner that seeks return of the property shall file a claim with the administrator;

- e. State that property that is not legal tender of the United States may be sold by the administrator in accordance with section 47-30.2-40; and
- f. Provide instructions that the apparent owner must follow to prevent the holder from reporting and paying or delivering the property to the administrator.

47-30.2-28. (503) Notice by administrator.

- 1. The administrator shall give notice to an apparent owner that property is presumed abandoned and appears to be owned by the apparent owner is held by the administrator under this chapter.
- 2. In providing notice under subsection 1, the administrator shall:
 - a. Except as otherwise provided in subdivision b, send written notice by first-class United States mail to each apparent owner of property valued at twenty-five dollars or more held by the administrator, unless the administrator determines that a mailing by first-class United States mail would not be received by the apparent owner, and, in the case of a security held in an account for which the apparent owner had consented to receiving electronic mail from the holder, send notice by electronic mail if the electronic-mail address of the apparent owner is known to the administrator instead of by first-class United States mail; or
 - b. Send the notice to the apparent owner's electronic-mail address if the administrator does not have a valid United States mail address for an apparent owner but has an electronic-mail address that the administrator does not know to be invalid.
- 3. In addition to the notice under subsection 2, the administrator shall:
 - a. Publish in the biennial report required under section 54-06-04 and shall include:
 - (1) The total value of property received by the administrator during the preceding biennium, taken from the reports under section 47-30.2-21; and
 - (2) The total value of claims paid by the administrator during the biennium period;
 - b. Maintain a website or database accessible by the public and electronically searchable which contains the names reported to the administrator of apparent owners for whom property that meets or exceeds the searchable value as set by the commissioner is being held by the administrator. Property that does not meet or exceed the searchable value must continue to be held by the administrator but may not appear in the searchable website or database.
- 4. The website or database maintained under subdivision b of subsection 3 must include instructions for filing with the administrator a claim to property and a printable claim form with instructions for the form's use.
- 5. In addition to giving notice under subsection 2, publishing the information under subdivision a of subsection 3, and maintaining the website or database

under subdivision b of subsection 3, the administrator may use other printed publication, telecommunication, the internet, or other media to inform the public of the existence of unclaimed property held by the administrator.

47-30.2-29. (504) Cooperation among state officers and agencies to locate apparent owner.

Unless prohibited by a law of this state other than this chapter, on request of the administrator, each officer, agency, board, commission, division, and department of this state, any body politic and corporate created by this state for a public purpose, and each political subdivision of this state shall make its books and records available to the administrator and cooperate with the administrator to determine the current address of an apparent owner of property held by the administrator under this chapter.

47-30.2-30. (601) Definition of good faith.

In sections 47-30.2-30, 47-30.2-31, 47-30.2-32, 47-30.2-33, 47-30.2-34, 47-30.2-35, 47-30.2-36, 47-30.2-37, and 47-30.2-38, payment or delivery of property is made in good faith if a holder:

1. Had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the administrator under this chapter; or
2. Made payment or delivery:
 - a. In response to a demand by the administrator or administrator's agent; or
 - b. Under a guidance or ruling issued by the administrator which the holder reasonably believed required or permitted the property to be paid or delivered.

47-30.2-31. (602) Dormancy charge.

1. A holder may deduct a dormancy charge from property required to be paid or delivered to the administrator if:
 - a. An enforceable written contract between the holder and the apparent owner authorizes imposition of the charge for the apparent owner's failure to claim the property within a specified time; and
 - b. The holder regularly imposes the charge and regularly does not reverse or otherwise cancel the charge.
2. Charges authorized under this section may only be charged until the respective property is deemed abandoned.

47-30.2-32. (603) Payment or delivery of property to administrator.

1. Except as otherwise provided in this section, on filing a report under section 47-30.2-21, the holder shall pay or deliver to the administrator the property described in the report.
2. If property in a report under section 47-30.2-21 is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from

paying the deposit to the administrator at the time of the report, the date for payment of the property to the administrator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the administrator of the extended date.

3. If property reported to the administrator under section 47-30.2-21 is a security, the administrator may:
 - a. Make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer, the transfer agent of the issuer, or the securities intermediary to transfer the security; or
 - b. Dispose of the security under section 47-30.2-41.
4. If the holder of property reported to the administrator under section 47-30.2-21 is the issuer of a certificated security, the administrator may obtain a replacement certificate in physical or book-entry form under section 41-08-38. An indemnity bond is not required.
5. The administrator shall establish procedures for the registration, issuance, method of delivery, transfer, and maintenance of securities delivered to the administrator by a holder.
6. An issuer, holder, or transfer agent acting under this section under instructions of and on behalf of the issuer or holder is not liable to the apparent owner for, and shall be indemnified by the state against, a claim arising with respect to property after the property has been delivered in good faith to the administrator.
7. A holder is not required to deliver to the administrator a security identified by the holder as a non-freely transferable security. If the administrator or holder determines that a security is no longer a non-freely transferable security, the holder shall deliver the security on the next regular date prescribed for delivery of securities under this chapter. The holder shall make a determination annually whether a security identified in a report filed under section 47-30.2-21 as a non-freely transferable security is no longer a non-freely transferable security.

47-30.2-33. (604) Effect of payment or delivery of property to administrator.

1. On payment or delivery of property to the administrator under this chapter, the administrator as agent for the state assumes custody and responsibility for safekeeping the property. A holder that pays or delivers property in full to the administrator in good faith and substantially complies with sections 47-30.2-26 and 47-30.2-27 is relieved of liability to the extent of the value of the property paid or delivered for any claim arising after the payment or delivery with respect to payment or delivery of that property to the administrator.
2. To the extent of the value of property paid or delivered as measured on the date of delivery, this state shall defend and indemnify a holder against liability on a claim against the holder resulting from the payment or delivery of property to the administrator made in good faith and after the holder substantially complied with sections 47-30.2-26 and 47-30.2-27.

47-30.2-34. (605) Recovery of property by holder from administrator.

1. A holder that under this chapter pays money to the administrator may file a claim for reimbursement from the administrator of the amount paid if the holder:
 - a. Paid the money in error; or
 - b. After paying the money to the administrator, paid money to a person the holder reasonably believed was entitled to the money.
2. A holder that under this chapter delivers property other than money to the administrator may file a claim for return of the property from the administrator if:
 - a. The holder delivered the property in error; or
 - b. The apparent owner has claimed the property from the holder.
3. If a claim for return of property under subsection 2 is made, the holder shall include with the claim evidence sufficient to establish that:
 - a. The apparent owner has claimed the property from the holder and that the property was delivered to the apparent owner in full; or
 - b. The property was delivered by the holder to the administrator in error.
4. The administrator may determine that an affidavit submitted by a holder is evidence sufficient to establish that the holder is entitled to reimbursement or to recover property under this section.
5. A holder is not required to pay a fee or other charge for reimbursement or return of property under this section.
6. Not later than ninety days after a claim is filed under subsection 1 or 2, the administrator shall allow or deny the claim and give the claimant notice of the decision in a record.

47-30.2-35. (606) Property removed from safe deposit box.

Property removed from a safe deposit box and delivered under this chapter to the administrator under this chapter is subject to the holder's right to reimbursement for the cost of opening the box and a lien or contract providing reimbursement to the holder for unpaid rent charges for the box. The administrator shall reimburse the holder from the proceeds remaining after deducting the expense incurred by the administrator in selling the property.

47-30.2-36. (607) Crediting income or gain to owner's account.

If property in the form of a security is paid or delivered to the administrator under this chapter, the owner is entitled to receive any dividends or other increments realized or accruing on the security for as long as the security is held by the administrator, if the total amount of cash due the owner exceeds five dollars.

47-30.2-37. (608) Administrator's option as to custody.

1. The administrator may decline to take custody of property reported under section 47-30.2-21 if the administrator determines that:

- a. The property has a value less than the estimated expenses of notice and sale of the property; or
 - b. Taking custody of the property would be unlawful.
2. A holder may pay or deliver property to the administrator before the property is presumed abandoned under this chapter if the holder:
 - a. Sends the apparent owner of the property notice required by section 47-30.2-26 and provides the administrator evidence of the holder's compliance with this subsection;
 - b. Includes with the payment or delivery a report regarding the property conforming to section 47-30.2-22; and
 - c. First obtains the administrator's consent in a record to accept payment or delivery.
3. A holder's request for the administrator's consent under subdivision c of subsection 2 must be in a record. If the administrator fails to respond to the request within thirty days after receipt of the request, the administrator is deemed to consent to the payment or delivery of the property and the payment or delivery is considered to have been made in good faith.
4. On payment or delivery of property under subsection 2, the property is presumed abandoned.

47-30.2-38. (609) Disposition of property having no substantial value; immunity from liability.

1. If the administrator takes custody of property delivered under this chapter and later determines that the property has no substantial commercial value or that the cost of disposing of the property will exceed the value of the property, the administrator may return the property to the holder or destroy or otherwise dispose of the property.
2. An action or proceeding may not be commenced against the state, an agency of the state, the administrator, another officer, employee, or agent of the state, or a holder for or because of an act of the administrator under this section, except for intentional misconduct or malfeasance.

47-30.2-39. (610) Periods of limitation and repose.

1. Expiration before, on, or after the effective date of this chapter, of a period of limitation on an owner's right to receive or recover property, whether specified by contract, statute, or court order, does not prevent the property from being presumed abandoned or affect the duty of a holder under this chapter to file a report or pay or deliver property to the administrator.
2. The administrator may not commence an action or proceeding to enforce this chapter with respect to the reporting, payment, or delivery of property more than five years after the holder filed a nonfraudulent report under section 47-30.2-21 with the administrator. The parties may agree in a record to extend the limitation in this subsection.

3. The administrator may not commence an action, proceeding, or examination with respect to a duty of a holder under this chapter more than ten years after the duty arose.

47-30.2-40. (701) Public sale of property.

1. Subject to section 47-30.2-41, not earlier than three years after receipt of property presumed abandoned, the administrator may sell the property.
2. Before selling property under subsection 1, the administrator shall give notice to the public of:
 - a. The date of the sale; and
 - b. A reasonable description of the property.
3. A sale under subsection 1 must be to the highest bidder:
 - a. At public sale at a location in this state which the administrator determines to be the most favorable market for the property;
 - b. On the internet; or
 - c. On another forum the administrator determines is likely to yield the highest net proceeds of sale.
4. The administrator may decline the highest bid at a sale under this section and reoffer the property for sale if the administrator determines the highest bid is insufficient.
5. If a sale held under this section is to be conducted other than on the internet, the administrator shall publish on the administrator's website a notice of the sale, at least ten days before the date of sale.

47-30.2-41. (702) Disposal of securities.

1. The administrator may not sell or otherwise liquidate a security until three years after the administrator receives the security.
2. The administrator may not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. The administrator may sell a security not listed on an established exchange by any commercially reasonable method.

47-30.2-42. (704) Purchaser owns property after sale.

A purchaser of property at a sale conducted by the administrator under this chapter takes the property free of all claims of the owner, a previous holder, or a person claiming through the owner or holder. The administrator shall execute documents necessary to complete the transfer of ownership to the purchaser.

47-30.2-43. (705) Military medal or decoration.

1. The administrator may not sell a medal or decoration awarded for military service in the armed forces of the United States.

2. The administrator, with the consent of the respective organization under subdivision a or agency under subdivision b may deliver a medal or decoration described in subsection 1 to be held in custody for the owner, to:
 - a. The state historical society; or
 - b. The agency that awarded the medal or decoration.
3. On delivery under subsection 2, the administrator is not responsible for safekeeping the medal or decoration.

47-30.2-44. (801) Deposit of funds by administrator.

1. Except as otherwise provided in this section, the department shall deposit to the credit of the common schools trust fund all funds received under this chapter, including proceeds from the sale of property under sections 47-30.2-40, 47-30.2-41, 47-30.2-42, and 47-30.2-43.
2. The department shall maintain an account with an amount of funds the commissioner reasonably estimates is sufficient to pay claims allowed under this chapter.

47-30.2-45. (802) Administrator to retain records of property.

The administrator shall:

1. Record and retain the name and last-known address of each person shown on a report filed under section 47-30.2-21 to be the apparent owner of property delivered to the administrator;
2. Record and retain the name and last-known address of each insured or annuitant and beneficiary shown on the report;
3. For each policy of insurance or annuity contract listed in the report of an insurance company, record and retain the policy or account number, the name of the company, and the amount due or paid; and
4. For each apparent owner listed in the report, record and retain the name of the holder that filed the report and the amount due or paid.

47-30.2-46. Deposit of funds - Continuing appropriation.

1. Except as otherwise provided by this section, all funds received under this chapter, including the proceeds from the sale of abandoned property under section 47-30.2-40, must be promptly deposited in the state treasury to the credit of the common schools trust fund.
2. There is appropriated annually the amounts necessary to pay all expense deductions under this section, including:
 - a. Any costs in connection with the sale of abandoned property;
 - b. Costs of mailing, publication, and outreach efforts in connection with any abandoned property;
 - c. Reasonable service charges;

- d. Costs incurred in examining records of holders of property and in collecting the property from those holders;
- e. Funds for the payment of claims;
- f. Funds for the payment of holder refunds; and
- g. Funds for attorney's fees and all other reasonable costs and expenses incurred in an action or suit.

47-30.2-47. (804) Administrator holds property as custodian for owner.

Property received by the administrator under this chapter is held in custody for the benefit of the owner and is not owned by the state.

47-30.2-48. (901) Claim of another state to recover property.

- 1. If the administrator knows that property held by the administrator under this chapter is subject to a superior claim of another state, the administrator shall:
 - a. Report and pay or deliver the property to the other state; or
 - b. Return the property to the holder so that the holder may pay or deliver the property to the other state.
- 2. The administrator is not required to enter into an agreement to transfer property to the other state under subsection 1.

47-30.2-49. (902) When property subject to recovery by another state.

- 1. Property held under this chapter by the administrator is subject to the right of another state to take custody of the property if:
 - a. The property was paid or delivered to the administrator because the records of the holder did not reflect a last-known address of the apparent owner in the other state and:
 - (1) The other state establishes that the last-known address of the apparent owner or other person entitled to the property was in the other state; or
 - (2) Under the law of the other state, the property has become subject to a claim by the other state of abandonment;
 - b. The records of the holder did not accurately identify the owner of the property, the last-known address of the owner was in another state, and, under the law of the other state, the property has become subject to a claim by the other state of abandonment;
 - c. The property was subject to the custody of the administrator of this state under section 47-30.2-19 and, under the law of the state of domicile of the holder, the property has become subject to a claim by the state of domicile of the holder of abandonment; or
 - d. The property:

- (1) Is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered to the administrator under section 47-30.2-20; and
 - (2) Under the law of the other state, has become subject to a claim by the other state of abandonment.
2. A claim by another state to recover property under this section must be presented in a form prescribed by the administrator, unless the administrator waives presentation of the form.
3. The administrator shall decide a claim under this section not later than ninety days after it is presented. If the administrator determines that the other state is entitled under subsection 1 to custody of the property, the administrator shall allow the claim and pay or deliver the property to the other state.
4. The administrator may require another state, before recovering property under this section, to agree to indemnify this state and its agents, officers, and employees against any liability on a claim to the property.

47-30.2-50. (903) Claim for property by person claiming to be owner.

1. A person claiming to be the owner of property held under this chapter by the administrator may file a claim for the property and the claim must be on a form prescribed by the administrator. The claimant shall verify the claim as to the claim's completeness and accuracy.
2. The administrator may waive the requirement in subsection 1 and may pay or deliver property directly to a person if:
 - a. The person receiving the property or payment is shown to be the apparent owner included on a report filed under section 47-30.2-21;
 - b. The administrator reasonably believes the person is entitled to receive the property or payment; and
 - c. The property has a value as provided by rules adopted by the commissioner.

47-30.2-51. (904) When administrator shall honor claim for property.

1. The administrator shall pay or deliver property to a claimant under subsection 1 of section 47-30.2-50 if the administrator receives evidence sufficient to establish to the satisfaction of the administrator that the claimant is the owner of the property.
2. Not later than ninety days after a claim is filed under subsection 1 of section 47-30.2-50, the administrator shall allow or deny the claim and give the claimant notice in a record of the decision.
3. If the claim is denied under subsection 2:
 - a. The administrator shall inform the claimant of the reason for the denial and specify what additional evidence, if any, is required for the claim to be allowed;

- b. The claimant may file an amended claim with the administrator or commence an action under section 47-30.2-53; and
- c. The administrator may consider an amended claim filed under subdivision b as an initial claim.

47-30.2-52. (905) Allowance of claim for property.

1. Not later than sixty days after a claim is allowed under subsection 2 of section 47-30.2-51, the administrator shall pay or deliver to the owner the property or pay to the owner the net proceeds of a sale of the property, together with income or gain to which the owner is entitled under section 47-30.2-36. On request of the owner, the administrator may sell or liquidate a security and pay the net proceeds to the owner, even if the security had been held by the administrator for fewer than three years or the administrator has not complied with the notice requirements under section 47-30.2-41.
2. Property held under this chapter by the administrator is subject to a claim for the payment of an enforceable debt the owner owes in this state for:
 - a. Child support arrearages, including child support collection costs and child support arrearages that are combined with maintenance;
 - b. A civil or criminal fine or penalty, court costs, a surcharge, or restitution imposed by a final order of an administrative agency or a final court judgment; or
 - c. State or local taxes, penalties, and interest that have been determined to be delinquent or as to which notice has been recorded with the state or local taxing authority.
3. The state and local agencies may make periodic inquiries to the administrator to determine whether an apparent owner included in the unclaimed property records of this state has enforceable debts described in subsection 2. The administrator first shall apply the property or net proceeds of a sale of property held by the administrator to a debt under subsection 2 of an apparent owner which appears in the records of the administrator and deliver the amount to the appropriate state or local agency.

47-30.2-53. (906) Action by person whose claim is denied.

Not later than one hundred eighty days after filing a claim under subsection 1 of section 47-30.2-50, the claimant may commence an action against the board in the Burleigh County District Court to establish a claim that has been denied or deemed denied under section 47-30.2-50. If the board is successful in a proceeding brought under this section, the district court shall allow the board to recover court costs; reasonable costs, fees, disbursements, and expenses incurred by the board in the proceeding; and reasonable attorney's fees.

47-30.2-54. (1001) Verified report of property.

If a person does not file a report under section 47-30.2-21 or the administrator believes that a person may have filed an inaccurate, incomplete, or false report, the administrator may require the person to file a verified report in a form prescribed by the administrator. The verified report must:

1. State whether the person is holding property reportable under this chapter;
2. Describe property not previously reported or about which the administrator has inquired;
3. Specifically identify property described under subsection 2 about which there is a dispute whether it is reportable under this chapter; and
4. State the amount or value of the property.

47-30.2-55. (1002) Examination of records to determine compliance.

The administrator, at reasonable times and on reasonable notice, may:

1. Examine the records of a person, including examination of appropriate records in the possession of an agent of the person under examination, if the records are reasonably necessary to determine whether the person has complied with this chapter;
2. Issue an administrative subpoena requiring the person or agent of the person to make records available for examination; and
3. Bring an action seeking judicial enforcement of the subpoena.

47-30.2-56. (1003) Rules for conducting examination.

1. The commissioner shall adopt rules governing an examination under section 47-30.2-55, including rules for use of an estimation, extrapolation, and statistical sampling in conducting an examination. An examination commenced after adoption of rules under this subsection must comply with the rules.
2. If a person subject to examination under section 47-30.2-55 has filed the reports required under sections 47-30.2-21 and 47-30.2-54 and has retained the records required by section 47-30.2-24, the following apply:
 - a. The examination must include a review of the person's records.
 - b. The examination may be based on an estimate if no records are available.
 - c. The person conducting the examination shall consider the evidence presented in good faith by the person in preparing the findings of the examination under section 47-30.2-60.

47-30.2-57. (1004) Records obtained in examination.

1. Records obtained from a private entity for purposes of an examination under this chapter and records, including work papers, compiled by the administrator or the administrator's agent in the course of conducting an examination under section 47-30.2-55 are subject to the security provisions of sections 47-30.2-71, 47-30.2-72, and 47-30.2-73 and are confidential records. However, the administrator or administrator's agent may furnish information to the attorney general, other state agencies, a prosecuting official requiring the information for use in the prosecuting official's official duties, or for legislative investigations under chapter 54-03.2. Confidential information furnished by the administrator or the administrator's agent to a third party under this section

remains confidential while in the possession of the third party. Confidential information received by the administrator or administrator's agent from a third party under this section remains confidential while in the possession of the administrator or administrator's agent. The administrator or the administrator's agent's final and completed examination reports are records open to the public. The final examination report may not contain confidential documentation or working papers unless one of the exceptions in this section applies.

2. The records subject to subsection 1:

- a. May be used by the board in an action to collect property or otherwise enforce this chapter;
- b. May be used in a joint examination conducted with or pursuant to agreements with other states, the federal government, or other governmental entities;
- c. May be disclosed at the discretion of the commissioner, on request, to the person that administers the unclaimed property law of another state for that state's use in circumstances equivalent to circumstances described in sections 47-30.2-54, 47-30.2-55, 47-30.2-56, 47-30.2-57, 47-30.2-58, 47-30.2-59, 47-30.2-60, 47-30.2-61, and 47-30.2-62. A state to which information is disclosed shall maintain the confidentiality and security of information obtained in a manner substantially equivalent to sections 47-30.2-71, 47-30.2-72, and 47-30.2-73;
- d. May be required to be produced under section 44-04-18.11; and
- e. May be required to be produced by the administrator on request of the person subject to the examination in an administrative or judicial proceeding relating to the property.

3. The administrator or any state employee conducting an examination on the administrator's behalf are exempt from chapter 6-08.1.

47-30.2-58. (1005) Evidence of unpaid debt or undischarged obligation.

1. A record of a putative holder showing an unpaid debt or undischarged obligation is prima facie evidence of the debt or obligation.
2. A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation described in subsection 1 or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.
3. A putative holder may overcome prima facie evidence under subsection 1 by establishing by a preponderance of the evidence that a check, draft, or similar instrument was:
 - a. Issued as an unaccepted offer in settlement of an unliquidated amount;
 - b. Issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected;
 - c. Issued to a party affiliated with the issuer;

- d. Paid, satisfied, or discharged;
 - e. Issued in error;
 - f. Issued without consideration;
 - g. Issued but there was a failure of consideration;
 - h. Voided not later than ninety days after issuance for a valid business reason set forth in a contemporaneous record; or
 - i. Issued but not delivered to the third-party payee for a sufficient reason recorded within a reasonable time after issuance.
4. In asserting a defense under this section, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner or of custom and practice.

47-30.2-59. (1006) Failure of person examined to retain records.

If a person subject to examination under section 47-30.2-55 fails to retain the records required by section 47-30.2-24, the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under subsection 1 of section 47-30.2-56 and in accord with subsection 2 of section 47-30.2-56.

47-30.2-60. (1007) Report to person whose records were examined.

At the conclusion of an examination under section 47-30.2-55, the administrator or the administrator's agent shall provide to the person whose records were examined a complete and unredacted examination report that specifies:

- 1. The work performed;
- 2. The property types reviewed;
- 3. The methodology of any estimation technique, extrapolation, or statistical sampling used in conducting the examination;
- 4. Each calculation showing the value of property determined to be due; and
- 5. The findings of the person conducting the examination.

47-30.2-61. (1008) Informal conference during examination.

- 1. If a person subject to examination under section 47-30.2-55 believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person subject to the examination may ask the administrator to intervene and take appropriate remedial action, including countermanding the request of the person conducting the examination, imposing a time limit for completion of the examination, or reassigning the examination to another person.

2. If a person subject to the examination requests a conference with the administrator to present matters that are the basis of a request under subsection 1, the administrator shall hold the conference not later than thirty days after receiving the request. The administrator may hold the conference in person, by telephone, or by electronic means.
3. If a conference is held under subsection 2, not later than thirty days after the conference ends, the administrator shall provide a report in a record of the conference to the person that requested the conference.

47-30.2-62. (1012) Determination of liability for unreported reportable property.

If the administrator determines from an examination conducted under section 47-30.2-55 that a putative holder failed or refused to pay or deliver to the administrator property which is reportable under this chapter, the administrator shall issue a determination of the putative holder's liability to pay or deliver and give notice of the determination in a record to the putative holder.

47-30.2-63. (1202) Interstate and international agreement - Cooperation.

1. Subject to subsection 2, the administrator may:
 - a. Exchange information with another state or foreign country relating to property presumed abandoned or relating to the possible existence of property presumed abandoned; and
 - b. Authorize in a record another state or foreign country or a person acting on behalf of the other state or country to examine its records of a putative holder as provided in sections 47-30.2-54, 47-30.2-55, 47-30.2-56, 47-30.2-57, 47-30.2-58, 47-30.2-59, 47-30.2-60, 47-30.2-61, and 47-30.2-62.
2. An exchange or examination under subsection 1 may be done only if the state or foreign country has confidentiality and security requirements substantially equivalent to those in sections 47-30.2-71, 47-30.2-72, and 47-30.2-73 or agrees in a record to be bound by this state's confidentiality and security requirements.

47-30.2-64. (1203) Action involving another state or foreign country.

1. The administrator may join another state or foreign country to examine and seek enforcement of this chapter against a putative holder.
2. The board may pursue an action on behalf of this state to recover property subject to this chapter but delivered to the custody of another state if the administrator believes the property is subject to the custody of the administrator.
3. The board may retain an attorney in this state, another state, or a foreign country to commence an action to recover property on behalf of the board and may agree to pay attorney's fees based in whole or in part on a fixed fee, hourly fee, or a percentage of the amount or value of property recovered in the action.

4. Expenses incurred by this state in an action under this section must be paid in accordance with section 47-30.2-46.

47-30.2-65. (1204) Interest and penalty for failure to act in timely manner.

1. An administrator may collect interest from a holder that fails to report, pay, or deliver property within the time prescribed by this chapter. Interest must be calculated at an annual rate of one percent of the sum for each thirty-day period of delinquency or fraction of delinquency period on the property or value of the property from the date the property should have been reported, paid, or delivered to the administrator until the date reported, paid, or delivered.
2. Except as otherwise provided in section 47-30.2-66 or 47-30.2-67, the administrator may require a holder that fails to report, pay, or deliver property within the time prescribed by this chapter to pay to the administrator, in addition to interest included under subsection 1, a civil penalty of two hundred dollars for each day the duty is not performed, up to a cumulative maximum amount of five thousand dollars.

47-30.2-66. (1205) Other civil penalties.

1. If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this chapter or otherwise willfully fails to perform a duty imposed on the holder under this chapter, the commissioner may require the holder to pay the administrator, in addition to interest as provided in subsection 1 of section 47-30.2-65, a civil penalty of one thousand dollars for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of twenty-five thousand dollars, plus twenty-five percent of the amount or value of property that should have been, but was not reported, paid, or delivered as a result of the evasion or failure to perform.
2. If a holder makes a fraudulent report under this chapter, the commissioner may require the holder to pay to the administrator, in addition to interest under subsection 1 of section 47-30.2-65, a civil penalty of one thousand dollars for each day from the date the report was made until corrected, up to a cumulative maximum of twenty-five thousand dollars, plus twenty-five percent of the amount or value of any property that should have been reported, but was not included in the report or was underreported.

47-30.2-67. Waiver of interest and penalty.

1. A holder shall pay the penalty and interest or request a waiver or reduction within thirty days from the date of the receipt of a notice of a penalty and interest assessment.
2. A request for a waiver or reduction of the penalty or interest must be in writing and provide the grounds for the request.
3. The following factors may be considered if deciding to waive or reduce the penalty or interest:
 - a. The reason for the holder's noncompliance;
 - b. The degree of control the holder had over the lack of compliance;

- c. Any unusual or mitigating circumstances involved; and
- d. Any other relevant factors.
- 4. The commissioner may waive up to twenty-five thousand dollars of the penalty or reduce interest. A request for a waiver or reduction of penalty in excess of twenty-five thousand dollars must be presented to the board, with the commissioner's recommendation, for review and decision.
- 5. A waiver or reduction of penalty and interest does not constitute a waiver of the right to seek the full amount of both penalty and interest if the initial holder obligation is not paid. If a claim for penalties and interest is settled and payment received, the amount of penalties and interest not collected is waived.

47-30.2-68. (1301) When agreement to locate property enforceable.

An agreement by an apparent owner and another person, the primary purpose of which is to locate, deliver, recover, or assist in the location, delivery, or recovery of property held by the administrator, is enforceable only if:

- 1. The person who entered into the agreement with the apparent owner is in compliance with chapter 43-30; and
- 2. The agreement:
 - a. Is in writing;
 - b. Clearly states the nature of the property and the services to be provided;
 - c. States the amount of the fee or other compensation to be paid, which may not be in excess of ten percent of the amount recovered;
 - d. Discloses that, absent the agreement, the property would be delivered to a state-administered unclaimed property program for safekeeping on the owner's behalf and upon delivery, the owner may be able to recover the property from the state-administered program without charge; and
 - e. Is signed by or on behalf of the apparent owner.

47-30.2-69. (1302) When agreement to locate property void.

- 1. An agreement to locate property is void if:
 - a. Subject to subdivision b, the agreement is entered into during the period beginning on the date the property was presumed abandoned and ending twenty-four months after the payment or delivery; or
 - b. A provision in an agreement described in subdivision a applies to property that has not yet been abandoned and reported to the administrator, including mineral proceeds.
- 2. This section does not apply to an apparent owner's agreement with an attorney to pursue a claim for recovery of specifically identified property held by the administrator or to contest the administrator's denial of a claim for recovery of the property.

47-30.2-70. (1303) Right of agent of apparent owner to recover property held by administrator.

1. An apparent owner that contracts with another person to locate, deliver, recover, or assist in the location, delivery, or recovery of property of the apparent owner which is held by the administrator may designate the person as the agent of the apparent owner. The designation must be in a record signed by the apparent owner.
2. The administrator shall give the agent of the apparent owner all information concerning the property which the apparent owner is entitled to receive, including information that otherwise is confidential information.

47-30.2-71. (1405) No confidential information in notice.

Except as otherwise provided in sections 47-30.2-26 and 47-30.2-27, a holder is not required under this chapter to include confidential information in a notice the holder is required to provide to an apparent owner under this chapter.

47-30.2-72. (1406) Security of information.

1. If a holder is required to include confidential information in a report to the administrator, the information must be provided by a secure means.
2. If confidential information in a record is provided to and maintained by the administrator or administrator's agent as required by this chapter, the administrator or administrator's agent shall:
 - a. Implement administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the information required by state and federal privacy and data security law whether or not the administrator or the administrator's agent is subject to the law;
 - b. Protect against reasonably anticipated threats or hazards to the security, confidentiality, or integrity of the information; and
 - c. Protect against unauthorized access to or use of the information which could result in substantial harm or inconvenience to a holder or the holder's customers, including insureds, annuitants, and policy or contract owners and their beneficiaries.

47-30.2-73. (1407) Security breach.

1. Except to the extent prohibited by law other than this chapter, the administrator or administrator's agent shall notify a holder as soon as practicable of:
 - a. A suspected loss, misuse or unauthorized access, disclosure, modification, or destruction of confidential information obtained from the holder in the possession of the administrator or an administrator's agent; and
 - b. Any interference with operations in any system hosting or housing confidential information which:
 - (1) Compromises the security, confidentiality, or integrity of the information; or

(2) Creates a substantial risk of identity fraud or theft.

2. Except as necessary to inform an insurer, attorney, investigator, or others as required by law, the administrator and an administrator's agent may not disclose, without the express consent in a record of the holder, an event described in subsection 1 to a person whose confidential information was supplied by the holder.
3. If an event described in subsection 1 occurs, the administrator and the administrator's agent shall:
 - a. Take action necessary for the holder to understand and minimize the effect of the event and determine its scope; and
 - b. Cooperate with the holder with respect to:
 - (1) Any notification required by law concerning a data or other security breach; and
 - (2) A regulatory inquiry, litigation, or similar action.

47-30.2-74. (1503) Transitional provision - Effect of new provisions - Clarification of application.

1. This chapter does not relieve a holder of a duty that arose before July 1, 2021, to report, pay, or deliver property. A holder that fails to comply with the law in effect before July 1, 2021, is subject to the applicable enforcement and penalty provisions that existed before July 1, 2021, and the applicable provisions are continued in effect for the purpose of this subsection.
2. The initial report filed under this chapter for property that was not required to be reported before July 1, 2021, but which is subject to this chapter must include all items of property that would have been presumed abandoned during the ten-year period preceding July 1, 2021, as if this chapter had been in effect during that period.

47-30.2-75. Enforcement - Appeals.

The administrator may bring an action in a court of competent jurisdiction to enforce this chapter. A person in this state aggrieved by an audit that in any form requests the payment of money or a civil penalty is entitled to a hearing before the board. A demand for a hearing must be made within thirty days of the request by the administrator. The request by the administrator must contain notice of the right to a hearing. The board's decision is the final order of the agency and is appealable to the district court. Any amount of money requested by the administrator which may increase over time is tolled at the time of filing an appeal, retroactive to the date of the request.

SECTION 18. AMENDMENT. Section 54-27-15.1 of the North Dakota Century Code is amended and reenacted as follows:

54-27-15.1. State treasurer's checks, warrants, and warrant-checks - Cancellation - Deposit to common schools trust fund - Subsequent payment - Continuing appropriation.

The state treasurer, at the beginning of each fiscal year, shall prepare a list of the checks, warrants, and warrant-checks drawn on various depositories which are more than ~~three~~two years old which remain outstanding and unpaid and shall show the number, date, payee, (with address of payee if available), amount, and fund, (if available), against which said instrument was drawn. A copy of such list must then be used as an authority for writing a receipt of the total of such check or checks and shall credit such amount to the common schools trust fund pursuant to chapter ~~47-30.147-30.2~~. One copy of such receipt with list of instruments affected must be provided to the administrator of unclaimed properties. In the event such check, warrant, or warrant-check is at any subsequent time presented for payment, or a claim is made by any person for the amount of any such instrument, further proceedings must be conducted in accordance with chapter ~~47-30.147-30.2~~. These expenditures are hereby subject to a standing and continuing appropriation.

SECTION 19. AMENDMENT. Subsection 6 of section 57-38-57 of the North Dakota Century Code is amended and reenacted as follows:

6. Upon request, the tax commissioner may furnish to the unclaimed property division of the board of university and school lands, a taxpayer's name, address, and federal identification number for identifying the taxpayer as the owner of an unclaimed voucher authorized by the tax commissioner or to locate the apparent owner of unclaimed property as provided under chapter ~~47-30.147-30.2~~.

²⁰⁸ **SECTION 20. AMENDMENT.** Subsection 8 of section 57-39.2-23 of the North Dakota Century Code is amended and reenacted as follows:

8. Upon request, the commissioner may furnish to the unclaimed property division of the board of university and school lands, a taxpayer's name, address, and federal identification number for identifying the owner of an unclaimed voucher authorized by the commissioner or to locate the apparent owner of unclaimed property as provided under chapter ~~47-30.147-30.2~~.

SECTION 21. AMENDMENT. Section 60-01-34 of the North Dakota Century Code is amended and reenacted as follows:

60-01-34. Finder - Depositary for hire - Assumption of ownership by finder.

One who finds a thing lost is not bound to take charge of it but, if the person does so, the person is thenceforward a depositary for the owner with the rights and obligations of a depositary for hire. Notwithstanding chapters 36-22 and ~~47-30.147-30.2~~ or any other provision of law, an individual who finds lost personal property or money and places the property or money in the custody of a law enforcement agency is entitled to assume ownership of the property or money if the property or money is not claimed by its owner within two years after the property or money was placed in the custody of the law enforcement agency.

SECTION 22. REPEAL. Chapter 47-30.1 of the North Dakota Century Code is repealed.

Approved April 19, 2021

Filed April 20, 2021

²⁰⁸ Section 57-39.2-23 was also amended by section 4 of House Bill No. 1099, chapter 457.

CHAPTER 338

HOUSE BILL NO. 1079

(Judiciary Committee)

(At the request of the Commission on Uniform State Laws)

AN ACT to create and enact chapter 47-37 of the North Dakota Century Code, relating to the Uniform Environmental Covenants Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 47-37 of the North Dakota Century Code is created and enacted as follows:

47-37-01. Definitions.

1. "Activity and use limitations" means restrictions or obligations created under this chapter with respect to real property.
2. "Agency" means the department of environmental quality or any other state or federal agency that determines or approves the environmental response project pursuant to which the environmental covenant is created.
3. "Common interest community" means a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums, or for maintenance, or improvement of other real property described in a recorded covenant that creates the common interest community.
4. "Environmental covenant" means a servitude arising under an environmental response project that imposes activity and use limitations.
5. "Environmental response project" means a plan or work performed for environmental remediation of real property and conducted:
 - a. Under a federal or state program governing environmental remediation of real property, including chapters 23.1-04, 23.1-08, and 61-28;
 - b. Incident to closure of a solid or hazardous waste management unit, if the closure is conducted with approval of an agency; or
 - c. Under a state voluntary cleanup program authorized under title 23.1.
6. "Holder" means the grantee of an environmental covenant as specified in subsection 1 of section 47-37-02.
7. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

8. "Record", used as a noun, means information inscribed on a tangible medium or stored in an electronic or other medium and which is retrievable in perceivable form.
9. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

47-37-02. Nature of rights - Subordination of interests.

1. Any person, including a person that owns an interest in the real property, the agency, or a municipality or other unit of local government, may be a holder. An environmental covenant may identify more than one holder. The interest of a holder is an interest in real property.
2. A right of an agency under this chapter or under an environmental covenant, other than a right as a holder, is not an interest in real property.
3. An agency is bound by any obligation it assumes in an environmental covenant, but an agency does not assume obligations merely by signing an environmental covenant. Any other person that signs an environmental covenant is bound by the obligations the person assumes in the covenant, but signing the covenant does not change obligations, rights, or protections granted or imposed under law other than this chapter except as provided in the covenant.
4. The following rules apply to interests in real property in existence at the time an environmental covenant is created or amended:
 - a. An interest that has priority under other law is not affected by an environmental covenant unless the person that owns the interest subordinates that interest to the covenant.
 - b. This chapter does not require a person that owns a prior interest to subordinate that interest to an environmental covenant or to agree to be bound by the covenant.
 - c. A subordination agreement may be contained in an environmental covenant covering real property or in a separate record. If the environmental covenant covers commonly owned property in a common interest community, the record may be signed by any person authorized by the governing board of the owners' association.
 - d. An agreement by a person to subordinate a prior interest to an environmental covenant affects the priority of that person's interest but does not by itself impose any affirmative obligation on the person with respect to the environmental covenant.

47-37-03. Contents of environmental covenant.

1. An environmental covenant must:
 - a. State the instrument is an environmental covenant executed pursuant to chapter 47-37;

- b. Contain a legally sufficient description of the real property subject to the covenant;
 - c. Describe the activity and use limitations on the real property;
 - d. Identify every holder;
 - e. Be signed by the agency, every holder, and unless waived by the agency every owner of the fee simple of the real property subject to the covenant; and
 - f. Identify the name and location of any administrative record for the environmental response project reflected in the environmental covenant.
2. In addition to the information required by subsection 1, an environmental covenant may contain other information, restrictions, and requirements agreed to by the persons who signed it, including:
- a. Requirements for notice following transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting the contamination on, the property subject to the covenant;
 - b. Requirements for periodic reporting describing compliance with the covenant;
 - c. Rights of access to the property granted in connection with implementation or enforcement of the covenant;
 - d. A brief narrative description of the contamination and remedy, including the contaminants of concern, the pathways of exposure, limits on exposure, and the location and extent of the contamination;
 - e. Limitation on amendment or termination of the covenant in addition to those contained in sections 47-37-08 and 47-37-09; and
 - f. Rights of the holder in addition to its right to enforce the covenant pursuant to section 47-37-10.
3. In addition to other conditions for its approval of an environmental covenant, the agency may require those persons specified by the agency which have interests in the real property to sign the covenant.

47-37-04. Validity - Effect on other instruments.

- 1. An environmental covenant that complies with this chapter runs with the land.
- 2. An environmental covenant that is otherwise effective is valid and enforceable even if:
 - a. It is not appurtenant to an interest in real property;
 - b. It can be or has been assigned to a person other than the original holder;
 - c. It is not of a character that has been recognized traditionally at common law;

- d. It imposes a negative burden;
 - e. It imposes an affirmative obligation on a person having an interest in the real property or on the holder;
 - f. The benefit or burden does not touch or concern real property;
 - g. There is no privity of estate or contract;
 - h. The holder dies, ceases to exist, resigns, or is replaced; or
 - i. The owner of an interest subject to the environmental covenant and the holder are the same person.
3. An instrument that creates restrictions or obligations with respect to real property that would qualify as activity and use limitations except for the fact that the instrument was recorded before August 1, 2021, is not invalid or unenforceable because of any of the limitations on enforcement of interests described in subsection 2 or because it was identified as an easement, servitude, deed restriction, or other interest. This chapter does not apply in any other respect to such an instrument.
4. This chapter does not invalidate or render unenforceable any interest, whether designated as an environmental covenant or other interest, which is otherwise enforceable under the law of this state.

47-37-05. Relationship to other land-use law.

This chapter does not authorize a use of real property which is otherwise prohibited by zoning, by law other than this chapter regulating use of real property, or by a recorded instrument that has priority over the environmental covenant. An environmental covenant may prohibit or restrict uses of real property which are authorized by zoning or by law other than this chapter.

47-37-06. Notice.

1. A copy of an environmental covenant must be provided by the persons and in the manner required by the agency to:
- a. Each person that signed the covenant;
 - b. Each person holding a recorded interest in the real property subject to the covenant;
 - c. Each person in possession of the real property subject to the covenant;
 - d. Each municipality or other unit of local government in which real property subject to the covenant is located; and
 - e. Any other person the agency requires.
2. The validity of a covenant is not affected by failure to provide a copy of the covenant as required under this section.

47-37-07. Recording.

1. An environmental covenant and any amendment or termination of the covenant must be recorded in every county in which any portion of the real property subject to the covenant is located. For purposes of indexing, a holder must be treated as a grantee.
2. Except as otherwise provided in subsection 3 of section 47-37-08 an environmental covenant is subject to the laws of this state governing recording and priority of interests in real property.

47-37-08. Duration - Amendment by court action.

1. An environmental covenant is perpetual unless it is:
 - a. By its terms limited to a specific duration or terminated by the occurrence of a specific event;
 - b. Terminated by consent pursuant to section 47-37-09;
 - c. Terminated pursuant to subsection 2;
 - d. Terminated by foreclosure of an interest that has priority over the environmental covenant; or
 - e. Terminated or modified in an eminent domain proceeding, but only if:
 - (1) The agency that signed the covenant is a party to the proceeding;
 - (2) All persons identified in subsections 1 and 2 of section 47-37-09 are given notice of the pendency of the proceeding; and
 - (3) The court determines, after hearing, the termination or modification will not adversely affect human health or the environment.
2. If the agency that signed an environmental covenant has determined the intended benefits of the covenant can no longer be realized, a court, under the doctrine of changed circumstances, in an action in which all persons identified in subsections 1 and 2 of section 47-37-09 have been given notice, may terminate the covenant or reduce its burden on the real property subject to the covenant. The agency's determination or its failure to make a determination upon request is subject to review pursuant to chapter 28-32.
3. Except as otherwise provided in subsections 1 and 2, an environmental covenant may not be extinguished, limited, or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, or acquiescence, or a similar doctrine.
4. An environmental covenant may not be extinguished, limited, or impaired by application of chapters 38-18.1 and 47-19.1.

47-37-09. Amendment or termination by consent.

1. An environmental covenant may be amended or terminated by consent only if the amendment or termination is signed by:
 - a. The agency;

- b. Unless waived by the agency, the current owner of the fee simple of the real property subject to the covenant;
 - c. Each person that originally signed the covenant, unless the person waived in a signed record the right to consent or a court finds the person no longer exists or cannot be located or identified with the exercise of reasonable diligence; and
 - d. Except as otherwise provided in subdivision b of subsection 4, the holder.
2. If an interest in real property is subject to an environmental covenant, the interest is not affected by an amendment of the covenant unless the current owner of the interest consents to the amendment or has waived in a signed record the right to consent to amendments.
3. Except for an assignment undertaken pursuant to a governmental reorganization, assignment of an environmental covenant to a new holder is an amendment.
4. Except as otherwise provided in an environmental covenant:
- a. A holder may not assign its interest without consent of the other parties;
 - b. A holder may be removed and replaced by agreement of the other parties specified in subsection 1; and
 - c. A court of competent jurisdiction may fill a vacancy in the position of holder.

47-37-10. Enforcement of environmental covenant.

1. A civil action for injunctive or other equitable relief for violation of an environmental covenant may be maintained by:
- a. A party to the covenant;
 - b. The agency or, if it is not the agency, the department of environmental quality;
 - c. Any person to which the covenant expressly grants power to enforce;
 - d. A person that has interest in the real property or has collateral or liability that may be affected by the alleged violation of the covenant; or
 - e. A municipality or other unit of local government in which the real property subject to the covenant is located.
2. This chapter does not limit the regulatory authority of the agency or the department of environmental quality under law other than this chapter with respect to an environmental response project.
3. A person is not responsible for or subject to liability for environmental remediation solely because the person has the right to enforce an environmental covenant.

47-37-11. Registry - Substitute notice.

1. The department of environmental quality shall establish and maintain a registry that contains all environmental covenants and any amendment or termination of those covenants. The registry also may contain any other information concerning environmental covenants and the real property subject to the covenants which the department of environmental quality considers appropriate. The registry is a public record for purposes of section 44-04-18.
2. After an environmental covenant or an amendment or termination of a covenant is filed in the registry established pursuant to subsection 1, a notice of the covenant, amendment, or termination that complies with this section may be recorded in the land records in lieu of recording the entire covenant. Any such notice must contain:
 - a. A legally sufficient description and any available street address of the real property subject to the covenant;
 - b. The name and address of the owner of the fee simple interest in the real property, the agency, and the holder if other than the agency;
 - c. A statement that the covenant, amendment, or termination is available in a registry at the department of environmental quality, which discloses the method of any electronic access; and
 - d. A statement that the notice is notification of an environmental covenant executed pursuant to this chapter.
3. A statement in substantially the following form, executed with the same formalities as a deed in this state, satisfies the requirements of subsection 2:
 - a. This notice is filed in the land records of the (insert political subdivision) of (insert name of jurisdiction in which the real property is located) pursuant to, section 47-37-11.
 - b. This notice and the covenant, amendment, or termination to which it refers may impose significant obligations with respect to the property described below.
 - c. A legal description of the property is attached as Exhibit A to this notice. The address of the property subject to the environmental covenant is (insert either address of property or not available).
 - d. The name and address of the owner of the fee simple interest in the real property on the date of this notice is (insert name of current owner of the property and the owner's current address as shown on the tax records of the jurisdiction in which the property is located).
 - e. The environmental covenant, amendment, or termination was signed by (insert name and address of the agency).
 - f. The environmental covenant, amendment, or termination was filed in the registry on (insert date of filing).
 - g. The full text of the covenant, amendment, or termination and any other information required by the agency is on file and available for inspection and copying in the registry maintained for that purpose by the department

of environmental quality at 918 East Divide Avenue, Bismarck, North Dakota 58501. The covenant, amendment, or termination may be found electronically at <https://deq.nd.gov/>.

47-37-12. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act [15 U.S.C. 7001 et seq.], but does not modify, limit, or supersede section 101(c) of that Act [15 U.S.C. 7001(c)], or authorize electronic delivery of any of the notices described in section 103(b) of that Act [15 U.S.C. 7003(b)].

Approved April 8, 2021

Filed April 9, 2021

PUBLIC BUILDINGS

CHAPTER 339

HOUSE BILL NO. 1039

(Legislative Management)
(Legislative Procedure and Arrangements Committee)

AN ACT to amend and reenact section 48-08-03 of the North Dakota Century Code, relating to a media room in the state capitol; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 48-08-03 of the North Dakota Century Code is amended and reenacted as follows:

48-08-03. ~~Press representatives'~~Media room in state capitol.

The director of the office of management and budget shall set aside a room in the state capitol for the exclusive use of ~~accredited representatives of daily and other newspapers and full-time correspondents of accredited press associations~~the media and shall place the ~~statehouse correspondent of the associated press~~North Dakota newspaper association and North Dakota broadcasters association jointly in charge of such ~~press~~the room.

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

Approved March 9, 2021

Filed March 10, 2021

PUBLIC UTILITIES

CHAPTER 340

HOUSE BILL NO. 1060

(Energy and Natural Resources Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact section 49-02-08 of the North Dakota Century Code, relating to the manner in which public utility meters may be tested.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-02-08 of the North Dakota Century Code is amended and reenacted as follows:

49-02-08. Testing meters - Gas - Electric.

The commission shall ~~make tests~~test, from time to time, or request a public utility to test, or use a third party to test meters of public utilities used:

1. To measure the amount of electric current passing through such meters to consumers.
2. To measure the amount of gas passing through such meters for the use of its customers.
3. To determine the British thermal unit content of natural or artificial gas distributed by public utilities in this state.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 341

SENATE BILL NO. 2091

(Energy and Natural Resources Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact section 49-03-01.5 of the North Dakota Century Code, relating to an exclusion from the definition of public utility and rural electric cooperative.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-03-01.5 of the North Dakota Century Code is amended and reenacted as follows:

49-03-01.5. Definitions.

As used in sections 49-03-01 through 49-03-01.5:

1. "Electric provider" means either an electric public utility or a rural electric cooperative.
2. "Electric public utility" means a privately owned supplier of electricity offering to supply or supplying electricity to the general public. The term does not include a person that uses an electric vehicle charging station to resell electricity to the public if the reseller has procured electricity from an electric service provider that is authorized to engage in the retail sale of electricity within the service area in which the electric vehicle charging service is provided, and the resale is for the charging of electric vehicles exclusively.
3. "Electric transmission line" means facilities for conducting electric energy at a design voltage of one hundred fifteen kilovolts or greater phase to phase and more than one mile [1.61 kilometers] long.
4. "Electric transmission provider" means an owner or operator, other than a rural electric cooperative, of a transmission line the costs of which are recovered directly or indirectly through transmission charges to an electric public utility.
5. "Person" includes an individual, an electric public utility, a corporation, a limited liability company, an association, or a rural electric cooperative.
6. "Rural electric cooperative" includes any electric cooperative organized under chapter 10-13. An electric cooperative, composed of members as prescribed by law, shall not be deemed to be an electric public utility. The term does not include a person that uses an electric vehicle charging station to resell electricity to the public if the reseller has procured electricity from an electric service provider that is authorized to engage in the retail sale of electricity within the service area in which the electric vehicle charging service is provided, and the resale is for the charging of electric vehicles exclusively.

7. "Service area" means a defined geographic area containing existing or future service locations established by an agreement among electric providers and approved by the commission.
8. "Service area agreement" means an agreement between electric providers establishing service areas and designating service locations to be served by each provider under section 49-03-06.
9. "Service location" means the structures, facilities, or improvements on a parcel of real property to which electric service may be provided.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 342

HOUSE BILL NO. 1067

(Energy and Natural Resources Committee)
(At the request of the Public Service Commission)

AN ACT to create and enact section 49-05-04.4 of the North Dakota Century Code, relating to the authority of the public service commission to adopt rules and request a fee to cover the cost of investigating a public utilities integrated resource plan.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 49-05-04.4 of the North Dakota Century Code is created and enacted as follows:

49-05-04.4. Integrated resource plan.

An electric public utility shall submit integrated resource plans to the commission. The commission may adopt rules and regulations for preparation and submission of integrated resource plans. At the request of the commission, the applicant shall pay a fee reasonably necessary for completing an investigation of the integrated resource plan up to an amount not exceeding two hundred fifty thousand dollars. If additional funds are reasonably necessary to pay the costs of an investigation of the integrated resource plan, upon request of the commission and with the approval of the emergency commission, the applicant shall pay such additional fees as are reasonably necessary for completion of an investigation by the commission.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 343

SENATE BILL NO. 2313

(Senator Wardner)
(Representative Pollert)

AN ACT to create and enact three new sections to chapter 49-05 of the North Dakota Century Code, relating to resource planning, planning reserve margin, and reliable service obligation; to amend and reenact sections 17-05-05 and 17-05-13 of the North Dakota Century Code, relating to the powers of the transmission authority and the transmission authority's reporting requirements; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 17-05-05 of the North Dakota Century Code is amended and reenacted as follows:

17-05-05. Powers.

The authority has all powers necessary to carry out the purposes of this chapter, including the power to:

1. Make grants or loans and to provide other forms of financial assistance as necessary or appropriate for the purposes of this chapter;
2. Make and execute contracts and all other instruments necessary or convenient for the performance of its powers and functions under this chapter;
3. Borrow money and issue evidences of indebtedness as provided in this chapter;
4. Receive and accept aid, grants, or contributions of money or other things of value from any source, including aid, grants, or contributions from any department, agency, or instrumentality of the United States, subject to the conditions upon which the aid, grants, or contributions are made and consistent with the provisions of this chapter;
5. Issue and sell evidences of indebtedness in an amount or amounts as the authority may determine, but not to exceed eight hundred million dollars, plus costs of issuance, credit enhancement, and any reserve funds required by agreements with or for the benefit of holders of the evidences of indebtedness for the purposes for which the authority is created under this chapter, provided that the amount of any refinancing shall not be counted toward such eight hundred million dollar limitation to the extent it does not exceed the outstanding amount of the obligations being refinanced;
6. Refund and refinance its evidences of indebtedness;
7. Make and execute interest rate exchange contracts;
8. Enter lease-sale contracts;

9. Pledge any and all revenues derived by the authority under this chapter or from a transmission facility, service, or activity funded under this chapter to secure payment or redemption of the evidences of indebtedness;
10. To the extent and for the period of time necessary for the accomplishment of the purposes for which the authority was created, plan, finance, develop, acquire, own in whole or in part, lease, rent, and dispose of transmission facilities;
11. Enter contracts to construct, maintain, and operate transmission facilities;
12. Consult with the public service commission, regional organizations, and any other relevant state or federal authority or persons as necessary and establish reasonable fees, rates, tariffs, or other charges for transmission facilities and all services rendered by the authority;
13. Lease, rent, and dispose of transmission facilities owned pursuant to this chapter;
14. Investigate, plan, prioritize, and propose corridors of the transmission of electricity;
15. Participate in and join regional transmission organizations; and
16. Participate in studies of transmission options for the purpose of identifying opportunities for private transmission investment or private public investment options in transmission which will increase opportunity for export from the state consistent with maintaining a stable grid for the load serving entities in North Dakota; and
17. Do any and all things necessary or expedient for the purposes of the authority provided in this chapter.

SECTION 2. AMENDMENT. Section 17-05-13 of the North Dakota Century Code is amended and reenacted as follows:

17-05-13. Reporting requirements.

1. The authority shall deliver a written report on its activities to the legislative council each biennium. Notwithstanding chapter 54-60.1, the authority shall provide an annual report to the industrial commission detailing activities and expenditures incurred during the preceding year.
2. The authority shall deliver a written report on the status of the resilience of the electric grid to the legislative council and the industrial commission by September 1, 2022, and annually thereafter. The report must be forwarded by the industrial commission to the regional transmission operators in the state.
 - a. The information for the report should be collected from publicly available information to the extent possible. If public information is unavailable, the authority shall request a generation facility and a transmission owner to provide the information needed to complete the report.
 - b. The report may be a short-term and long-term projection of the following:

- (1) The adequacy of the state's electric grid to meet the demands of load within the state and to continue to export electricity from the state;
- (2) The resilience of the state's electric grid, including local resilience; and
- (3) The plans of generation owners, developers, or operators to add or remove generation assets connected to an independent system or regional transmission operator in excess of an aggregate of twenty-five megawatts.

SECTION 3. A new section to chapter 49-05 of the North Dakota Century Code is created and enacted as follows:

Resource planning.

1. An integrated resource plan must include:
 - a. The electric public utility's forecast of demand for electric generation supply over the planning period with recommended plans for meeting the forecasted demand plus an additional planning reserve margin for ensuring adequate and sufficient reliability of service; and
 - b. Any additional information the commission requests related to how an electric public utility intends to provide sufficient electric generation service for use by retail customers within the state over the planning period.
2. An electric public utility shall include a least cost plan for providing adequate and reliable service to retail customers which is consistent with the provisions of this title and the rules and orders adopted and issued by the commission.
3. The commission may consider the qualitative benefits and provide value to a base-load generation and load-following generation resource and its proximity to load.
4. The commission may contract or consult with an expert to evaluate qualitative benefits of resources and to review reliability planning. The commission may require an electric public utility to pay a fee necessary for completion of an evaluation in an amount not to exceed two hundred fifty thousand dollars.
 - a. If additional funds are necessary for completion of the evaluation, upon approval of the emergency commission, the electric public utility shall pay the additional fees reasonably necessary for the completion.
 - b. If the evaluation applies to more than one electric public utility, the commission may assess each electric public utility the proportionate share of the fee.
5. An electric public utility shall report annually to the commission on cybersecurity preparedness, including an assessment of emerging threats and efforts taken by the electric public utility to implement cybersecurity measures. The commission may limit access to records and portions of a meeting relating to cybersecurity preparedness.

SECTION 4. A new section to chapter 49-05 of the North Dakota Century Code is created and enacted as follows:

Planning reserve margin - Penalty.

The commission may require action, assess a disallowance or fine, or provide a penalty in accordance with chapter 49-07 if an electric public utility fails to meet the minimum capacity requirement and reserve margin. Unless otherwise set by the commission, the minimum capacity requirement and planning reserve margin is as set by the regional transmission organization to which the electric public utility belongs.

SECTION 5. A new section to chapter 49-05 of the North Dakota Century Code is created and enacted as follows:

Reliable service obligation.

An electric public utility is responsible for ensuring reliable service. If an electric public utility fails to meet its obligation to provide reliable service to customers within the state, the commission may require action, assess disallowances or fines, or provide a penalty. The commission shall adopt rules and establish guidelines for assessment of penalties, fines, or disallowances which must take into consideration the nature, circumstances, and gravity of the violation, degree of culpability, history of prior outages, and good-faith attempts to ensure reliability.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 344

SENATE BILL NO. 2206

(Senator Bell)

AN ACT to amend and reenact section 49-06-02 of the North Dakota Century Code, relating to value of property for ratemaking purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-06-02 of the North Dakota Century Code is amended and reenacted as follows:

49-06-02. Value of property for ratemaking purposes - Determination.

The value of the property of a public utility, as determined by the commission for ratemaking purposes, is the money honestly and prudently invested therein by the utility including construction work in progress for new facilities that use lignite mined in this state to generate electricity, as well as additions or modifications to existing lignite facilities, less accrued depreciation. The commission shall allow a public utility for those new or existing facilities utilizing lignite mined in this state as its primary fuel:

1. To recover its research and development costs incurred to develop lignite more cleanly, efficiently, or economically, including carbon dioxide capture and sequestration utilization and a reasonable rate of return on capital expenditures;
2. To recover its incremental costs of complying with federal environmental laws, including a reasonable rate of return on capital expenditures. The commission may allow these costs to be recovered by an environmental surcharge that may be added to existing rates; ~~and~~
3. To recover all costs resulting from a coal severance tax pursuant to chapter 57-61 and all costs resulting from a coal conversion tax pursuant to chapter 57-60. The commission shall allow the inclusion of these costs in the base rates and the inclusion in the automatic adjustment clause of any of these costs not in base rates; and
4. To recover costs in rates, including a financial incentive set at a reasonable rate for power purchase agreements of a dispatchable on-demand generating unit, plant, or facility deemed to protect grid reliability.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 345

HOUSE BILL NO. 1308

(Representative Devlin)

AN ACT to repeal section 49-09-14 of the North Dakota Century Code, relating to filings of utility property transfers; and to provide for a relocation of utility property transfer files.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 49-09-14 of the North Dakota Century Code is repealed.

SECTION 2. RECORDS TRANSFER. The secretary of state may relocate any utility property transfer files submitted under section 49-09-14 of the North Dakota Century Code to the state archives. After relocation to the state archives, the files will continue to have the same effect as when the files were located in the secretary of state's office.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 346

HOUSE BILL NO. 1095

(Energy and Natural Resources Committee)
(At the request of the Public Service Commission)

AN ACT to create and enact a new subsection to section 49-22-07 of the North Dakota Century Code, relating to the siting of a repowered wind conversion facility that has not previously been issued a certificate of site compatibility; and to amend and reenact sections 49-22-03 and 49-22-16.4 of the North Dakota Century Code, relating to the definition of repower for a wind facility and waivers or extensions for light mitigation technology systems.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰⁹ **SECTION 1. AMENDMENT.** Section 49-22-03 of the North Dakota Century Code is amended and reenacted as follows:

49-22-03. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Certificate" means the certificate of site compatibility or the certificate of corridor compatibility issued under this chapter.
2. "Commission" means the North Dakota public service commission.
3. "Construction" includes a clearing of land, excavation, or other action affecting the environment of the site after April 9, 1975, but does not include activities:
 - a. Conducted wholly within the geographic location for which a utility has previously obtained a certificate or permit under this chapter, or on which a facility was constructed before April 9, 1975, if:
 - (1) The activities are for the construction of the same type of facility as the existing type of facility as identified in a subdivision of ~~subsections~~subsection 5 or 42in subsection 13 of this section and the activities are:
 - (a) Within the geographic boundaries of a previously issued certificate or permit;
 - (b) For an electric energy conversion facility constructed before April 9, 1975, within the geographic location on which the facility was built; or
 - (c) For an electric transmission facility constructed before April 9, 1975, within a width of three hundred fifty feet [106.68 meters] on either side of the centerline;

²⁰⁹ Section 49-22-03 was also amended by section 1 of House Bill No. 1096, chapter 347.

- (2) Except as provided in subdivision b, the activities do not affect any known exclusion or avoidance area;
- (3) The activities are for the construction:
 - (a) Of a new electric energy conversion facility;
 - (b) Of a new electric transmission facility;
 - (c) To improve the existing electric energy conversion facility or electric transmission facility; or
 - (d) To increase or decrease the capacity of the existing electric energy conversion facility or electric transmission facility; and
- (4) Before conducting any activities, the utility certifies in writing to the commission that:
 - (a) The activities will not affect a known exclusion or avoidance area;
 - (b) The activities are for the construction:
 - [1] Of a new electric energy conversion facility;
 - [2] Of a new electric transmission facility;
 - [3] To improve the existing electric energy conversion or electric transmission facility; or
 - [4] To increase or decrease the capacity of the existing electric energy conversion facility or electric transmission facility; and
 - (c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility.
- b. Otherwise qualifying for exclusion under subdivision a, except that the activities are expected to affect a known avoidance area and the utility before conducting any activities:
 - (1) Certifies in writing to the commission that:
 - (a) The activities will not affect a known exclusion area;
 - (b) The activities are for the construction:
 - [1] Of a new electric energy conversion facility;
 - [2] Of a new electric transmission facility;
 - [3] To improve the existing electric energy conversion facility or electric transmission facility; or
 - [4] To increase or decrease the capacity of the existing electric energy conversion facility or electric transmission facility; and

- (c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility;
 - (2) Notifies the commission in writing that the activities are expected to impact an avoidance area and provides information on the specific avoidance area expected to be impacted and the reasons why impact cannot be avoided; and
 - (3) Receives the commission's written approval for the impact to the avoidance area, based on a determination that there is no reasonable alternative to the expected impact. If the commission does not approve impacting the avoidance area, the utility must obtain siting authority under this chapter for the affected portion of the site or route. If the commission fails to act on the notification required by this subdivision within thirty days of the utility's filing the notification, the impact to the avoidance area is deemed approved.
- c. Incident to preliminary engineering or environmental studies.
- 4. "Corridor" means the area of land where a designated route may be established for an electric transmission facility.
 - 5. "Electric energy conversion facility" means a plant, addition, or combination of plant and addition, designed for or capable of:
 - a. Generation by wind energy conversion exceeding one-half megawatt of electricity; or
 - b. Generation by any means other than wind energy conversion exceeding fifty megawatts of electricity.
 - 6. "Electric transmission facility" means an electric transmission line and associated facilities with a design in excess of one hundred fifteen kilovolts. "Electric transmission facility" does not include:
 - a. A temporary electric transmission line loop that is:
 - (1) Connected and adjacent to an existing electric transmission facility that was sited under this chapter;
 - (2) Within the corridor of the sited facility and does not cross known exclusion or avoidance areas; and
 - (3) In place for less than one year; or
 - b. An electric transmission line that is less than one mile [1.61 kilometers] long.
 - 7. "Facility" means an electric energy conversion facility, electric transmission facility, or both.
 - 8. "Permit" means the permit for the construction of an electric transmission facility within a designated corridor issued under this chapter.

9. "Person" includes an individual, firm, association, partnership, cooperative, corporation, limited liability company, or any department, agency, or instrumentality of a state or of the federal government, or any subdivision thereof.
10. "Power emergency" means an electric transmission line and associated facilities that have been damaged or destroyed by natural or manmade causes resulting in a loss of power supply to consumers of the power.
11. "Repower" means construction activities to completely or partially dismantle and replace turbine equipment at an existing wind energy conversion facility site that result in an increase of the facility's generation output potential or turbine height. The term does not include routine turbine maintenance or routine replacement of malfunctioning turbines or turbine components.
12. "Route" means the location of an electric transmission facility within a designated corridor.
- 42-13. "Site" means the location of an electric energy conversion facility.
- 43-14. "Utility" means a person engaged in and controlling the electric generation, the transmission of electric energy, or the transmission of water from or to any electric energy conversion facility.

SECTION 2. A new subsection to section 49-22-07 of the North Dakota Century Code is created and enacted as follows:

A wind energy conversion facility that has not been issued a certificate of site compatibility and exceeds five megawatts of electricity may not repower the wind energy conversion facility without first having obtained a certificate of site compatibility. A variance may be granted for impacts to exclusion and avoidance areas resulting from the repowering of existing infrastructure upon a showing of good cause. A requested variance must comply with local land use, zoning, building rules, regulations, and ordinances.

SECTION 3. AMENDMENT. Section 49-22-16.4 of the North Dakota Century Code is amended and reenacted as follows:

49-22-16.4. Light-mitigating technology system - Rules.

1. The commission shall adopt rules by January 1, 2019, relating to the implementation of light-mitigating technology systems on wind energy conversion facilities. The rules must be consistent with the federal aviation administration regulations [14 CFR 1.1 et seq.] and must include service and maintenance requirements, safety standards, and lighting system requirements.
2. By December 31, 2019, every wind energy conversion facility for which the commission issued a certificate of site compatibility after June 5, 2016, must be equipped with a functioning light-mitigating technology system that complies with rules adopted by the commission. After public hearing, the commission may grant a waiver or an extension of time based on technical or economic feasibility considerations.
3. By December 31, 2021, every wind energy conversion facility for which the commission issued a certificate of site compatibility before June 5, 2016, must

be equipped with a functioning light-mitigating technology system that complies with the rules adopted by the commission. After public hearing, the commission may grant a waiver or an extension of time based on technical or economic feasibility considerations.

4. Any costs associated with the implementation, operation, and maintenance of light-mitigating technology systems are the sole responsibility of the wind energy conversion facility owner.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 347

HOUSE BILL NO. 1096

(Energy and Natural Resources Committee)
(At the request of the Public Service Commission)

AN ACT to create and enact sections 49-22-25, 49-22-26, 49-22.1-23, and 49-22.1-24 of the North Dakota Century Code, relating to energy conversion and transmission siting and facilities; to amend and reenact subsection 3 of section 49-22-03, section 49-22-07.2, subsections 1 and 4 of section 49-22-13, subsection 1 of section 49-22-22, subsections 3 and 7 of section 49-22.1-01, section 49-22.1-05, subsections 1 and 4 of section 49-22.1-10, and subsection 1 of section 49-22.1-21 of the North Dakota Century Code, relating to energy conversion and transmission siting and facilities; and to repeal section 49-22.1-22 of the North Dakota Century Code, relating to removal of electrical standards requirement from gas and liquid energy transmission facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁰ **SECTION 1. AMENDMENT.** Subsection 3 of section 49-22-03 of the North Dakota Century Code is amended and reenacted as follows:

3. "Construction" includes a clearing of land, excavation, or other action affecting the environment of the site after April 9, 1975, but does not include activities:
 - a. Conducted wholly within the geographic location for which a utility has previously obtained a certificate or permit under this chapter, or on which a facility was constructed before April 9, 1975, if:
 - (1) The activities are for the construction of the same type of facility as the existing type of facility as identified in a subdivision of subsections 5 or ~~426~~ of this section and the activities are:
 - (a) Within the geographic boundaries of a previously issued certificate or permit;
 - (b) For an electric energy conversion facility constructed before April 9, 1975, within the geographic location on which the facility was built; or
 - (c) For an electric transmission facility constructed before April 9, 1975, within a width of three hundred fifty feet [106.68 meters] on either side of the centerline;
 - (2) Except as provided in subdivision b, the activities do not affect any known exclusion or avoidance area;
 - (3) The activities are for the construction:

²¹⁰ Section 49-22-03 was also amended by section 1 of House Bill No. 1095, chapter 346.

- (a) Of a new electric energy conversion facility;
 - (b) Of a new electric transmission facility;
 - (c) To improve the existing electric energy conversion facility or electric transmission facility; or
 - (d) To increase or decrease the capacity of the existing electric energy conversion facility or electric transmission facility; and
- (4) Before conducting any activities, the utility certifies in writing to the commission that:
 - (a) The activities will not affect a known exclusion or avoidance area;
 - (b) The activities are for the construction:
 - [1] Of a new electric energy conversion facility;
 - [2] Of a new electric transmission facility;
 - [3] To improve the existing electric energy conversion or electric transmission facility; or
 - [4] To increase or decrease the capacity of the existing electric energy conversion facility or electric transmission facility; and
 - (c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility.
- b. Otherwise qualifying for exclusion under subdivision a, except that the activities are expected to affect a known avoidance area and the utility before conducting any activities:
 - (1) Certifies in writing to the commission that:
 - (a) The activities will not affect a known exclusion area;
 - (b) The activities are for the construction:
 - [1] Of a new electric energy conversion facility;
 - [2] Of a new electric transmission facility;
 - [3] To improve the existing electric energy conversion facility or electric transmission facility; or
 - [4] To increase or decrease the capacity of the existing electric energy conversion facility or electric transmission facility; and
 - (c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility;

- (2) Notifies the commission in writing that the activities are expected to impact an avoidance area and provides information on the specific avoidance area expected to be impacted and the reasons why impact cannot be avoided; and
- (3) Receives the commission's written approval for the impact to the avoidance area, based on a determination that there is no reasonable alternative to the expected impact. If the commission does not approve impacting the avoidance area, the utility must obtain siting authority under this chapter for the affected portion of the site or route. If the commission fails to act on the notification required by this subdivision within thirty days of the utility's filing the notification, the impact to the avoidance area is deemed approved.

c. Incident to preliminary engineering or environmental studies.

SECTION 2. AMENDMENT. Section 49-22-07.2 of the North Dakota Century Code is amended and reenacted as follows:

49-22-07.2. Waiver of procedures and time schedules.

Any utility which proposes to construct an electric energy conversion facility or an electric transmission facility within the state may make an application to the commission for a waiver of any of the procedures or time schedules set forth in this chapter or in the rules adopted pursuant to this chapter. The commission, ~~after hearing and~~ upon a finding that the proposed facility is of such length, design, location, or purpose that it will produce minimal adverse effects, or, ~~after hearing and~~ upon a finding that a demonstrable emergency exists ~~which requires immediate construction and that adherence to the procedures and time schedules would jeopardize the utility's system,~~ may issue an order waiving specified procedures and time schedules required by this chapter or by the rules adopted pursuant to this chapter, including, but not limited to, applications, notices, and hearings, and may forthwith issue a certificate of site compatibility, a certificate of corridor compatibility, or a route permit, with such conditions as the commission may require.

SECTION 3. AMENDMENT. Subsections 1 and 4 of section 49-22-13 of the North Dakota Century Code are amended and reenacted as follows:

1. The commission shall hold a public hearing in each county in which any portion of a site, corridor, or route is proposed to be located in an application for a certificate or a permit. If the commission determines there is an emergency that would prevent an in-person hearing in the county in which any portion of a site, corridor, or route is proposed, a remote public hearing may be held. At the public hearing, any person may present testimony or evidence relating to the information provided in the application, the criteria developed pursuant to section 49-22-05.1, and the factors to be considered pursuant to section 49-22-09. If the commission determines there are no adequate facilities to conduct a public hearing within the county in which any portion of a site, corridor, or route is proposed to be located in, the public hearing must be held in the nearest adequate location. When more than one county is involved, the commission may hold a consolidated hearing in one or more of the affected counties. A hearing for any county shall not be consolidated if five or more affected landowners in such county file a petition with the commission within ten days of the publication of the notice of hearing.

4. Notice of a public hearing shall be given by the commission by service on such persons and agencies that the commission may deem appropriate and twice by publication, once at least twenty days prior to such hearing and a second time within twenty days prior to such hearing. Notice of a public hearing and notice of opportunity for a public hearing on an application for a certificate, a permit, a transfer or amendment of a certificate or permit, or a waiver shall be given at the expense of the applicant. In an emergency the commission, in its discretion, may notice a hearing upon less than twenty days.

²¹¹ **SECTION 4. AMENDMENT.** Subsection 1 of section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

1. Every applicant under this chapter shall pay to the commission an application fee:
 - a. An applicant for a certificate of site compatibility shall pay an amount equal to five hundred dollars for each one million dollars of investment in the facility.
 - b. An applicant for a certificate of corridor compatibility shall pay an amount equal to five thousand dollars for each one million dollars of investment in the facility.
 - c. An applicant for a waiver shall pay the amount which would be required for an application for a certificate of site or corridor compatibility for the proposed facility. If a waiver is not granted for a proposed facility, such application fee paid shall be allowed as a credit against fees payable under this section in connection with an application under this chapter for a certificate or permit for the proposed facility.
 - d. An applicant requesting an amendment to a certificate or permit or for a transfer of a certificate or permit shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
 - e. An applicant certifying to the commission under subsection 3 of section 49-22-03 shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
 - f. The application fee under subdivision a, b, or c may not be less than ten thousand dollars nor more than one hundred thousand dollars.
 - g. If an application fee is less than twenty-five thousand dollars, an applicant may agree to pay additional fees that are reasonably necessary for completion of the site, corridor, or route evaluation and designation process.

SECTION 5. Section 49-22-25 of the North Dakota Century Code is created and enacted as follows:

49-22-25. Approval for temporary operation or variance.

²¹¹ Section 49-22-22 was also amended by section 7 of House Bill No. 1008, chapter 8.

1. The commission may approve temporary operation of facilities or a temporary variance from approved construction, operation, or maintenance of facilities upon a showing of good cause and receipt of a utility certification that the activities will have no adverse impacts upon the welfare of the citizens of this state or the environment.
2. The commission may issue a temporary approval or variance without the necessity of notice, publication, or public hearing with any additional terms, conditions, or modifications deemed necessary to minimize impacts.

SECTION 6. Section 49-22-26 of the North Dakota Century Code is created and enacted as follows:

49-22-26. Protection of cultural or historic site data.

The commission may limit access to, and release of, information that contains data that specifically identifies the location of cultural, archaeological, historical, or paleontological sites.

SECTION 7. AMENDMENT. Subsections 3 and 7 of section 49-22.1-01 of the North Dakota Century Code are amended and reenacted as follows:

3. "Construction" includes a clearing of land, excavation, or other action affecting the environment of the site after April 9, 1975, but does not include activities:
 - a. Conducted wholly within the geographic location for which a utility has previously obtained a certificate or permit under this chapter, or on which a facility was constructed before April 9, 1975, if:
 - (1) The activities are for the construction of the same type of facility as the existing type of facility as identified in subsection 56 or 427 and the activities are:
 - (a) Within the geographic boundaries of a previously issued certificate or permit;
 - (b) For a gas or liquid energy conversion facility constructed before April 9, 1975, within the geographic location on which the facility was built; or
 - (c) For a gas or liquid transmission facility constructed before April 9, 1975, within a width of three hundred fifty feet [106.68 meters] on either side of the centerline;
 - (2) Except as provided in subdivision b, the activities do not affect any known exclusion or avoidance area;
 - (3) The activities are for the construction:
 - (a) Of a new gas or liquid energy conversion facility;
 - (b) Of a new gas or liquid transmission facility;
 - (c) To improve the existing gas or liquid energy conversion facility, or gas or liquid, transmission facility; or

- (d) To increase or decrease the capacity of the existing gas or liquid energy conversion facility or gas or liquid transmission facility; and
- (4) Before conducting any activities, the utility certifies in writing to the commission that:
 - (a) The activities will not affect a known exclusion or avoidance area;
 - (b) The activities are for the construction:
 - [1] Of a new gas or liquid energy conversion facility;
 - [2] Of a new gas or liquid transmission facility;
 - [3] To improve the existing gas or liquid energy conversion or gas or liquid transmission facility; or
 - [4] To increase or decrease the capacity of the existing gas or liquid energy conversion facility or gas or liquid transmission facility; and
 - (c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility.
- b. Otherwise qualifying for exclusion under subdivision a, except that the activities are expected to affect a known avoidance area and the utility before conducting any activities:
 - (1) Certifies in writing to the commission:
 - (a) The activities will not affect any known exclusion area;
 - (b) The activities are for the construction:
 - [1] Of a new gas or liquid energy conversion facility;
 - [2] Of a new gas or liquid transmission facility;
 - [3] To improve the existing gas or liquid energy conversion facility or gas or liquid facility; or
 - [4] To increase or decrease the capacity of the existing gas or liquid energy conversion facility or gas or liquid transmission facility; and
 - (c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility;
 - (2) Notifies the commission in writing that the activities are expected to impact an avoidance area and provides information on the specific avoidance area expected to be impacted and the reasons why impact cannot be avoided; and

- (3) Receives the commission's written approval for the impact to the avoidance area, based on a determination that there is no reasonable alternative to the expected impact. If the commission does not approve impacting the avoidance area, the utility must obtain siting authority under this chapter for the affected portion of the site or route. If the commission fails to act on the notification required by this subdivision within thirty days of the utility's filing the notification, the impact to the avoidance area is deemed approved.
- c. Incident to preliminary engineering or environmental studies.
7. "Gas or liquid transmission facility" means any of the following:
- a. A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon dioxide. This subdivision does not apply to:
- (1) An oil or gas pipeline gathering system;
- (2) A natural gas distribution system;
- (3) Carbon dioxide storage facility underground equipment, including a flow line, subject to chapter 38-22;
- (4) A pipeline with an outside diameter of four and one-half inches [11.43 centimeters] or less which will not be trenched and will be plowed in with a power mechanism having a vertical knife or horizontally directionally drilled, and its associated facilities; or
- ~~(3)(5)~~ A pipeline that is less than one mile [1.61 kilometers] long. For purposes of this chapter, a gathering system includes the pipelines and associated facilities used to collect oil from the lease site to the first pipeline storage site where pressure is increased for further transport, or pipelines and associated facilities used to collect gas from the well to the gas processing facility at which end-use consumer-quality gas is produced, with or without the addition of odorant.
- b. A liquid transmission line and associated facilities designed for or capable of transporting water from or to an energy conversion facility.

SECTION 8. AMENDMENT. Section 49-22.1-05 of the North Dakota Century Code is amended and reenacted as follows:

49-22.1-05. Waiver of procedures and time schedules.

Any utility that proposes to construct a gas or liquid energy conversion facility or a gas or liquid transmission facility within the state may make an application to the commission for a waiver of any of the procedures or time schedules set forth in this chapter or in the rules adopted pursuant to this chapter. The commission, ~~after hearing and~~ upon a finding that the proposed facility is of a length, design, location, or purpose that it will produce minimal adverse effects, or, ~~after hearing and~~ upon a finding that a demonstrable emergency exists ~~which requires immediate construction and that adherence to the procedures and time schedules would jeopardize the utility's system,~~ may issue an order waiving specified procedures and time schedules required by this chapter or by the rules adopted pursuant to this chapter, including applications, notices, and hearings, and may forthwith issue a certificate of site

compatibility, a certificate of corridor compatibility, or a route permit, with such conditions as the commission may require.

SECTION 9. AMENDMENT. Subsections 1 and 4 of section 49-22.1-10 of the North Dakota Century Code are amended and reenacted as follows:

1. The commission shall hold a public hearing in each county in which any portion of a site, corridor, or route is proposed to be located in an application for a certificate or a permit. If the commission determines there is an emergency that would prevent an in-person hearing in the county in which any portion of a site, corridor, or route is proposed, a remote public hearing may be held. At the public hearing, any person may present testimony or evidence relating to the information provided in the application, the criteria developed pursuant to section 49-22.1-03, and the factors to be considered pursuant to section 49-22.1-09. If the commission determines there are no adequate facilities to conduct a public hearing within the county in which any portion of a site, corridor, or route is proposed to be located in, the public hearing must be held in the nearest adequate location. When more than one county is involved, the commission may hold a consolidated hearing in one or more of the affected counties. A hearing for any county may not be consolidated if five or more affected landowners in that county file a petition with the commission within ten days of the publication of the notice of hearing.
4. Notice of a public hearing must be given by the commission by service on those persons the commission deems appropriate and twice by publication, once at least twenty days before the hearing and a second time within twenty days before the hearing. Notice of a public hearing and notice of opportunity for a public hearing on an application for a certificate, a permit, a transfer or amendment of a certificate or permit, or a waiver must be given at the expense of the applicant. In an emergency the commission may notice a hearing upon less than twenty days.

²¹² **SECTION 10. AMENDMENT.** Subsection 1 of section 49-22.1-21 of the North Dakota Century Code is amended and reenacted as follows:

1. Every applicant under this chapter shall pay to the commission an application fee:
 - a. An applicant for a certificate of site compatibility shall pay an amount equal to five hundred dollars for each one million dollars of investment in the facility.
 - b. An applicant for a certificate of corridor compatibility shall pay an amount equal to five thousand dollars for each one million dollars of investment in the facility.
 - c. An applicant for a waiver shall pay the amount that would be required for an application for a certificate of site or corridor compatibility for the proposed facility. If a waiver is not granted for a proposed facility, the application fee paid must be allowed as a credit against fees payable under this section in connection with an application under this chapter for a certificate or permit for the proposed facility.

²¹² Section 49-22.1-21 was also amended by section 8 of House Bill No. 1008, chapter 8.

- d. An applicant for a transfer of a certificate or permit shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
- e. An applicant requesting an amendment to a certificate or permit, or certifying to the commission under subsection 3 of section 49-22.1-01 or obtaining siting authority under subdivision b of subsection 2 or subdivision c of subsection 4 of section 49-22.1-15, shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
- f. The application fee under subdivision a, b, or c may not be less than ten thousand dollars nor more than one hundred thousand dollars.
- g. If an application fee is less than twenty-five thousand dollars, an applicant may agree to pay additional fees that are reasonably necessary for completion of the site, corridor, or route evaluation and designation process.

SECTION 11. Section 49-22.1-23 of the North Dakota Century Code is created and enacted as follows:

49-22.1-23. Approval for temporary operation or variance.

1. The commission may approve temporary operation of facilities or a temporary variance from approved construction, operation, or maintenance of facilities upon a showing of good cause and receipt of a utility certification that the activities will have no adverse impacts upon the welfare of the citizens of this state or the environment.
2. The commission may issue a temporary approval or variance without the necessity of notice, publication, or public hearing with any additional terms, conditions, or modifications deemed necessary to minimize impacts.

SECTION 12. Section 49-22.1-24 of the North Dakota Century Code is created and enacted as follows:

49-22.1-24. Protection of cultural or historic site data.

The commission may limit access to, and release of, information that contains data that specifically identifies the location of cultural, archaeological, historical, or paleontological sites.

SECTION 13. REPEAL. Section 49-22.1-22 of the North Dakota Century Code is repealed.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 348

HOUSE BILL NO. 1455

(Representatives Nehring, Toman)
(Senator Bell)

AN ACT to amend and reenact section 49-22-04 of the North Dakota Century Code, relating to ten-year plans; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-22-04 of the North Dakota Century Code is amended and reenacted as follows:

49-22-04. Ten-year plans - Contents.

1. Each utility that owns or operates, or plans within the next ten years to own, operate, or start construction on any facility shall develop a ten-year plan as specified in this section and submit the plan to the commission. Each utility shall file an updated plan on or before July first of each even-numbered year after the year of its initial submission. The ten-year plan may be appropriate portions of a single regional plan or may be jointly prepared and submitted by two or more utilities and must contain the following information:
 1. a. A description of the general location, size, and type of all facilities to be owned or operated by the utility during the ensuing ten years, as well as those facilities to be removed from service during the ten-year period.
 2. b. An identification of the location of the tentative preferred site for all electric energy conversion facilities and the tentative location of all electric transmission facilities on which construction is intended to be commenced within the ensuing five years and such other information as may be required by the commission. The site and corridor identification shall be made in compliance with the criteria published by the commission pursuant to section 49-22-05.1.
 3. c. A description of the efforts by the utility to coordinate the plan with other utilities so as to provide a coordinated regional plan for meeting the utility needs of the region.
 4. d. A description of the efforts to involve environmental protection and land-use planning agencies in the planning process, as well as other efforts to identify and minimize environmental problems at the earliest possible stage in the planning process.
 5. e. A statement of the projected demand for the service rendered by the utility for the ensuing ten years and the underlying assumptions for the projection, with that information being as geographically specific as possible, and a description of the manner and extent to which the utility will meet the projected demands.

- 6- f. Any other relevant information as may be requested by the commission. Upon receipt of the ten-year plans the commission shall proceed to assess the impact of the development proposed within the state to ensure that energy conversion facilities and transmission facilities will be sited in an orderly manner compatible with environmental preservation and efficient use of resources.
2. If not previously disclosed in a ten-year plan filing pursuant to subdivision a of subsection 1, the utility owner or operator of an electric energy conversion facility shall notify the commission and the auditor of the county in which the facility is located if the owner or operator considers removing an electric energy conversion facility from service. Upon notice of the removal from service, the commission may request the owner or operator provide the commission with any applicable reliability study developed with a regional transmission organization in conjunction with the considered removal from service and may accept public comment in a format prescribed by the commission.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - COAL CONVERSION FACILITIES. During the 2021-22 interim, the legislative management shall consider studying the need, cost, effect, and appropriate process for bonding and ensuring reclamation of coal conversion facilities. The study must include an examination and assessment of the methods and amounts of financial assurance and schedules, the interaction of economics and the statutes, rules, and policies relating to the remaining useful life and early retirement of coal conversion facilities, the role of the public service commission in all electrical generation retirement, and the appropriate involvement of the public and local communities and political subdivisions in the retirement process. The study also must evaluate the effectiveness of government programs and incentives relating to energy production, reliability, and the state's role in that process. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 349

SENATE BILL NO. 2263

(Senators Kannianen, Schaible, Weber)
(Representatives D. Anderson, Fegley, Jones)

AN ACT to amend and reenact section 49-22-08 of the North Dakota Century Code, relating to notice requirements for an application for a certificate of site or corridor compatibility; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-22-08 of the North Dakota Century Code is amended and reenacted as follows:

49-22-08. Application for a certificate - Notice of filing - Amendment - Designation of a site or corridor.

1. An application for a certificate must be in such form as the commission may prescribe, containing the following information:
 - a. A description of the size and type of facility.
 - b. A summary of any studies which have been made of the environmental impact of the facility.
 - c. A statement explaining the need for the facility.
 - d. An identification of the location of the preferred site for any electric energy conversion facility.
 - e. An identification of the location of the preferred corridor for any electric transmission facility.
 - f. A description of the merits and detriments of any location identified and a comprehensive analysis with supporting data showing the reasons why the preferred location is best suited for the facility.
 - g. A description of mitigative measures that will be taken to minimize all foreseen adverse impacts resulting from the location, construction, and operation of the proposed facility.
 - h. An evaluation of the proposed site or corridor with regard to the applicable considerations set out in section 49-22-09 and the criteria established pursuant to section 49-22-05.1.
 - i. Such other information as the applicant may consider relevant or the commission may require.
2. After determining that the application is complete, the commission shall serve a notice of filing of the application on such persons and agencies that the commission may deem appropriate and shall publish a notice of filing of the

application in the official newspaper of each county in which any portion of the site or corridor is proposed to be located.

3. A copy of the application shall be furnished to any person or agency, upon request to the commission within thirty days of either service or publication of the notice of filing.
4. Within thirty days following service of the notice of filing of a complete application by the commission, the applicant shall provide a copy of the commission's notice of filing of the application by first-class mail to the owner of record of any land located within the requested site or corridor. For purposes of this subsection, the owner of record means the owner identified by the county treasurer to receive the real estate tax statement.
5. An application for an amendment of a certificate shall be in such form and contain such information as the commission shall prescribe.
- ~~5-6.~~ The commission may designate a site or corridor for a proposed facility following the study and hearings provided for in this chapter. Any designation shall be made in accordance with the evidence presented at the hearings, an evaluation of the information provided in the application, the criteria established pursuant to section 49-22-05.1, and the considerations set out in section 49-22-09 in a finding with reasons for the designation, and shall be made in a timely manner no later than six months after the filing of a completed application for a certificate of site compatibility or no later than three months after the filing of a completed application for a certificate of corridor compatibility. The time for designation of a site or corridor may be extended by the commission for just cause. The failure of the commission to act within the time limits provided in this section shall not operate to divest the commission of jurisdiction in any certification proceeding. The commission shall indicate the reasons for any refusal of designation. Upon designation of a site or corridor, the commission shall issue a certificate of site compatibility or a certificate of corridor compatibility with such terms, conditions, or modifications deemed necessary. The commission may not condition the issuance of a certificate or permit on the applicant providing a mitigation payment assessed or requested by another state agency or entity to offset a negative impact on wildlife habitat.

SECTION 2. APPLICATION. This Act applies to a siting application filed after August 31, 2021.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 350

HOUSE BILL NO. 1158

(Representatives Brandenburg, Headland, Howe, D. Johnson, Schreiber-Beck,
Thomas, Weisz, Westlund)
(Senators Luick, Wanzek)

AN ACT to amend and reenact subsection 2 of section 49-22-09.2 of the North Dakota Century Code, relating to the allocation of moneys paid to mitigate adverse environmental impacts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 49-22-09.2 of the North Dakota Century Code is amended and reenacted as follows:

2. The agriculture commissioner shall deposit ~~into the environmental impact mitigation fund~~ any moneys paid to mitigate the adverse direct environmental impacts of a proposed site, corridor, route, or facility as follows:
 - a. Fifty percent into the environmental impact mitigation fund; and
 - b. Fifty percent into the federal environmental law impact review fund.

Approved March 16, 2021

Filed March 16, 2021

CHAPTER 351

HOUSE BILL NO. 1059

(Energy and Natural Resources Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact subsection 1 of section 49-23-06 of the North Dakota Century Code, relating to requiring an excavator to call 911 upon damage to a facility that releases any flammable toxic or corrosive gas.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 49-23-06 of the North Dakota Century Code is amended and reenacted as follows:

1. a. If any damage occurs to an underground facility or its protective covering, the excavator shall notify the operator as soon as reasonably possible. When the operator receives a damage notice, the operator shall dispatch, as soon as reasonably possible, personnel to the damage area to investigate. If the damage results in the escape of flammable, toxic, or corrosive gas or liquid, the excavator shall:
 - (1) Call 911 immediately; and
 - (2) Notify the pipeline operator immediately.
- b. If the damage endangers life, health, or property, the excavator responsible for the work shall take immediate action to protect the public and property and to minimize the hazard until arrival of the operator's personnel or until emergency responders have arrived and taken charge of the damaged area.
- ~~b.c.~~ An excavator shall delay backfilling in the immediate area of the damaged underground facilities until the damage has been investigated by the operator, unless the operator authorizes otherwise. The repair of damage must be performed by the operator or by qualified personnel authorized by the operator.
- ~~c.d.~~ An excavator is guilty of a class A misdemeanor if the excavator damages an underground facility or its protective covering and knew or reasonably should have known the damage occurred and:
 - (1) The excavator does not notify the operator as soon as reasonably possible; or
 - (2) The excavator backfills in violation of subdivision ~~b.c.~~

Approved April 19, 2021

Filed April 20, 2021

PUBLIC WELFARE

CHAPTER 352

HOUSE BILL NO. 1247

(Representatives Weisz, Devlin, Kreidt, Rohr, M. Ruby)
(Senators Anderson, Lee)

AN ACT to amend and reenact subsection 3 of section 4.1-26-20, sections 5-01-08 and 6-03-76, subsection 8 of section 6-08.1-03, sections 6-08.5-02 and 6-08.5-03, subsection 2 of section 6-09.15-01, section 10-04-08.5, subsection 16 of section 11-16-01, subdivision n of subsection 5 of section 11-19.1-01, subsection 2 of section 11-19.1-07, subsection 2 of section 11-19.1-16, subsection 2 of section 11-23-01, subdivision e of subsection 1 of section 12-44.1-28, subdivision b of subsection 1 of section 12-44.1-29, subsection 5 of section 12-47-36, section 12-52-02, subsection 2 of section 12-60-24, subsection 5 of section 12-60-26, subsection 26 of section 12.1-01-04, subsection 4 of section 12.1-20-24, subsection 16 of section 12.1-32-15, subsection 4 of section 12.1-41-17, section 13-05-02.2, subsection 8 of section 14-02.1-02, sections 14-02.1-02.1 and 14-02.1-02.2, subsection 4 of section 14-02.1-03.4, sections 14-02.1-07, 14-02.1-07.1, 14-02.1-09, 14-07.1-01, and 14-07.1-17, subdivision f of subsection 2 of section 14-07.1-20, section 14-09-08.21, subsection 1 of section 14-09-09.7, subsection 4 of section 14-09-09.10, sections 14-09-09.31, 14-09-12, and 14-10-05, subsection 2 of section 14-12.2-02, subsection 1 of section 14-12.2-22, sections 14-12.2-47.3 and 14-12.2-47.4, subsection 4 of section 14-12.2-47.5, subdivision b of subsection 3 of section 14-12.2-47.8, section 14-13-03, subsection 6 of section 14-15-01, subsection 4 of section 14-15.1-01, sections 14-19-01 and 14-19-05, subdivision d of subsection 1 of section 14-19-06, section 14-19-08, subsection 3 of section 14-19-12, paragraph 1 of subdivision d of subsection 1 of section 14-20-10, subdivision a of subsection 2 of section 14-20-12, subsection 3 of section 14-20-14, sections 14-20-15, 14-20-16, 14-20-18, and 14-20-19, subsection 1 of section 14-20-22, sections 14-20-23, 14-20-24, 14-20-57, and 15-05-16, subsection 2 of section 15-52-03, section 15.1-02-19, subsection 3 of section 15.1-24-01, sections 15.1-32-03, 15.1-32-05, and 15.1-32-19, subsection 2 of section 15.1-34-01, section 15.1-34-04, subsection 1 of section 15.1-37-02, sections 18-01-03.1 and 18-01-03.2, subsection 1 of section 19-01-01, section 19-01-07, subsection 6 of section 19-02.1-01, section 19-02.1-07, subsection 5 of section 19-02.1-10, section 19-02.1-10.1, subsection 2 of section 19-02.1-16, subsection 3 of section 19-03.1-17, subsection 3 of section 19-03.1-45, subdivision e of subsection 3 of section 19-03.5-03, subdivision e of subsection 2 of section 19-03.5-07, sections 19-05.1-05, 19-06.1-05, and 19-17-05, subsection 3 of section 19-21-01, subsection 16 of section 19-24.1-01, subdivision a of subsection 1 of section 19-24.1-14, subdivision a of subsection 1 of section 19-24.1-15, subsection 3 of section 19-24.1-24, subdivision e of subsection 2 of section 19-24.1-33, sections 19-24.1-36 and 20.1-01-26.1, subsection 4 of section 20.1-03-04, sections 23-01-01, 23-01-01.1, and 23-01-03, subsection 1 of section 23-01-03.1, subsection 1 of section 23-01-03.3, sections 23-01-04, 23-01-05, 23-01-05.1, 23-01-05.2, 23-01-05.3, 23-01-05.4, 23-01-06, 23-01-08, 23-01-10, 23-01-11,

23-01-14, 23-01-15, 23-01-16, 23-01-22, 23-01-24, 23-01-25, 23-01-26, 23-01-27, 23-01-28, 23-01-29, 23-01-32, 23-01-33, 23-01-34, 23-01-35, and 23-01-37, subdivision a of subsection 1 of section 23-01-39, sections 23-01-40 and 23-01-41, paragraph 1 of subdivision b of subsection 1 of section 23-01-42, sections 23-01-44 and 23-01.2-01, subsection 2 of section 23-01.2-03, section 23-01.2-04, subsection 8 of section 23-01.3-01, sections 23-01.3-08, 23-02.1-01, 23-02.1-02, 23-02.1-03, and 23-02.1-04, subdivision c of subsection 1 of section 23-02.1-05, sections 23-02.1-11, 23-02.1-13, 23-02.1-15, and 23-02.1-16, subsection 2 of section 23-02.1-17, subsection 4 of section 23-02.1-18, sections 23-02.1-19, 23-02.1-20, 23-02.1-20.1, 23-02.1-22, and 23-02.1-25, subsections 6 and 7 of section 23-02.1-27, subsection 3 of section 23-02.1-28, section 23-02.1-29, subsection 3 of section 23-02.1-30, subsection 6 of section 23-06-03, subsection 1 of section 23-06-04, sections 23-06-07, 23-06-20, 23-06-21, 23-06-22, and 23-06-23, subsection 7 of section 23-06-27, section 23-06-30, subsection 1 of section 23-06.6-19, sections 23-07-01, 23-07-01.1, 23-07-02, 23-07-02.1, and 23-07-02.2, subsection 3 of section 23-07-02.3, sections 23-07-03 and 23-07-05, subsection 2 of section 23-07-05, sections 23-07-07.6, 23-07-15, 23-07-17.1, and 23-07-21, subsection 2 of section 23-07.1-01.1, sections 23-07.1-04, 23-07.1-14, 23-07.2-02, 23-07.2-03, and 23-07.2-04, subsection 4 of section 23-07.4-01, subsection 3 of section 23-07.4-02, section 23-07.6-04, subsection 3 of section 23-07.7-02, subsection 4 of section 23-09-01, section 23-09-02, subsection 2 of section 23-09.1-01, section 23-09.1-02, subsection 1 of section 23-09.2-01, subsection 2 of section 23-09.3-01, sections 23-09.3-01.1 and 23-09.3-05.1, subsection 2 of section 23-09.4-01, subsection 9 of section 23-09.5-02, subsection 2 of section 23-10-01, subsection 11 of section 23-12-09, subdivision a of subsection 3 of section 23-12-10, subsection 1 of section 23-12-10.2, subsection 2 of section 23-12-10.4, subsection 2 of section 23-12-17, section 23-16-01, subsection 6 of section 23-16-01.1, sections 23-16-03, 23-16-04, 23-16-05, 23-16-06, 23-16-08, and 23-16-09, subsection 2 of section 23-16-11, section 23-16-12, subsection 1 of section 23-16.1-01, section 23-17-08, subsection 2 of section 23-17.3-01, sections 23-17.3-08 and 23-17.3-10, subsection 2 of section 23-17.4-01, sections 23-21-16 and 23-21.1-02.1, subsection 1 of section 23-21.1-03, sections 23-23-03 and 23-27-01, subsection 1 of section 23-27-02, section 23-27-03, subsection 1 of section 23-27-04, sections 23-27-04.2, 23-27-04.3, and 23-27-04.7, subsection 6 of section 23-27-04.10, sections 23-34-02 and 23-34-02.1, subsection 2 of section 23-35-01, section 23-35-02, subsection 4 of section 23-36-01, section 23-38.1-01, subsections 1 and 3 of section 23-38.1-02, section 23-38.1-03, subsection 1 of section 23-39-01, sections 23-39-06, 23-39-07, and 23-41-01, subsection 1 of section 23-41-06, sections 23-43-02, 23-43-03, 23-43-04, 23-43-05, and 23-43-06, subsection 2 of section 23-44-01, subsection 2 of section 23-44-02, subsection 2 of section 23-45-01, subsection 1 of section 23-45-02, sections 23-46-02, 23-46-03, and 23-46-04, subsection 1 of section 23-47-01, section 23-47-02, subsection 1 of section 23-47-03, section 23-50-01, subsection 4 of section 23.1-01-03, subsection 7 of section 25-01-01, section 25-01-01.1, subsection 2 of section 25-01.2-01, sections 25-01.2-18, 25-02-01, 25-02-01.1, and 25-02-03, subsection 5 of section 25-03.1-02, section 25-03.1-34.1, subsection 3 of section 25-03.2-01, subsection 2 of section 25-03.3-01, sections 25-03.3-07, 25-03.3-08, 25-03.3-12, and 25-03.3-17, subsection 3 of section 25-03.3-18, sections 25-03.3-21, 25-03.3-22, 25-04-01, 25-04-02, 25-04-02.1, 25-04-04, and 25-04-05, subsection 1 of section 25-04-05.1, subsection 3 of section 25-04-08, sections 25-04-08.1, 25-04-11, and 25-04-14, subsection 2 of section 25-04-15, subsection 5 of section 25-04-16, sections 25-11-02 and 25-14-02, subsection 1 of section 25-16-01, sections 25-16-07 and 25-16-12, subsection 1 of section 25-16.1-01, sections 25-16.2-01, 25-17-00.1, 25-17-01,

25-17-02, 25-17-03, and 25-17-06, subsection 1 of section 25-18-01, subdivision b of subsection 1 of section 26.1-02-28, subdivision b of subsection 9 of section 26.1-26.4-02, subsection 2 of section 26.1-36-09, subsection 4 of section 26.1-36-09.7, subdivision b of subsection 1 of section 26.1-36-09.10, subsection 1 of section 26.1-36-12, subsection 2 of section 26.1-36-12.2, section 26.1-36-30, subsection 1 of section 26.1-36-45, subsection 2 of section 26.1-36.5-03, subsection 2 of section 26.1-36.5-04, sections 26.1-45-13, 26.1-47-01, 26.1-47-10, 26.1-54-01, 26.1-54-02, 26.1-54-03, 26.1-54-04, and 27-20-11, subdivision c of subsection 7 of section 27-20-20.1, section 27-20-30.1, subsection 7 of section 27-20-45, subsection 1 of section 27-20-51, subsection 2 of section 27-20-54, section 27-21-09, subdivision d of subsection 2 of section 27-21-12, sections 28-21-05.2, 30-16-04, 32-03-48, and 32-37-05, paragraph 3 of subdivision b of subsection 4 of section 34-13-01, subsection 2 of section 34-15-01, subsection 2 of section 36-01-12.2, sections 37-17.4-01, 37-17.4-03, and 37-17.4-04, subsection 3 of section 37-17.4-07, sections 37-17.4-09 and 39-01-01, subsection 5 of section 39-01-15, section 39-01-19, subdivision b of subsection 1 of section 39-04-10.16, subsection 1 of section 43-04-11, subsection 8 of section 43-10-12, sections 43-10-23, 43-11-11, and 43-12.1-04, subsection 14 of section 43-15-10, subsection 4 of section 43-15-31.5, subsection 5 of section 43-28-02, section 43-29.1-02, subsection 2 of section 43-34-01, subsection 1 of section 43-34-02, section 43-38-03, subsection 2 of section 43-41-04.2, sections 43-43-03, 43-43-04, 43-43-06, and 43-43-07, subsection 11 of section 43-48-03, subdivision e of subsection 3 of section 43-60-02, subsection 3 of section 44-04-18.4, subdivision b of subsection 1 of section 44-04-18.30, subsection 2 of section 50-01-01, sections 50-01-13 and 50-01-17.2, subsection 1 of section 50-01.1-01, subsection 1 of section 50-01.2-00.1, subsection 3 of section 50-06-01, sections 50-06-01.1 and 50-06-01.4, subsection 1 of section 50-06-01.7, sections 50-06-06.3, 50-06-06.4, 50-06-06.6, 50-06-06.10, 50-06-06.11, 50-06-14.1, 50-06-21, 50-06-24, 50-06-26, 50-06-29, 50-06-30, 50-06-31, 50-06-32, 50-06-32.1, 50-06-35, 50-06-37, 50-06-38, 50-06-41, 50-06-41.2, and 50-06-43.1, subdivision e of subsection 1 of section 50-06-43.2, subsection 1 of section 50-06.1-01, sections 50-06.1-15 and 50-06.1-16, subsection 8 of section 50-06.2-02, subsection 2 of section 50-06.4-01, section 50-06.4-02, subsection 3 of section 50-06.4-10, subsection 4 of section 50-06.5-01, subsection 12 of section 50-09-01, subsection 2 of section 50-10.1-01, subsection 4 of section 50-10.2-01, subsection 4 of section 50-11-00.1, sections 50-11-01.5, 50-11-01.6, and 50-11-03.1, subsection 3 of section 50-11.1-02, subsection 2 of section 50-11.1-07, subdivision a of subsection 3 of section 50-11.1-18, sections 50-11.2-01, 50-11.2-02, 50-11.3-01, and 50-12-02, subsection 2 of section 50-12-02.1, sections 50-12-03, 50-12-03.1, 50-12-03.2, and 50-12-05, subsection 2 of section 50-12-06, subsection 2 of section 50-12-07, sections 50-12-08, 50-12-10, 50-12-11, 50-12-14.1, 50-12-16, and 50-12-17, subsection 1 of section 50-19-01, sections 50-19-04, 50-19-10, 50-19-14, 50-21-02, 50-21-03, and 50-21-04, subsection 1 of section 50-24.1-00.1, section 50-24.1-01.3, subdivision a of subsection 1 of section 50-24.1-29, sections 50-24.1-34, 50-24.1-37, and 50-24.1-38, subsection 2 of section 50-24.1-40, sections 50-24.3-01, 50-24.3-03, and 50-24.3-03.1, subsection 3 of section 50-24.4-01, section 50-24.4-12, subsection 1 of section 50-24.4-19, subsection 4 of section 50-24.5-01, sections 50-24.5-02.2 and 50-24.5-10, subsection 3 of section 50-24.6-01, subsection 3 of section 50-24.7-01, subsection 3 of section 50-24.8-01, subsection 9 of section 50-25.1-02, subsection 17 of section 50-25.1-02, section 50-25.1-04.2, subsection 10 of section 50-25.1-15, subsection 5 of section 50-25.2-01, sections 50-27-01 and 50-27-03, subsection 5 of section 50-28-01, subsection 3 of section 50-29-01, subsection 2 of section 50-30-01, subsection 1 of section 50-31-01, subsection 2

of section 50-32-01, section 50-32-02.1, subsection 7 of section 50-33-01, subsection 1 of section 50-35-01, subsection 3 of section 52-01-03, subsection 5 of section 53-12.1-12, subsection 1 of section 54-06-04, subsection 3 of section 54-12-08, section 54-23.3-10, subsection 1 of section 54-23.3-12, subsection 3 of section 54-38-01, paragraph 2 of subdivision b of subsection 1 of section 54-44.1-12, sections 54-44.3-30, 54-44.3-31, and 54-44.3-32, subsection 3 of section 54-44.8-03, sections 54-44.8-06 and 54-46-13, subsection 1 of section 54-59-25, subdivision i of subsection 2 of section 54-59-26, subdivision g of subsection 1 of section 54-59-33, subdivision a of subsection 1 of section 54-60-19, section 57-38-01.16, subsection 1 of section 57-38.3-02, subsection 3 of section 57-38.3-04, subsection 24 of section 57-39.2-04, subdivision f of subsection 4 of section 57-40.6-10, section 57-63-03, subdivision n of subsection 2 of section 59-09-02, section 61-38-03, paragraph 3 of subdivision a of subsection 16 of section 65-01-02, and section 65-05.1-06.3 of the North Dakota Century Code, relating to merging of the state department of health and the department of human services; to provide a statement of legislative intent; to provide for a legislative management report; to provide a penalty; to provide a continuing appropriation; to provide for application; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 4.1-26-20 of the North Dakota Century Code is amended and reenacted as follows:

3. Before a dairy farmer may be licensed by the board, as required by this chapter, the dairy farmer shall provide proof of inspection by the agriculture commissioner or the state department of health and human services, as provided for in accordance with section 23-01-16.

²¹³ **SECTION 2. AMENDMENT.** Section 5-01-08 of the North Dakota Century Code is amended and reenacted as follows:

5-01-08. Individuals under twenty-one years of age prohibited from using alcoholic beverages or entering licensed premises - Penalty.

1. Except as permitted in this section and section 5-02-06, an individual under twenty-one years of age may not manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed other than during a religious service, be under the influence of, be in possession of, or furnish money to any individual for the purchase of an alcoholic beverage.
2. An individual under twenty-one years of age may not enter any licensed premises where alcoholic beverages are being sold or displayed, except:
 - a. A restaurant if accompanied by a parent or legal guardian;
 - b. In accordance with section 5-02-06;
 - c. If the individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages;

²¹³ Section 5-01-08 was also amended by section 1 of House Bill No. 1124, chapter 69, section 1 of House Bill No. 1223, chapter 70, and section 1 of Senate Bill No. 2264, chapter 176.

- d. If the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or
 - e. If the individual enters the premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority.
3. A violation of this section is a class B misdemeanor. For a violation of subsection 1 or 2, the court also shall sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of health and human services under section 50-06-44.
 4. The court, under this section, may refer the individual to an outpatient addiction facility licensed by the department of health and human services for evaluation and appropriate counseling or treatment.
 5. The offense of consumption occurs in the county of consumption or the county where the offender is arrested.
 6. An individual under twenty-one years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals that may be immune for any one occurrence is five individuals.

SECTION 3. AMENDMENT. Section 6-03-76 of the North Dakota Century Code is amended and reenacted as follows:

6-03-76. Records search reimbursement.

Any financial institution authorized to do business in this state must be reimbursed as follows for all records searches done at the request of any state agency or any branch of the state government except the department of health and human services. Further, any federal agency or any branch of the federal government must also make such reimbursement if authorized to do so:

1. For search and processing time at the rate of thirty dollars per hour per person, computed on the basis of seven dollars and fifty cents per quarter hour, limited to the total amount of personnel time spent in locating, retrieving, reproducing, packaging, and preparing for shipment documents or information requested.
2. For making copies of duplicates of required or requested documents at the rate of fifteen cents per page.
3. For making copies of photographs, films, and other materials at the actual cost incurred by the financial institution.

The financial institution must be reimbursed for all actual mailing or transportation expenses incurred in conveying the requested or required materials to the requesting

agency. The reimbursement provisions of this section shall not apply to standard confirmations.

SECTION 4. AMENDMENT. Subsection 8 of section 6-08.1-03 of the North Dakota Century Code is amended and reenacted as follows:

8. For purposes of reporting suspected financial exploitation of an eligible adult under chapter 6-08.5 to a law enforcement agency or the department of health and human services. This subsection may not be construed to impose a duty on a financial institution to investigate a suspected financial exploitation of an eligible adult or to make a report to the department of health and human services or law enforcement agency.

SECTION 5. AMENDMENT. Section 6-08.5-02 of the North Dakota Century Code is amended and reenacted as follows:

6-08.5-02. Eligible adult financial exploitation prevention - Duration of refusal or hold - Notification and reporting - Immunity.

1. If a financial service provider has a good faith belief to suspect financial exploitation occurred, was attempted, or is being attempted, the financial service provider may refuse a financial transaction or hold a financial transaction on an account:
 - a. Belonging to the eligible adult;
 - b. On which the eligible adult is a beneficiary, including a trust, guardianship, or conservatorship account; or
 - c. Belonging to a person suspected of perpetrating financial exploitation.
2. A financial service provider may refuse a financial transaction or hold a financial transaction under this section if the department of health and human services or a law enforcement agency provides information to the financial service provider demonstrating it is reasonable to believe financial exploitation occurred, was attempted, or is being attempted.
3. Subsection 2 does not require a financial service provider to refuse a financial transaction or hold a financial transaction if provided with information by the department of health and human services or a law enforcement agency alleging financial exploitation occurred, was attempted, or is being attempted. Except as ordered by a court, a financial service provider may determine whether to refuse a financial transaction or hold a financial transaction based on the information available to the financial service provider.
4. A financial service provider refusing a financial transaction or holding a financial transaction based on a good faith belief to suspect financial exploitation occurred, was attempted, or is being attempted shall:
 - a. Except with regard to an account administered by a bank or trust company in a fiduciary capacity, make a reasonable effort to notify, orally or in writing, one or more parties authorized to transact business on the account; and

- b. Report the incident to the department of health and human services, if the incident involves financial exploitation of a vulnerable adult as defined in section 50-25.2-01.
5. Notice under this section is not required to be provided to a party authorized to conduct business on the account if the party is the suspected perpetrator of financial exploitation.
6. A financial service provider, or an employee, officer, or director of a financial service provider, is immune from all criminal, civil, and administrative liability:
 - a. For refusing or not refusing a financial transaction, or for holding or not holding a financial transaction under this section; or
 - b. For actions taken in furtherance of the determination made under subdivision a, if the determination is based upon a good faith belief financial exploitation occurred, was attempted, or is being attempted.

SECTION 6. AMENDMENT. Section 6-08.5-03 of the North Dakota Century Code is amended and reenacted as follows:

6-08.5-03. Reporting to a law enforcement agency or the department of health and human services - Immunity.

1. If a financial service provider, or an employee, officer, or director of a financial service provider has a good faith belief to suspect financial exploitation of an eligible adult occurred, was attempted, or is being attempted, the financial service provider, or an employee, officer, or director of a financial service provider may report the information to a law enforcement agency or the department of health and human services.
2. This section does not impose a duty on a financial institution to investigate a suspected financial exploitation of an eligible adult or to make a report to a law enforcement agency or the department of health and human services.
3. A financial service provider, or an employee, officer, or director of a financial service provider, is immune from all criminal, civil, and administrative liability for reporting or not reporting under this section if the determination is made based on a good faith belief that financial exploitation occurred, was attempted, or is being attempted.

SECTION 7. AMENDMENT. Subsection 2 of section 6-09.15-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Child care provider" means a child care home, group, or center licensed by the department of health and human services.

SECTION 8. AMENDMENT. Section 10-04-08.5 of the North Dakota Century Code is amended and reenacted as follows:

10-04-08.5. Financial exploitation - Vulnerable adult.

1. As used in this section:
 - a. "Eligible adult" means an adult who is at least sixty-five years old or a vulnerable adult as defined in section 50-25.2-01.

- b. "Financial exploitation" means:
- (1) The wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of an eligible adult; or
 - (2) Any act or omission taken by a person, including through the use of a power of attorney, guardianship, or conservatorship of an eligible adult, to:
 - (a) Obtain control, through deception, intimidation, or undue influence, over the eligible adult's money, assets, or property, to deprive the eligible adult of the ownership, use, benefit, or possession of the eligible adult's money, assets, or property; or
 - (b) Convert money, assets, or property of the eligible adult to deprive the eligible adult of the ownership, use, benefit, or possession of the eligible adult's money, assets, or property.
- c. "Qualified individual" means any agent, investment adviser representative, or person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser.
2. If a qualified individual reasonably believes financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the qualified individual shall notify the department of health and human services and the commissioner.
 3. If a qualified individual reasonably believes financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, a qualified individual may notify a third party reasonably associated with the eligible adult or any other person permitted under state or federal law or rule, rules of a self-regulating organization, or customer agreement. Disclosure may not be made to a designated third party who is suspected of financial exploitation or other abuse of the eligible adult.
 4. A qualified individual who in good faith and exercising reasonable care discloses information under this section is immune from administrative or civil liability that might otherwise result from disclosure or for any failure to notify the customer of the disclosure.
 5. a. A broker-dealer or investment adviser may delay a transaction or disbursement of funds or securities from an account of an eligible adult or an account on which an eligible adult is a beneficiary if:
 - (1) The broker-dealer or investment adviser reasonably believes the requested transaction or disbursement may result in financial exploitation of an eligible adult after initiating an internal review of the requested transaction or disbursement and the suspected financial exploitation; and
 - (2) The broker-dealer or investment adviser:
 - (a) Provides written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless a party is reasonably believed to have engaged in

- suspected or attempted financial exploitation of the eligible adult, within two days after the requested transaction or disbursement;
- (b) Notifies the department of health and human services and the commissioner within two days after the requested transaction or disbursement; and
 - (c) Continues its internal review of the suspected or attempted financial exploitation of the eligible adult as necessary.
- b. Any delay of a transaction or disbursement authorized by this section expires upon the earlier of:
- (1) A determination by the broker-dealer or investment adviser that the transaction or disbursement will not result in financial exploitation of the eligible adult; or
 - (2) Fifteen business days after the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement of the funds or securities, unless the department of health and human services or the commissioner requests the broker-dealer or investment adviser extend the delay, in which case the delay expires within twenty-five business days after the date the broker-dealer or investment adviser first delayed the transaction or disbursement of the funds or securities unless the delay is terminated by either of the agencies or an order of a court of competent jurisdiction.
- c. A court of competent jurisdiction or the commissioner may enter an order extending the delay of the transaction or disbursement of funds or securities or may order other protective relief based on the broker-dealer, investment adviser, or other interested party's petition that initiated the delay under this section.
6. A broker-dealer or investment adviser who in good faith and exercising reasonable care complies with this section is immune from any administrative or civil liability that may otherwise arise from a delay in the transaction or disbursement in accordance with this section.
7. A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to the department of health and human services and to law enforcement, either as part of a referral to the department or to law enforcement, or upon request of the department or law enforcement pursuant to an investigation. The records may include historical records and records relating to the most recent transaction that may comprise financial exploitation of an eligible adult. Any record provided to the department of health and human services or law enforcement under this section is an exempt record under chapter 44-04. This section does not limit or otherwise impede the authority of the commissioner to access or examine the books and records of a broker-dealer or investment adviser as otherwise provided by law.

²¹⁴ **SECTION 9. AMENDMENT.** Subsection 16 of section 11-16-01 of the North Dakota Century Code is amended and reenacted as follows:

16. Institute and defend proceedings under sections 14-09-12 and 14-09-19 and chapters 14-15, 27-20, and 50-01 upon consultation with the human service zone director or the executive director of the department of health and human services.

SECTION 10. AMENDMENT. Subdivision n of subsection 5 of section 11-19.1-01 of the North Dakota Century Code is amended and reenacted as follows:

- n. Victim is in the custody of the department of health and human services, county social services, the department of corrections and rehabilitation or other correctional facility, or law enforcement;

SECTION 11. AMENDMENT. Subsection 2 of section 11-19.1-07 of the North Dakota Century Code is amended and reenacted as follows:

2. Any person who discovers the deceased human body or acquires the first knowledge of the death of any minor who has received or is eligible to receive a birth record, when the minor died suddenly when in apparent good health, shall notify immediately law enforcement or the office of coroner of the known facts concerning the time, place, manner, and circumstances of the death. The death of a minor must be reported to the department of health and human services as provided under chapter 50-25.1. The coroner shall take custody of the body and immediately consult with a law enforcement agency. The law enforcement agency shall investigate the death and notify the state's attorney of the findings. The coroner shall notify the state forensic examiner of each such death, and shall provide the state forensic examiner the information concerning the death as the state forensic examiner requires. The coroner or the assistant or deputy coroner shall notify the parent or guardian of a child under the age of one year of the right to the performance of an autopsy, at state expense, as provided by this chapter.

SECTION 12. AMENDMENT. Subsection 2 of section 11-19.1-16 of the North Dakota Century Code is amended and reenacted as follows:

2. The state department of health and human services shall audit, and if found correct, certify for payment by the state treasurer duly itemized and verified claims of the coroner, the coroner's medical deputy, and pathologist for the necessary expenses incurred or paid in the performance of an autopsy of a child whose cause of death was suspected to have been the sudden infant death syndrome.

²¹⁵ **SECTION 13. AMENDMENT.** Subsection 2 of section 11-23-01 of the North Dakota Century Code is amended and reenacted as follows:

2. a. The departmental budget submitted by the human service zone may not exceed an amount determined by the department of health and human services and the human service zone director pursuant to section 50-35-04 and must include the county's cost allocation of indirect costs

²¹⁴ Section 11-16-01 was also amended by section 1 of House Bill No. 1035, chapter 245, and section 1 of Senate Bill No. 2086, chapter 353.

²¹⁵ Section 11-23-01 was also amended by section 3 of Senate Bill No. 2086, chapter 353.

- based on a formula established by the department of health and human services.
- b. The county share of the human service zone's indirect costs must be funded entirely from the county's general fund.
 - c. The department of health and human services shall develop a process to review a request from a human service zone for any proposed increase in staff. As part of its review process, the department of health and human services shall review pertinent factors, which may include caseload information. If the department of health and human services approves a request for a proposed increase in staff, the human service zone budget may be increased by the amount determined necessary by the department of health and human services to fund the approved additional staff. The human service zone director shall submit the proposed increase in staff to the human service zone board for review. The human service zone director shall work with the department to achieve equitable compensation and salary increases for all human service zone team members within the human service zone. The human service zone director shall notify appropriate host county staff of all staffing changes for administrative purposes.

SECTION 14. AMENDMENT. Subdivision e of subsection 1 of section 12-44.1-28 of the North Dakota Century Code is amended and reenacted as follows:

- e. The department of health and human services, a public hospital or treatment facility, or a licensed private hospital or treatment facility.

SECTION 15. AMENDMENT. Subdivision b of subsection 1 of section 12-44.1-29 of the North Dakota Century Code is amended and reenacted as follows:

- b. A correctional facility staff member who has successfully completed a medication assistant I training and competency evaluation program approved by the state department of health and human services under chapter 23-44. The requirements for a medication assistant I training and competency evaluation program must be met, except for the requirement a correctional facility staff member must be a nurse aide or certified nurse aide on the department registry prior to entry into the medication assistant I training and competency evaluation program or following successful completion of the program.

²¹⁶ **SECTION 16. AMENDMENT.** Subsection 5 of section 12-47-36 of the North Dakota Century Code is amended and reenacted as follows:

5. Medical, psychological, or treatment records may be disclosed without prior application to the court to a public hospital or treatment facility, the department of health and human services, a community behavioral health program, a vocational rehabilitation program, a transitional living facility, or a licensed private medical or treatment facility, when necessary for the evaluation, treatment, or care of a person who is or who has been in the custody of, or is or who has been under the supervision and management of, the adult services division of the department of corrections and rehabilitation.

²¹⁶ Section 12-47-36 was also amended by section 1 of Senate Bill No. 2108, chapter 94.

SECTION 17. AMENDMENT. Section 12-52-02 of the North Dakota Century Code is amended and reenacted as follows:

12-52-02. Aftercare granted on recommendation of superintendent.

No aftercare program may be provided for any person committed to the North Dakota youth correctional center or placed under the guardianship, control, and custody of the superintendent, unless the superintendent recommends the program to the director of the division of juvenile services and some suitable person will receive the person to be placed in the aftercare program under conditions approved by the superintendent. Nothing in this chapter prevents the placing of any person into the person's own home or into a licensed foster home under any program administered by the department of health and human services.

²¹⁷ **SECTION 18. AMENDMENT.** Subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

2. The bureau of criminal investigation shall provide to each agency, official, or entity listed in this subsection who has requested a statewide and nationwide criminal history record check, the response of the federal bureau of investigation and any statewide criminal history record information that may lawfully be made available under this chapter:
 - a. The governing body of a city or a county, by ordinance or resolution, for a final applicant for a specified occupation with the city or county.
 - b. The agriculture commissioner for each applicant for a license to grow or process hemp under section 4.1-18.1-02.
 - c. The education standards and practices board for initial, re-entry, and reciprocal teacher licenses under sections 15.1-13-14 and 15.1-13-20 and school guidance and counseling services under section 15.1-13-23.
 - d. The North Dakota board of medicine for licenses or disciplinary investigations under section 43-17-07.1, except that criminal history record checks need not be made unless required by the board.
 - e. The private investigative and security board for licenses or registrations under section 43-30-06.
 - f. The department of health and human services for foster care licenses, approvals, and identified relatives under chapter 50-11, appointments of legal guardians under chapter 50-11.3, and petitions for adoptions under chapter 50-12, except that the criminal history record investigation must be conducted in accordance with those chapters. A criminal history record investigation completed under chapter 50-11, 50-11.3, or 50-12 may be used to satisfy the requirements of a criminal history record investigation under either of the other two chapters.

²¹⁷ Section 12-60-24 was also amended by section 1 of House Bill No. 1073, chapter 98, section 2 of House Bill No. 1073, chapter 98 section 1 of House Bill No. 1253, chapter 164, section 1 of Senate Bill No. 2062, chapter 452, section 1 of Senate Bill No. 2110, chapter 218, section 1 of Senate Bill No. 2131, chapter 378, section 1 of Senate Bill No. 2174, chapter 447, section 1 of Senate Bill No. 2187, chapter 323, section 1 of Senate Bill No. 2338, chapter 379.

- g. The department of health and human services for criminal history record checks authorized under section 50-06-01.9.
- h. The chief information officer of the information technology department for certain individuals under section 54-59-20.
- i. A public peace officer training school that has been approved by the peace officer standards and training board for enrollees in the school. The school may only disclose the criminal history record information as authorized by law. The school shall pay the costs for securing the fingerprints, any criminal history record information made available under this chapter, and for the nationwide criminal history record check. This subdivision does not apply to the highway patrol law enforcement training center and enrollees who have a limited license under section 12-63-09.
- j. The North Dakota public employees retirement board for individuals first employed by the public employees retirement board after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.
- k. The executive director of the retirement and investment office for individuals first employed by the retirement and investment office after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.
- l. The Bank of North Dakota for a final applicant for a specified occupation with the Bank as designated by the president.
- m. Job service North Dakota for all employees, final applicants for employment with job service, and contractors with access to federal tax information.
- n. The state department of health and human services for a final applicant for or an employee in a specified occupation with the department as designated by the state health officer; an individual being investigated by the department; or, when requested by the department, an applicant for registration, certification, or licensure by the department.
- o. The state board of nursing for applicants, licensees, registrants, or disciplinary investigations under chapter 43-12.1, except that criminal history record checks need not be made unless required by the board.
- p. The state board of pharmacy for applicants or disciplinary investigations under chapter 43-15 and registrations, or revocation or suspension of registrations, under chapter 19-03.1, except that criminal history record checks need not be made unless required by the board.
- q. The state real estate commission for applicants, licensees, or investigations under chapter 43-23, except that criminal history record checks need not be made unless required by the commission.
- r. The North Dakota board of social work examiners for applicants for initial licensure or licensees under chapter 43-41, except that criminal history

- record checks for licensees need not be made unless required by the board.
- s. All agencies, departments, bureaus, boards, commissions, or institutions of the state, including the North Dakota university system, for all employees or final applicants for employment as a security guard or to otherwise provide security.
 - t. The office of management and budget for each individual who has access to personal information as designated by the director.
 - u. The department of corrections and rehabilitation for all agents and employees and a final applicant for employment designated by the director and for each agent, employee, or a final applicant for employment of a privately operated entity providing contract correctional services for the department who exercises direct authority over juveniles, inmates, probationers, or parolees.
 - v. A city, county, or combination of cities or counties that operates a correctional facility subject to chapter 12-44.1, for each agent and employee and a final applicant for employment of the correctional facility who has direct contact with or exercises direct authority over any juvenile or inmate of the correctional facility, and for each agent, employee, or a final applicant for employment of a privately operated entity providing contract correctional services for the correctional facility who exercises direct authority over juveniles, inmates, probationers, or parolees.
 - w. The North Dakota university system for a final applicant for or employee in a specified position in the university system or a university system institution or for each student applying for or admitted to a specified program of study, as designated by the chancellor.
 - x.
 - (1) The board of a school district, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (2) The board of a multidistrict special education unit, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (3) The board of an area career and technology center, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (4) The board of a regional education association, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check; and
 - (5) The superintendent of public instruction in the case of a nonpublic school or a state school with a superintendent appointed by or reporting to the superintendent of public instruction, for employees designated by the nonpublic or state school, provided the nonpublic or state school is responsible for paying the costs associated with obtaining a criminal history record check.

- y. (1) The board of a school district, for a final applicant seeking employment with the district or otherwise providing services to the district, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (2) The board of a multidistrict special education unit, for a final applicant seeking employment with the unit or otherwise providing services to the unit, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (3) The board of an area career and technology center, for a final applicant seeking employment with the center or otherwise providing services to the center, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (4) The board of a regional education association, for a final applicant seeking employment with the association or otherwise providing services to the association if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check; and
 - (5) The superintendent of public instruction in the case of a nonpublic school or a state school with a superintendent appointed by or reporting to the superintendent of public instruction, for a final applicant seeking employment with the school or otherwise providing services to the school, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check.
 - (6) For purposes of this subdivision, "unsupervised contact" with students means being in proximity to one or more students, on school grounds or at school functions, outside the presence of an individual who has been subject to a criminal history record check.
- z. The racing commission for applicants for licenses under chapter 53-06.2, except that criminal history record checks need not be made unless required by the commission.
 - aa. A district court for a petition to change a name under chapter 32-28.
 - bb. The state board of pharmacy for a wholesale drug distributor seeking licensure under chapter 43-15.3.
 - cc. The board of dental examiners for investigations of applicants or dentists under section 43-28-11.2, except that criminal history record checks need not be made unless required by the board.
 - dd. The department of financial institutions for each applicant for a specified occupation with the department as specified by the commissioner and principal owners and managing officers of applicants for a license from the department of financial institutions.

- ee. The office of tax commissioner for all employees, final applicants for employment with the tax commissioner, and contractors with access to federal tax information.
- ff. The state board of examiners for nursing home administrators for applicants for licensure or licensees under chapter 43-34, except that criminal history record checks for licensees need not be made unless required by the board.
- gg. The marriage and family therapy licensure board for applicants, licensees, or investigations under chapter 43-53, except that criminal history record checks need not be made unless required by the board.
- hh. The state board of chiropractic examiners for applicants, licensees, certificates, or investigations under chapter 43-06, except that criminal history record checks need not be made unless required by the board.
 - ii. Workforce safety and insurance for a final applicant for a specified occupation with workforce safety and insurance as designated by the director, or for contractors who may have access to confidential information as designated by the director.
- jj. The board of counselor examiners for applicants for licensure or licensees under chapter 43-47, except that criminal history record checks for licensees need not be made unless required by the board.
- kk. The state board of respiratory care for applicants, licensees, or investigations under chapter 43-42, except that criminal history record checks need not be made unless required by the board.
 - ll. The North Dakota real estate appraiser qualifications and ethics board for applicants for permits or registration or permittees, registrants, owners, or controlling persons under chapters 43-23.3 and 43-23.5, except that criminal history record checks for permittees, registrants, owners, or controlling persons need not be made unless required by the board.
- mm. The insurance department for criminal history record checks authorized under chapters 26.1-26 and 26.1-26.8.
- nn. The office of the adjutant general for employees and volunteers working with the recruiting and retention, sexual assault, and youth programs.
- oo. The parks and recreation department for volunteers and final applicants for employment, as determined by the director of the parks and recreation department.
- pp. The North Dakota medical imaging and radiation therapy board of examiners for licensure and licensees under chapter 43-62, except that criminal history record checks for licensees need not be made unless required by the board.
- qq. The game and fish department for volunteers and final applicants for employment, as determined by the director of the game and fish department.

- rr. The North Dakota board of massage for applicants, licensees, or investigations under chapter 43-25.
- ss. The North Dakota board of physical therapy for physical therapist and physical therapist assistant applicants and for licensees under investigation, except that criminal history record checks need not be made unless required by the board.
- tt. The department of commerce for volunteers and employees providing services through eligible organizations, as determined by the commissioner of commerce.
- uu. The state court administrator for a guardian ad litem who provides direct services to youth.
- vv. The department of environmental quality for a final applicant for or an employee specified in occupation with the department; an individual being investigated by the department; or, when requested by the department, an applicant for registration, certification, or licensure by the department.
- ww. The housing finance agency for criminal history record checks authorized under section 54-17-07.13.
- xx. The office of state treasurer for each individual who has access to federal tax information.

SECTION 19. AMENDMENT. Subsection 5 of section 12-60-26 of the North Dakota Century Code is amended and reenacted as follows:

- 5. When the division of vital records of the state department of health and human services receives a notice from a law enforcement authority that a child is reported as lost, missing, or runaway, the division of vital records shall:
 - a. Flag the records of the individual; and
 - b. Notify the bureau and a local law enforcement authority if a request for records is received from any source.

SECTION 20. AMENDMENT. Subsection 26 of section 12.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

- 26. "Risk assessment" means an initial phase with a secondary process approved by the department of health and human services for the evaluation of the likelihood a person that committed an offense will commit another similar offense. The initial phase is an assessment tool that is administered by a trained probation and parole officer. A predetermined score on the initial phase initiates the secondary process that includes a clinical interview, psychological testing, and verification through collateral information or psychophysiological testing, or both. The department of health and human services shall perform the secondary process of the risk assessment.

SECTION 21. AMENDMENT. Subsection 4 of section 12.1-20-24 of the North Dakota Century Code is amended and reenacted as follows:

4. The state department of health and human services or the state's attorney having jurisdiction may bring an action to enjoin a pattern of violations of this section.

²¹⁸ **SECTION 22. AMENDMENT.** Subsection 16 of section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of health and human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.

SECTION 23. AMENDMENT. Subsection 4 of section 12.1-41-17 of the North Dakota Century Code is amended and reenacted as follows:

4. For purposes of this section, "a benefit or service available through the state" does not include a benefit or service of a program administered by the department of health and human services using federal or special funds, if the victim or minor does not meet program eligibility requirements including an eligibility requirement that is based on immigration status.

SECTION 24. AMENDMENT. Section 13-05-02.2 of the North Dakota Century Code is amended and reenacted as follows:

13-05-02.2. Child support collection agencies.

1. Notwithstanding sections 13-05-02 and 13-05-02.3, a collection agency attempting in any manner to collect child support as defined in section 14-09-09.10 must be licensed under this chapter if either the child support debtor or creditor reside within this state, if the child support debt arises under an order issued by a court of this state, or if a record of the child support debt is being maintained on the statewide automated data processing system under section 50-09-02.1.
2. A collection agency licensed under this section may not:
 - a. Impose a fee or charge for any child support collected primarily through the efforts of a governmental agency;
 - b. Impose a fee or charge for collection of a current child support payment; or
 - c. Designate a current child support payment as past-due support or other amount owed.

²¹⁸ Section 12.1-32-15 was also amended by section 2 of House Bill No. 1035, chapter 245.

3. If the child support debt arises under an order issued by a court of this state, or if a record of the child support debt is being maintained on the statewide automated data processing system under section 50-09-02.1, all child support payments collected by a collection agency must be paid to the department of health and human services within five business days for disbursement under section 14-09-25. Child support payments disbursed under section 14-09-25 may not be redirected to a collection agency unless specifically permitted by rules adopted by the department of health and human services.
4. A collection agency failing to pay child support payments to the department of health and human services as required in this section is liable to the obligor for three times the amount improperly withheld by the collection agency or five hundred dollars, whichever is greater, in addition to any other remedy or damages permitted by law. The department of health and human services is not required to give credit for payments withheld by a collection agency in violation of this section.
5. Any person contracting for services with a collection agency for the collection of child support may cancel the contract without a fee or charge upon thirty days' written notice.

SECTION 25. AMENDMENT. Subsection 8 of section 14-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

8. "Hospital" means an institution licensed by the state department of health and human services under chapter 23-16 and any hospital operated by the United States or this state.

SECTION 26. AMENDMENT. Section 14-02.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-02.1. Printed information - Referral service.

1. The state department of health and human services shall publish in English, and in every other language that the department determines is the primary language of a significant number of state residents, the following easily comprehensible printed materials:
 - a. Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies. The materials must include a comprehensive list of the agencies available, a description of the services they offer and a description of the manner, including telephone numbers, in which they might be contacted, or, at the option of the department, printed materials, including a toll-free, twenty-four-hour-a-day telephone number that may be called to obtain, orally, such a list and description of agencies in the locality of the caller and of the services they offer. The materials must state that it is unlawful for any individual to coerce a woman to undergo an abortion and that if a minor is denied financial support by the minor's parent, guardian, or custodian due to the minor's refusal to have an abortion performed, the minor is deemed to be emancipated for the purposes of eligibility for public assistance benefits, except that those benefits may not be used to obtain an abortion. The materials also must state that any physician who performs an abortion upon a woman without her informed consent may be liable to her for damages in a civil action and

that the law permits adoptive parents to pay costs of prenatal care, childbirth, and neonatal care. The materials must include the following statement: There are many public and private agencies willing and able to help you to carry your child to term and to assist you and your child after your child is born, whether you choose to keep your child or to place your child for adoption. The state of North Dakota strongly urges you to contact one or more of these agencies before making a final decision about abortion. The law requires that your physician or your physician's agent give you the opportunity to call agencies like these before you undergo an abortion.

- b. Materials, published in a booklet format, designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from the time when a woman can be known to be pregnant to full term, including any relevant information on the possibility of the survival of the unborn child and color photographs of the development of an unborn child at two-week gestational increments. The descriptions must include information about brain and heart function, the presence of external members and internal organs during the applicable states of development, and any relevant information on the possibility of the unborn child's survival. The materials must be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The materials required under this subsection must be reviewed, updated, and reprinted as needed.
 - c. Materials that include information on the support obligations of the father of a child who is born alive, including the father's legal duty to support his child, which may include child support payments and health insurance, and the fact that paternity may be established by the father's signature on an acknowledgment of paternity or by court action. The printed material must also state that more information concerning paternity establishment and child support services and enforcement may be obtained by calling state public assistance agencies or human service zones.
 - d. Materials that contain objective information describing the various surgical and drug-induced methods of abortion as well as the immediate and long-term medical risks commonly associated with each abortion method, including the risks of infection, hemorrhage, cervical or uterine perforation or rupture, danger to subsequent pregnancies, the possible increased risk of breast cancer, the possible adverse psychological effects associated with an abortion, and the medical risks associated with carrying a child to term.
 - e. Materials including information it may be possible to reverse the effects of an abortion-inducing drug but time is of the essence. The materials must include information directing the patient where to obtain further information and assistance in locating a medical professional who can aid in the reversal of abortion-inducing drugs, such as mifepristone and misoprostol.
2. The materials required under subsection 1 must be available at no cost from the state department of health and human services upon request and in appropriate number to any person, facility, or hospital, and, except for copyrighted material, must be available on the department's internet website.

The department may make the copyrighted material available on its internet website if the department pays the copyright royalties.

SECTION 27. AMENDMENT. Section 14-02.1-02.2 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-02.2. Abortion report form.

The state department of health and human services shall prepare an abortion compliance report form and an abortion data report form to be used by the physician for each abortion performed, as required by section 14-02.1-07. The abortion compliance report form must include a checklist designed to confirm compliance with all provisions of this chapter, chapter 14-02.3, chapter 14-02.6, and section 23-16-14. The abortion data report form must include the data called for in the United States standard report of induced termination of pregnancy as recommended by the national center for health statistics.

SECTION 28. AMENDMENT. Subsection 4 of section 14-02.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

4. The state department of health and human services shall make the signs required by this section available for download in a printable format on its internet website.

SECTION 29. AMENDMENT. Section 14-02.1-07 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-07. Records required - Reporting of practice of abortion.

1. Records:

- a. All abortion facilities and hospitals in which abortions are performed shall keep records, including admission and discharge notes, histories, results of tests and examinations, nurses' worksheets, social service records, and progress notes, and shall further keep a copy of all written certifications provided for in this chapter as well as a copy of the constructive notice forms, consent forms, court orders, abortion data reports, adverse event reports, abortion compliance reports, and complication reports. All abortion facilities shall keep the following records:

- (1) The number of women who availed themselves of the opportunity to receive and view an ultrasound image of their unborn children pursuant to section 14-02.1-04, and the number who did not; and of each of those numbers, the number who, to the best of the reporting abortion facility's information and belief, went on to obtain the abortion.

(2) Postfertilization age:

- (a) If a determination of probable postfertilization age was not made, the basis of the determination that a medical emergency existed.
- (b) If the probable postfertilization age was determined to be twenty or more weeks and an abortion was performed, the basis of the determination that a medical emergency existed.

- b. The medical records of abortion facilities and hospitals in which abortions are performed and all information contained therein must remain confidential and may be used by the state department of health and human services only for gathering statistical data and ensuring compliance with the provisions of this chapter.
- c. Records must be maintained in the permanent files of the hospital or abortion facility for a period of not less than seven years.

2. Reporting:

- a. An individual abortion compliance report and an individual abortion data report for each abortion performed upon a woman must be completed by her attending physician. The abortion data report must be confidential and may not contain the name of the woman. The abortion data report must include the data called for in the United States standard report of induced termination of pregnancy as recommended by the national center for health statistics.
- b. All abortion compliance reports must be signed by the attending physician within twenty-four hours and submitted to the state department of health and human services within ten business days from the date of the abortion. All abortion data and complication reports must be signed by the attending physician and submitted to the state department of health and human services within thirty days from the date of the abortion. If a physician provides an abortion-inducing drug to another for the purpose of inducing an abortion and the physician knows that the individual experiences during or after the use an adverse event, the physician shall provide a written report of the adverse event within thirty days of the event to the state department of health and human services and the federal food and drug administration via the medwatch reporting system. For purposes of this section, "adverse event" is defined based upon the federal food and drug administration criteria given in the medwatch reporting system. If a determination of probable postfertilization age was not made, the abortion compliance report must state the basis of the determination that a medical emergency existed. If the probable postfertilization age was determined to be twenty or more weeks and an abortion was performed, the abortion compliance report must state the basis of the determination that a medical emergency existed.
- c. A copy of the abortion report, any complication report, and any adverse event report must be made a part of the medical record of the patient at the facility or hospital in which the abortion was performed. In cases when post-abortion complications are discovered, diagnosed, or treated by physicians not associated with the facility or hospital where the abortion was performed, the state department of health and human services shall forward a copy of the report to that facility or hospital to be made a part of the patient's permanent record.
- d. The state department of health and human services is responsible for collecting all abortion compliance reports, abortion data reports, complication reports, and adverse event reports and collating and evaluating all data gathered from these reports and shall annually publish a statistical report based on data from abortions performed in the previous calendar year. All abortion compliance reports received by the ~~state~~

department of health and human services are public records. Except for disclosure to a law enforcement officer or state agency, the department may not disclose an abortion compliance report without first removing any individually identifiable health information and any other demographic information, including race, marital status, number of previous live births, and education regarding the woman upon whom the abortion was performed.

- e. The state department of health and human services shall report to the attorney general any apparent violation of this chapter.

SECTION 30. AMENDMENT. Section 14-02.1-07.1 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-07.1. Forms.

The state department of health and human services shall make available to physicians, hospitals, and all abortion facilities the forms required by this chapter.

SECTION 31. AMENDMENT. Section 14-02.1-09 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-09. Humane disposal of nonviable unborn child.

The physician performing the abortion, if performed outside of a hospital, must see to it that the unborn child is disposed of in a humane fashion under regulations established by the state department of health and human services. A licensed hospital in which an abortion is performed must dispose of a dead unborn child in a humane fashion in compliance with regulations promulgated by the state department of health and human services.

SECTION 32. AMENDMENT. Section 14-07.1-01 of the North Dakota Century Code is amended and reenacted as follows:

14-07.1-01. Definitions.

1. "Department" means the state department of health and human services.
2. "Domestic violence" includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members.
3. "Domestic violence sexual assault organization" means a private, nonprofit organization whose primary purpose is to provide emergency housing, twenty-four-hour crisis lines, advocacy, supportive peer counseling, community education, and referral services for victims of domestic violence and sexual assault.
4. "Family or household member" means a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they are or have been married or have lived together at any time, and, for the purpose of the issuance of a domestic violence

protection order, any other person with a sufficient relationship to the abusing person as determined by the court under section 14-07.1-02.

5. ~~"Health officer" means the state health officer of the department.~~
6. "Law enforcement officer" means a public servant authorized by law or by a government agency to enforce the law and to conduct or engage in investigations of violations of law.
- 7-6. "Predominant aggressor" means an individual who is the most significant, not necessarily the first, aggressor.
- 8-7. "Willfully" means willfully as defined in section 12.1-02-02.

SECTION 33. AMENDMENT. Section 14-07.1-17 of the North Dakota Century Code is amended and reenacted as follows:

14-07.1-17. Duties of health officer~~the department~~.

The ~~health officer~~department shall:

1. Respond to all applicants within sixty days after the deadline for receipt of applications, whether or not the applicant is eligible for funds.
2. Ensure that no more than ten percent of the moneys allocated to the domestic violence prevention fund in any biennium is expended for departmental administration of the grant program.
3. Distribute grants to eligible applicants in accordance with the purposes of sections 14-07.1-15 through 14-07.1-18.

SECTION 34. AMENDMENT. Subdivision f of subsection 2 of section 14-07.1-20 of the North Dakota Century Code is amended and reenacted as follows:

- f. Employees of the state department of health and human services and county social services;

SECTION 35. AMENDMENT. Section 14-09-08.21 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.21. Termination of parental rights - Duty of support.

A termination of parental rights does not terminate the duty of either parent to support the child before the child's adoption unless that duty is specially terminated by order of the court after notice of a proposed termination or relinquishment is given to the department of health and human services in the manner appropriate for the service of process in a civil action in this state. A termination of a child support obligation under this section does not relieve a parent of the duty to pay any unpaid child support.

SECTION 36. AMENDMENT. Subsection 1 of section 14-09-09.7 of the North Dakota Century Code is amended and reenacted as follows:

1. The department of health and human services shall establish child support guidelines to assist courts in determining the amount a parent should be expected to contribute toward the support of the child under this section. The guidelines must:

- a. Include consideration of gross income. For purposes of the guidelines, gross income does not include an employee benefit over which the employee does not have significant influence or control over the nature or amount unless:
 - (1) That benefit may be liquidated; and
 - (2) Liquidation of that benefit does not result in the employee incurring an income tax penalty.
- b. Authorize an expense deduction for determining net income.
- c. Designate other available resources to be considered.
- d. Specify the circumstances that should be considered in reducing support contributions on the basis of hardship.
- e. Include consideration of extended periods of time a minor child spends with the child's obligor parent.
- f. Authorize a rebuttal of the presumption provided in subsection 4 based on the proportionate net income of the obligor and the obligee when the net income of the obligee is at least three times higher than the net income of the obligor.
- g. Include consideration of an obligated party's responsibility for health insurance coverage or other medical support under section 14-09-08.10.

SECTION 37. AMENDMENT. Subsection 4 of section 14-09-09.10 of the North Dakota Century Code is amended and reenacted as follows:

- 4. "Child support agency" means the department of health and human services in execution of its duties pursuant to the state plan submitted under chapter 50-09 in conformance with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.].

SECTION 38. AMENDMENT. Section 14-09-09.31 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.31. Child support exempt from process.

A child support obligation owed to an obligee who is a judgment debtor may not be subject to execution, garnishment, attachment, or other process except to satisfy that child support obligation. This section does not prohibit the child support agency from authorizing the state disbursement unit to apply a payment of past-due support owed to an obligee to a child support obligation owed by the same obligee or to another debt being enforced by the North Dakota department of health and human services that arises out of a public assistance program.

SECTION 39. AMENDMENT. Section 14-09-12 of the North Dakota Century Code is amended and reenacted as follows:

14-09-12. Support - Liability of parent's estate.

If a parent chargeable with the support of a child dies leaving it chargeable upon the human service zone and leaving an estate sufficient for its support, the

department of health and human services, in the name of the human service zone, may claim provision for its support from the parent's estate by civil action, and for this purpose may have the same remedies as any creditor against that estate and against the heirs, devisees, and next of kin of the parent.

SECTION 40. AMENDMENT. Section 14-10-05 of the North Dakota Century Code is amended and reenacted as follows:

14-10-05. Assignment of children prohibited - Penalty.

No person, other than the parents, may assume the permanent care and custody of a child, unless authorized so to do by an order or decree of a court having jurisdiction, except that a parent, upon giving written notice to the department of health and human services and human service zone, may place that person's own child in the home of the child's grandparent, uncle, or aunt for adoption or guardianship by the person receiving the child. The child must be considered abandoned if proceedings for the adoption or guardianship of the child are not initiated by such relative within one year following the date of notice of placement. No parent may assign or otherwise transfer the parent's rights or duties with respect to the care and custody of the parent's child. Any such transfer or assignment, written or otherwise, is void. This section does not affect the right of the parent to consent in writing to the legal adoption of the parent's child, but such written consent does not operate to transfer any right in the child in the absence of a decree by a court having jurisdiction. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

SECTION 41. AMENDMENT. Subsection 2 of section 14-12.2-02 of the North Dakota Century Code is amended and reenacted as follows:

2. The department of health and human services is the support enforcement agency of this state.

SECTION 42. AMENDMENT. Subsection 1 of section 14-12.2-22 of the North Dakota Century Code is amended and reenacted as follows:

1. The department of health and human services is the state information agency under this chapter.

SECTION 43. AMENDMENT. Section 14-12.2-47.3 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.3. (703) Relationship of department of health and human services to United States central authority.

The department of health and human services of this state is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

SECTION 44. AMENDMENT. Section 14-12.2-47.4 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.4. (704) Initiation by department of health and human services of support proceeding under convention.

1. In a support proceeding under the convention, the department of health and human services of this state shall:

- a. Transmit and receive applications; and
 - b. Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.
2. The following support proceedings are available to an obligee under the convention:
 - a. Recognition or recognition and enforcement of a foreign support order;
 - b. Enforcement of a support order issued or recognized in this state;
 - c. Establishment of a support order if there is no existing order, including, where necessary, determination of parentage of a child;
 - d. Establishment of a support order if recognition of a foreign support order is refused under subdivision b, d, or i of subsection 2 of section 14-12.2-47.8;
 - e. Modification of a support order of a tribunal of this state; and
 - f. Modification of a support order of a tribunal of another state or foreign country.
3. The following support proceedings are available under the convention to an obligor against whom there is an existing support order:
 - a. Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;
 - b. Modification of a support order of a tribunal of this state; and
 - c. Modification of a support order of a tribunal of another state or foreign country.

SECTION 45. AMENDMENT. Subsection 4 of section 14-12.2-47.5 of the North Dakota Century Code is amended and reenacted as follows:

4. An individual filing a direct request is not entitled to assistance from the department of health and human services.

SECTION 46. AMENDMENT. Subdivision b of subsection 3 of section 14-12.2-47.8 of the North Dakota Century Code is amended and reenacted as follows:

- b. The department of health and human services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 14-12.2-47.4.

SECTION 47. AMENDMENT. Section 14-13-03 of the North Dakota Century Code is amended and reenacted as follows:

14-13-03. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Appropriate authority in the receiving state" as used in paragraph 1 of article V of the compact with reference to this state means the executive director of the department of health and human services.
2. "Appropriate public authorities" as used in article III of the compact with reference to this state means the department of health and human services, and the department shall receive and act with reference to notices required by article III.

²¹⁹ **SECTION 48. AMENDMENT.** Subsection 6 of section 14-15-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "Department" means the department of health and human services.

SECTION 49. AMENDMENT. Subsection 4 of section 14-15.1-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the department of health and human services.

SECTION 50. AMENDMENT. Section 14-19-01 of the North Dakota Century Code is amended and reenacted as follows:

14-19-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Birthing hospital" means a hospital licensed under chapter 23-16 which provides obstetrical services.
2. "Department" means the department of health and human services.
3. "Donor" means a woman whose body produced an egg for the purposes of assisted conception but does not include a woman whose body produces an egg used for the purpose of conceiving a child for that woman.
4. "Gestational carrier" means a woman who enters into an agreement to have an embryo implanted in her and bear the resulting child for intended parents, when the embryo is conceived by using the egg and sperm of the intended parents.
5. "Married woman" includes a woman who attempted to marry by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid.
6. "Mother" means a woman who gives birth to a child or, if pregnancy resulted from assisted conception, the woman who is the donor but not the woman who is the gestational carrier.
7. "Party" means the man with whom the relationship of father and child is sought or established, the child's mother, and, for purposes of proceedings to relieve a party of the relationship of father and child, the child.

²¹⁹ Section 14-15-01 was also amended by section 1 of Senate Bill No. 2340, chapter 118.

8. "Relationship of father and child" means the legal relationship existing between a father and the father's natural or adoptive child incident to which the law confers or imposes rights, privileges, duties, and obligations.
9. "Voluntary paternity establishment service entity" means the state department of health and human services and any child support agency, as that term is defined in section 14-09-09.10.

SECTION 51. AMENDMENT. Section 14-19-05 of the North Dakota Century Code is amended and reenacted as follows:

14-19-05. Filing of acknowledgment.

An acknowledgment of paternity made under chapter 14-20 must be filed with the state department of health on a form approved by the department, which must include the social security number of the parents and any other information required by the secretary of the United States department of health and human services. ~~Upon request of the department, the state department of health shall furnish a certified copy of an acknowledgment of paternity to the department.~~

SECTION 52. AMENDMENT. Subdivision d of subsection 1 of section 14-19-06 of the North Dakota Century Code is amended and reenacted as follows:

- d. Forward completed acknowledgments to ~~the state department of health.~~

SECTION 53. AMENDMENT. Section 14-19-08 of the North Dakota Century Code is amended and reenacted as follows:

14-19-08. Powers and duties of the department.

The department shall:

1. Provide each birthing hospital and voluntary paternity establishment service entity in the state:
 - a. Written materials about paternity establishment.
 - b. Forms necessary to voluntarily acknowledge paternity.
 - c. A written description of the rights and responsibilities of acknowledging paternity.
2. Provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity reasonably necessary to assist a birthing hospital or voluntary paternity establishment service entity in its duties under this chapter.
3. ~~In cooperation with the state department of health, secure~~Secure information on each voluntary paternity establishment service entity's and each birthing hospital's paternity acknowledgment program at least annually.
4. In cases involving applications for child support services made to a child support agency which require paternity establishment, determine if a voluntary paternity acknowledgment has been filed with the ~~state department of health.~~
5. Assure that the same procedures governing birthing hospitals apply to voluntary paternity establishment service entities, including use of the same

notice provisions, the same materials, the same evaluation methods, and the same training for personnel.

SECTION 54. AMENDMENT. Subsection 3 of section 14-19-12 of the North Dakota Century Code is amended and reenacted as follows:

3. A voluntary paternity establishment service entity shall forward completed acknowledgments to the ~~state department of health~~.

SECTION 55. AMENDMENT. Paragraph 1 of subdivision d of subsection 1 of section 14-20-10 of the North Dakota Century Code is amended and reenacted as follows:

- (1) The assertion is in a record filed with the ~~state department of health and human services~~;

SECTION 56. AMENDMENT. Subdivision a of subsection 2 of section 14-20-12 of the North Dakota Century Code is amended and reenacted as follows:

- a. States that another man is a presumed father, unless a denial of paternity signed or otherwise authenticated by the presumed father is filed with the ~~state department of health and human services~~;

SECTION 57. AMENDMENT. Subsection 3 of section 14-20-14 of the North Dakota Century Code is amended and reenacted as follows:

3. Subject to subsection 1, an acknowledgment of paternity or denial of paternity takes effect on the birth of the child or the filing of the document with the ~~state department of health and human services~~, whichever occurs later.

SECTION 58. AMENDMENT. Section 14-20-15 of the North Dakota Century Code is amended and reenacted as follows:

14-20-15. (305) Effect of acknowledgment or denial of paternity.

1. Except as otherwise provided in sections 14-20-17 and 14-20-18, a valid acknowledgment of paternity filed with the ~~state department of health and human services~~ is equivalent to an adjudication of paternity of a child and confers upon the acknowledged father all of the rights and duties of a parent and must be recognized as a basis for a support order in any proceeding to establish, enforce, or modify a support order.
2. Except as otherwise provided in sections 14-20-17 and 14-20-18, a valid denial of paternity by a presumed father filed with the ~~state department of health and human services~~ in conjunction with a valid acknowledgment of paternity is equivalent to an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all rights and duties of a parent.

SECTION 59. AMENDMENT. Section 14-20-16 of the North Dakota Century Code is amended and reenacted as follows:

14-20-16. (306) No filing fee.

The ~~state department of health and human services~~ may not charge for filing an acknowledgment of paternity or denial of paternity.

SECTION 60. AMENDMENT. Section 14-20-18 of the North Dakota Century Code is amended and reenacted as follows:

14-20-18. (308) Challenge after expiration of period for rescission.

1. After the period for rescission under section 14-20-17 has expired, a signatory of an acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only:
 - a. On the basis of fraud, duress, or material mistake of fact; and
 - b. Within two years after the acknowledgment or denial is filed with the state department of health and human services.
2. A party challenging an acknowledgment of paternity or denial of paternity has the burden of proof.

SECTION 61. AMENDMENT. Section 14-20-19 of the North Dakota Century Code is amended and reenacted as follows:

14-20-19. (309) Procedure for rescission or challenge.

1. Every signatory to an acknowledgment of paternity and any related denial of paternity must be made a party to a proceeding to rescind or challenge the acknowledgment or denial.
2. For the purpose of rescission of, or challenge to, an acknowledgment of paternity or denial of paternity, a signatory submits to personal jurisdiction of this state by signing the acknowledgment or denial, effective upon the filing of the document with the state department of health and human services.
3. Except for good cause shown, during the pendency of a proceeding to rescind or challenge an acknowledgment of paternity or denial of paternity, the court may not suspend the legal responsibilities of a signatory arising from the acknowledgment, including the duty to pay child support.
4. A proceeding to rescind or to challenge an acknowledgment of paternity or denial of paternity must be conducted in the same manner as a proceeding to adjudicate parentage under sections 14-20-36 through 14-20-58.
5. At the conclusion of a proceeding to rescind or challenge an acknowledgment of paternity or denial of paternity, the court shall order the state department of health and human services to amend the birth record of the child, if appropriate.

SECTION 62. AMENDMENT. Subsection 1 of section 14-20-22 of the North Dakota Century Code is amended and reenacted as follows:

1. To facilitate compliance with sections 14-20-11 through 14-20-24, the state department of health and human services shall prescribe forms for the acknowledgment of paternity and the denial of paternity.

SECTION 63. AMENDMENT. Section 14-20-23 of the North Dakota Century Code is amended and reenacted as follows:

14-20-23. (313) Release of information.

The state department of health and human services may release information relating to the acknowledgment of paternity or denial of paternity to a signatory of the acknowledgment or denial and to courts and appropriate state or federal agencies of this or another state.

SECTION 64. AMENDMENT. Section 14-20-24 of the North Dakota Century Code is amended and reenacted as follows:

14-20-24. (314) Adoption of rules.

The state department of health and human services may adopt rules to implement sections 14-20-11 through 14-20-23.

SECTION 65. AMENDMENT. Section 14-20-57 of the North Dakota Century Code is amended and reenacted as follows:

14-20-57. (636) Order adjudicating parentage.

1. The court shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.
2. An order adjudicating parentage must identify the child by name and date of birth.
3. The order must include the social security numbers of the child and the individuals determined to be the child's parents.
4. The order may contain any other provision in the best interest of the child, including payment of support, payment of expenses of the mother's pregnancy and confinement, custody of the child, visitation with the child, and furnishing of bond or other security for payment of support. A support order must be for a monthly payment in an amount consistent with the guidelines established under section 14-09-09.7 and must be subject to section 14-09-08.1. All remedies for the enforcement of support, custody, and visitation orders apply. The court has continuing jurisdiction to modify an order for future support and, subject to section 14-09-09.6, custody of and visitation with the child.
5. Except as otherwise provided in subsection 6, the court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under sections 14-20-36 through 14-20-58. The court may award attorney's fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.
6. The court may not assess fees, costs, or expenses against the support enforcement agency of this state or another state, except as provided by other law.
7. On request of a party and for good cause shown, the court may order that the name of the child be changed.
8. If the order of the court is at variance with the child's birth certificate, the court shall order the state department of health and human services to issue an amended birth registration.

9. An order adjudicating parentage must be filed with the state department of health and human services.

SECTION 66. AMENDMENT. Section 15-05-16 of the North Dakota Century Code is amended and reenacted as follows:

15-05-16. Reports - State geologist - ~~State department~~Department of health and human services - Department of environmental quality.

The state geologist, state department of health and human services, or department of environmental quality, on the request of the board of university and school lands, shall visit any land leased under section 15-05-09 and shall make a report of the visit to the board. The state geologist, state department of health and human services, or department of environmental quality may not receive a fee for making the examination and report but must be paid necessary expenses incurred in connection with the examination.

SECTION 67. AMENDMENT. Subsection 2 of section 15-52-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The council consists of sixteen members:

- a. (1) Two members of the senate, one of whom must be from the majority party and one of whom must be from the minority party, selected by the chairman of the legislative management; ~~and~~
- (2) Two members of the house of representatives, one of whom must be from the majority party and one of whom must be from the minority party, to be selected by the chairman of the legislative management; and
- (3) Two members of the department of health and human services, of which one member is appointed by the state health officer;

- b. One member selected by each of the following:

- (1) ~~The department of human services;~~
- (2) The state board of higher education;
- (3) ~~The state department of health;~~
- (4)(2) The North Dakota medical association;
- (5)(3) The North Dakota hospital association;
- (6)(4) The veterans administration hospital in Fargo;
- (7)(5) The North Dakota center for nursing; and
- (8)(6) The university of North Dakota center for rural health; and

- c. Four members selected by the dean of the university of North Dakota school of medicine and health sciences, one from each of the four campuses of the school of medicine and health sciences with headquarters in Bismarck, Fargo, Grand Forks, and Minot.

SECTION 68. AMENDMENT. Section 15.1-02-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-19. Health insurance programs - Joint enrollment program.

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

SECTION 69. AMENDMENT. Subsection 3 of section 15.1-24-01 of the North Dakota Century Code is amended and reenacted as follows:

3. The superintendent shall develop a plan for the coordination of services with other agencies, including the department of health and human services, ~~the state department of health~~, the department of transportation, and law enforcement agencies.

SECTION 70. AMENDMENT. Section 15.1-32-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-03. Interagency cooperative agreements - Development and implementation.

The superintendent of public instruction shall develop and implement interagency agreements with the department of corrections and rehabilitation, the department of health and human services, ~~the state department of health~~, and other public and private entities to maximize the state resources available for fulfilling the educationally related service requirements of Public Law No. 94-142 [89 Stat. 773] and section 504 of the Rehabilitation Act of 1973, as amended.

SECTION 71. AMENDMENT. Section 15.1-32-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-05. Special education - Cooperation among agencies.

The superintendent of public instruction, ~~the state department of health~~, and the department of health and human services shall cooperate in planning and coordinating early intervention programs for individuals under the age of three.

SECTION 72. AMENDMENT. Section 15.1-32-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-19. Boarding care costs - Reimbursement of school district.

The superintendent of public instruction shall reimburse a student's school district of residence an amount equal to eighty percent of the room and board costs paid by the district for a student with disabilities who is placed in a facility that is located either within or outside of the student's school district of residence in order to receive special education services. The student's school district of residence is liable for any room and board costs in excess of those reimbursed as provided in this section. The placement of a student with disabilities in a public or private facility will be made by a school district. The placement of a student with disabilities in congregate care will be made in a facility designated by the department of health and human services.

SECTION 73. AMENDMENT. Subsection 2 of section 15.1-34-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

SECTION 74. AMENDMENT. Section 15.1-34-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-34-04. Boarding home fire inspection - Report.

~~The state department of health, the state fire marshal, or a designee of the state fire marshal shall inspect any home for which a registration certificate is sought if requested to do so by the department. The department may inspect any home for which a registration certificate is sought. The entity conducting the inspection under this section shall prepare an inspection report and present the report to the department.~~

²²⁰ **SECTION 75. AMENDMENT.** Subsection 1 of section 15.1-37-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The North Dakota early childhood education council consists of:
 - a. A chairman appointed by the governor;
 - b. The superintendent of public instruction, or the superintendent's designee;
 - c. The state health officer, or the officer's designee;
 - d. The director of the department of health and human services, or the director's designee;
 - e. The North Dakota head start - state collaboration administrator, or the administrator's designee;
 - f. The commissioner of higher education, or the commissioner's designee;
 - g. The commissioner of commerce, or the commissioner's designee;
 - h. The chairman of the senate education committee, or the chairman's designee;
 - i. The chairman of the house of representatives education committee, or the chairman's designee; and
 - j. The following gubernatorial appointees:
 - (1) The superintendent of a school district having at least one thousand students in average daily membership;
 - (2) The superintendent of a school district having fewer than one thousand students in average daily membership;
 - (3) The superintendent of a school district headquartered on a reservation or including reservation land within its boundaries;

²²⁰ Section 15.1-37-02 was repealed by section 11 of House Bill No. 1416, chapter 358.

- (4) An individual representing a non-religious-based provider of early childhood education;
- (5) An individual representing a religious-based provider of early childhood education;
- (6) An individual representing a center-based licensed child care provider;
- (7) An individual representing a home-based licensed child care provider;
- (8) An individual representing a reservation-based head start program;
- (9) An elected member of a school board;
- (10) The parent of a child not yet enrolled in elementary school;
- (11) The parent of a child with disabilities not yet enrolled in elementary school; and
- (12) An individual representing children with disabilities.

SECTION 76. AMENDMENT. Section 18-01-03.1 of the North Dakota Century Code is amended and reenacted as follows:

18-01-03.1. Inspections - Department of health and human services - Education.

1. The state fire marshal and the state fire marshal's deputies may perform fire safety inspections of those facilities required to be inspected under administrative rules of the department of health and human services. The state fire marshal shall charge a fee not to exceed fifty dollars for conducting these fire safety inspections in an amount determined by administrative rules adopted by the state fire marshal. Inspection fees received by the state fire marshal must be deposited into the attorney general's operating fund.
2. The state fire marshal shall provide the department of health and human services and designees of the fire marshal education regarding the fire safety requirements of licensed early childhood program premises, including smoke detector and carbon monoxide alarm requirements.

SECTION 77. AMENDMENT. Section 18-01-03.2 of the North Dakota Century Code is amended and reenacted as follows:

18-01-03.2. Delegation of authority.

The state fire marshal may delegate to the state department of health and human services or any political subdivision the authority to conduct investigations, surveys, or inspections, and the authority to enforce compliance where violations are discovered, which become the responsibility of the state department of health and human services or political subdivision and otherwise would be the responsibility of the state fire marshal. Any delegation to the state department of health and human services is limited to authority over basic care facilities. Any political subdivision that meets the state fire marshal's minimum standard requirements may be delegated authority under this section. A political subdivision may refuse the delegation.

SECTION 78. AMENDMENT. Subsection 1 of section 19-01-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the state department of health and human services.

SECTION 79. AMENDMENT. Section 19-01-07 of the North Dakota Century Code is amended and reenacted as follows:

19-01-07. Contract services.

Funds may be accepted by the department from cities, counties, states, federal agencies, and private organizations for contract services of analytical and inspection work. Such funds must be remitted by the department to the state treasurer and deposited in the operating fund of the ~~state department of health~~.

SECTION 80. AMENDMENT. Subsection 6 of section 19-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "Department" means the state department of health and human services.

SECTION 81. AMENDMENT. Section 19-02.1-07 of the North Dakota Century Code is amended and reenacted as follows:

19-02.1-07. Minor violations.

Nothing in this chapter may be construed as requiring the ~~state department of health~~ or the state board of pharmacy to report minor violations of this chapter for the institution of proceedings under this chapter whenever the ~~state department of health~~ or the state board of pharmacy believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

SECTION 82. AMENDMENT. Subsection 5 of section 19-02.1-10 of the North Dakota Century Code is amended and reenacted as follows:

5. If in package form, unless it bears a label containing:
 - a. The name and place of business of the manufacturer, packer, or distributor;
 - b. An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; and
 - c. In the case of beverages that are manufactured, distributed, and sold under a franchise or trademark name indicated thereon, whereby the person, firm, corporation, or limited liability company owning the franchise or trademark has control over the distribution, such beverages may be exempt from this subsection, if a certified statement is filed with the ~~state department of health~~, stating the name and address of the manufacturer or distributor, and a statement signed by the manufacturer or distributor that they assume all responsibility and liability for the product named, which is being sold, or offered for sale, under such name within the area of the state designated, which certificate must be in the following form:

NORTH DAKOTA STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES

BISMARCK, NORTH DAKOTA

BEVERAGE LABELING EXEMPTIONS CERTIFICATE

I, _____, the undersigned, an agent of and having authority to sign, do hereby certify that the following information is correct:

Name and address of company requesting exemption

Name _____

Street Address _____

City or Town _____

State _____

Name of Product _____

Brand Name _____

In order to be exempt from subdivisions a and b of subsection 5 of section 19-02.1-10 of the North Dakota Century Code, relating to misbranding of food, which requires the name and address of the real manufacturer or other persons responsible for placing the product upon the market, I, the undersigned, do bind the company listed above by agreeing to assume all responsibility for the product named in this certificate which is being sold, or offered for sale under such name and brand name within the area consisting of _____ in the State of North Dakota.

Note: The area must be designated by counties or other legal subdivisions of the city, county, or state.

Firm _____

Signed _____

Title _____

Address _____

Note: If signed by a person other than an officer of the company, authorization for signature must accompany this form. This certificate must be acknowledged.

Provided, that under subdivision b reasonable variations must be permitted, and exemptions as to small packages must be established, by regulations prescribed by the department.

SECTION 83. AMENDMENT. Section 19-02.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

19-02.1-10.1. Eggs - Labeling and temperature rules.

The ~~state department of health~~ may adopt appropriate rules under chapter 28-32 to establish standards for proper labeling and temperature during the retail storage and sale of shell eggs. As used in this section, "eggs" means eggs in the shell which are the product of a domesticated chicken.

SECTION 84. AMENDMENT. Subsection 2 of section 19-02.1-16 of the North Dakota Century Code is amended and reenacted as follows:

2. An application provided for in subdivision b of subsection 1 becomes effective on the one hundred eightieth day after the filing thereof, except that if the department finds, after due notice to the applicant and giving the applicant an opportunity for a hearing, that the drug is not safe or not effective for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof, the state department of health shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

SECTION 85. AMENDMENT. Subsection 3 of section 19-03.1-17 of the North Dakota Century Code is amended and reenacted as follows:

3. Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in schedules II through V if they are authorized to dispense or conduct research under the laws of this state. The board need not require separate registration under this chapter for practitioners engaging in research with non-narcotic controlled substances in schedules II through V where the registrant is already registered under this chapter in another capacity. Practitioners registered under federal law to conduct research with schedule I substances may conduct research with schedule I substances within this state upon furnishing the state department of health evidence of that federal registration.

SECTION 86. AMENDMENT. Subsection 3 of section 19-03.1-45 of the North Dakota Century Code is amended and reenacted as follows:

3. If the licensed addiction counselor recommends treatment, the court shall require the person to participate in an addiction program licensed by the department of human services as a condition of the probation. The court shall commit the person to treatment through a licensed addiction program until determined suitable for discharge by the court. The term of treatment may not exceed eighteen months and may include an aftercare plan. During the commitment and while subject to probation, the department shall supervise the person.

SECTION 87. AMENDMENT. Subdivision e of subsection 3 of section 19-03.5-03 of the North Dakota Century Code is amended and reenacted as follows:

- e. The department of ~~human services~~ for purposes regarding the utilization of controlled substances by a Medicaid recipient or establishment and enforcement of child support and medical support;

SECTION 88. AMENDMENT. Subdivision e of subsection 2 of section 19-03.5-07 of the North Dakota Century Code is amended and reenacted as follows:

- e. A designee of the department of ~~human services~~;

SECTION 89. AMENDMENT. Section 19-05.1-05 of the North Dakota Century Code is amended and reenacted as follows:

19-05.1-05. Inspection of food.

Upon the request made by a bona fide charitable or nonprofit organization receiving perishable food under this chapter, a representative from the county health

district where the organization is located or the state department of health shall provide inspection of the food received to determine whether the food may be used for human consumption. This chapter does not restrict the authority of any appropriate agency to inspect, regulate, or ban the use of perishable food.

SECTION 90. AMENDMENT. Section 19-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

19-06.1-05. Enforcement authority.

The state department of health shall enforce the provisions of this chapter.

SECTION 91. AMENDMENT. Section 19-17-05 of the North Dakota Century Code is amended and reenacted as follows:

19-17-05. Penalty.

Any person who violates any of the provisions of this chapter or the orders, rules, or regulations promulgated by the state department of health under authority thereof, is, unless a specific penalty has been provided, guilty of a class B misdemeanor.

SECTION 92. AMENDMENT. Subsection 3 of section 19-21-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the state department of health and human services.

²²¹ **SECTION 93. AMENDMENT.** Subsection 16 of section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

16. "Department" means the state department of health and human services.

²²² **SECTION 94. AMENDMENT.** Subdivision a of subsection 1 of section 19-24.1-14 of the North Dakota Century Code is amended and reenacted as follows:

- a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "North Dakota State Department of Health and Human Services, Medical Marijuana Program".

²²³ **SECTION 95. AMENDMENT.** Subdivision a of subsection 1 of section 19-24.1-15 of the North Dakota Century Code is amended and reenacted as follows:

- a. A certification fee, made payable to the "North Dakota State Department of Health and Human Services, Medical Marijuana Program", in the amount of ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility.

SECTION 96. AMENDMENT. Subsection 3 of section 19-24.1-24 of the North Dakota Century Code is amended and reenacted as follows:

²²¹ Section 19-24.1-01 was also amended by section 9 of House Bill No. 1213, chapter 172.

²²² Section 19-24.1-14 was also amended by section 15 of House Bill No. 1213, chapter 172.

²²³ Section 19-24.1-15 was also amended by section 16 of House Bill No. 1213, chapter 172.

3. The ~~health council~~department shall adopt rules to allow a manufacturing facility to possess no more than an additional fifty plants for the exclusive purpose of department-authorized research and development related to production and processing. These plants are not counted in a manufacturing facility possession amount and are not subject to an additional fee.

SECTION 97. AMENDMENT. Subdivision e of subsection 2 of section 19-24.1-33 of the North Dakota Century Code is amended and reenacted as follows:

- e. On the grounds of a child care facility or licensed home day care, unless authorized under rules adopted by the department ~~of human services~~.

SECTION 98. AMENDMENT. Section 19-24.1-36 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-36. Health council-- Rules.

1. The ~~health council~~department shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of marijuana and usable marijuana, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate recordkeeping.
2. The ~~health council~~department may adopt rules regarding the operation and governance of additional categories of registered medical marijuana establishments.
3. The ~~health council~~department shall adopt rules to establish requirements for reporting incidents of individuals not authorized to possess marijuana or usable marijuana under this chapter and who are found in possession of marijuana or usable marijuana. The rules must identify professionals required to report, the information the reporter is required to report, and actions the reporter shall take to secure the marijuana or usable marijuana.
4. The ~~health council~~department shall adopt rules to establish requirements for law enforcement officials and health care professionals to report to the department incidents involving overdose or adverse reaction related to the use of usable marijuana.

SECTION 99. AMENDMENT. Section 20.1-01-26.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-26.1. Hunting, trapping, or fishing prohibited while privileges are suspended - Penalty.

No person may directly or indirectly hunt, trap, or fish or assist in any way in hunting, trapping, or fishing while the person's privileges have been suspended by a court or by the department of health and human services under section 50-09-08.6. Any person violating this section is guilty of a class A misdemeanor.

SECTION 100. AMENDMENT. Subsection 4 of section 20.1-03-04 of the North Dakota Century Code is amended and reenacted as follows:

4. Life skills and transition center patients, North Dakota youth correctional center students, school for the deaf students, North Dakota vision services - school for the blind students, state hospital patients, clients of regional human service centers under direct therapeutic care, and residents of facilities

licensed by the state department of health and the department of human services may fish without a resident fishing license. Patients of these institutions must be identified. The department shall issue authority to each institution.

SECTION 101. AMENDMENT. Section 23-01-01 of the North Dakota Century Code is amended and reenacted as follows:

23-01-01. State department of healthHealth division - Officers.

The state department of health and human services' health division consists of a health council, a state health officer, section chiefs, directors of divisions, and other designated employees of the department.

SECTION 102. AMENDMENT. Section 23-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

23-01-01.1. State departmentDepartment of health and human services to replace state department of health and consolidated laboratories.

Wherever the termsThe legislative council shall replace, where appropriate, "North Dakota state department of health", "department of health", "health department", "state department of health and consolidated laboratories", "North Dakota state laboratories department", "state laboratories department", "state laboratories department director", or "state laboratories director", "state department of health", or any derivatives of those terms, which when used in context indicate an intention to refer to those terms, wherever they appear in this code, the term "state department of health" must be substituted therefor and in the North Dakota Administrative Code, with "department of health and human services" or an appropriate derivative of that phrase. The legislative council may replace references to the "state department of health" or any derivatives of that term with "department of health and human services" in any measure enacted by the sixty-seventh legislative assembly.

SECTION 103. AMENDMENT. Section 23-01-03 of the North Dakota Century Code is amended and reenacted as follows:

23-01-03. Powers and duties of the health council.

The health council shall:

1. Fix, subject to the provisions of section 23-01-02, the time and place of the meetings of the council.
2. Make rules and regulations for the government of the council and its officers and meetings.
3. Establish standards, rules, and regulations, which are found necessary for the maintenance of public health, including sanitation and disease control.
4. Provide for the development, establishment, and enforcement of basic standards for hospitals and related medical institutions which render medical and nursing care, and for the construction and maintenance of such institutions, such standards to cover matters pertaining to sanitation, building construction, fire protection measures, nursing procedures, and preservation of medical records. No rule~~rule~~ regulation may be adopted with respect to building construction of existing medical hospitals or related medical institutions unless

the ~~rule~~regulation relates to safety factors or the hospital or related medical institution changes the scope of service in such a way that a different license is required from the department pursuant to rules adopted under chapter 23-16.

5. Hold hearings on all matters brought before it by applicants and licensees of medical hospitals with reference to the denial, suspension, or revocation of licenses and make appropriate determination as specified herein.

The council may direct the state health officer to do or cause to be done any or all of the things which may be required in the proper performance of the various duties placed upon the state department of health and human services.

SECTION 104. AMENDMENT. Subsection 1 of section 23-01-03.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The ~~health council~~department of health and human services shall adopt rules relating to the storage, maintenance, and disposal of blood spots or other newborn screening specimens.

SECTION 105. AMENDMENT. Subsection 1 of section 23-01-03.3 of the North Dakota Century Code is amended and reenacted as follows:

1. The state health council, in cooperation with the North Dakota long term care association, shall administer the long-term care nursing scholarship and loan repayment grant program. The purpose of the program is to provide matching funds to nursing facilities for the facilities to use in recruiting and retaining nurses by providing scholarships to nursing facility staff and other individuals to obtain a nursing education and by assisting in the repayment of student loans for licensed nurses employed in a nursing facility. The ~~state~~department of health counciland human services shall adopt rules necessary to administer the program, including rules establishing criteria regarding eligibility for and distribution of program grants.

SECTION 106. AMENDMENT. Section 23-01-04 of the North Dakota Century Code is amended and reenacted as follows:

23-01-04. Effect of rules and regulations.

All rules and regulations ~~promulgated~~adopted by the ~~health council~~department of health and human services under the powers granted by any provisions of this title are binding upon all county and municipal health officers, and upon all county, municipal, and private medical hospitals and upon related institutions, and have the force and effect of law.

²²⁴ **SECTION 107. AMENDMENT.** Section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05. Health officer - Qualifications, salary, term, duties - Advisory committee.

²²⁴ Section 23-01-05 was also amended by section 1 of House Bill No. 1118, chapter 191, section 3 of House Bill No. 1410, chapter 92, section 1 of House Bill No. 1418, chapter 190, and section 1 of Senate Bill No. 2181, chapter 192.

The governor shall appoint the state health officer who must have had substantive private or public administrative experience and demonstrated experience in the management of people. The state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that person's individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years beginning January 1, 1993. The state health officer is the administrative officer of the state department of health. If the governor does not appoint as state health officer a physician licensed in this state, if the office of the state health officer is filled temporarily, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor. The duties of the state health officer are as follows:

1. Enforce all rules and regulations as promulgated by the health council and all rules adopted by the department of health and human services.
2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.
3. Establish and enforce minimum standards of performance of the work of the local department of health.
4. Study health problems and plan for their solution as may be necessary.
5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
6. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
7. Collect and distribute health education material.
8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.
9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.
10. ~~Comply with the state merit system policies of personnel administration.~~

44. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.
- 42-11. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
- 43-12. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
- 44-13. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
- 45-14. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
- 46-15. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.
- 47-16. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
- 48-17. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.
- 49-18. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
- (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and
 - (3) If there are no known environmental causes identified, a statement that no known causes exist.
- b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified

environmental concern related to the epidemiological assessment is the burden of the building owner.

SECTION 108. AMENDMENT. Section 23-01-05.1 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.1. Organ or tissue transplant assistance administration - Standing appropriation.

The ~~state health officer~~executive director of the department of health and human services shall select a private nonprofit patient-oriented organization incorporated in this state for the purpose of administering financial assistance to organ or tissue transplant patients who are residents of this state. The ~~state health officer~~department of health and human services shall adopt rules governing administration of this section. The organization selected shall administer and provide grants from available funds to alleviate demonstrated financial needs of transplant patients for any costs associated with transplant operations, under guidelines based on current social service eligibility requirements. There is hereby created as a special fund in the state treasury an organ transplant support fund, the principal and income of which is hereby appropriated to the organization selected under this section. The organization administering the fund may solicit contributions from private or governmental sources and such contributions may be deposited in the fund.

²²⁵ **SECTION 109. AMENDMENT.** Section 23-01-05.2 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.2. Administration of epinephrine - Liability.

1. The ~~state health officer~~department of health and human services shall adopt rules to authorize a layperson to administer epinephrine to an individual who has a severe allergic reaction.
2. An individual authorized to administer epinephrine by the state health officer may obtain premeasured doses of epinephrine and the necessary paraphernalia for epinephrine administration from any licensed physician or pharmacist.
3. An individual authorized to administer epinephrine by the state health officer, and the employer of such an individual, is not civilly or criminally liable for any act or omission of that individual when acting in good faith while rendering emergency treatment to an individual who has a severe adverse reaction, except when the conduct amounts to gross negligence.

SECTION 110. AMENDMENT. Section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.3. Immunization data.

1. The state department of health and human services may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The state department of health and human services may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting

²²⁵ Section 23-01-05.2 was also amended by section 1 of Senate Bill No. 2248, chapter 193.

system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.

2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The state department of health and human services shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.

SECTION 111. AMENDMENT. Section 23-01-05.4 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.4. Department to employ state forensic examiner - Qualifications - Duties.

The state department of health and human services may employ and establish the qualifications and compensation of the state forensic examiner. The state forensic examiner must be a physician who is board-certified or board-eligible in forensic pathology, who is licensed to practice in this state, and who is in good standing in the profession. The state forensic examiner shall:

1. Exercise all authority conferred upon the coroner under chapter 11-19.1 and any other law;
2. Consult with local coroners on the performance of their duties as coroners;
3. Conduct investigations into the cause of death of and perform autopsies on any deceased human body whenever requested to do so by the acting local county coroner or the local state's attorney;
4. Provide training and educational materials to local county coroners, law enforcement, and any other person the state forensic examiner deems necessary;
5. Maintain complete records of the cause, manner, and mode of death necessary for accurate health statistics and for public health purposes; and
6. Perform other duties assigned by the state health officer.

SECTION 112. AMENDMENT. Section 23-01-06 of the North Dakota Century Code is amended and reenacted as follows:

23-01-06. Biennial report - Contents.

The ~~state health officer~~department of health and human services shall submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. In addition to any requirements established pursuant to section 54-06-04, the report must cover the following subjects:

1. The activities of the ~~various divisions~~health division, the work accomplished during the two years covered by the report, and an analysis of the program of each of the ~~divisions~~health division.
2. The expenditures of the ~~state department of health~~ division.
3. The expenditures in each county board of health or the district board of health.
4. Any reports relating to the hospital program as required by the health council.

SECTION 113. AMENDMENT. Section 23-01-08 of the North Dakota Century Code is amended and reenacted as follows:

23-01-08. Directors of divisions - Deputy - Appointment, salary, duties.

The ~~state health officer~~executive director of the department of health and human services or designee shall appoint directors of the various divisions of the department and shall determine the salary, within the limits of legislative appropriations to the department and in conformity with the state merit system, to be received by such persons. The duties of such director must be those prescribed by the ~~state health officer~~executive director of the department of health and human services or designee. The ~~state health officer~~executive director of the department of health and human services or designee may appoint a deputy state health officer. A deputy state health officer who does not hold a health-related degree may not individually issue an order regarding public health unless the order is cosigned by a physician who is employed by the department or cosigned by the state epidemiologist. The deputy state health officer serves at the pleasure of the ~~state health officer~~executive director of the department of health and human services.

SECTION 114. AMENDMENT. Section 23-01-10 of the North Dakota Century Code is amended and reenacted as follows:

23-01-10. Office space.

The state shall provide suitable office space in Bismarck for housing and maintaining the ~~state department of health and human services~~. Special fireproof vaults must be provided for the storage of birth and death certificates.

SECTION 115. AMENDMENT. Section 23-01-11 of the North Dakota Century Code is amended and reenacted as follows:

23-01-11. Acceptance of funds and right to qualify for benefits under federal laws authorized.

The state department of health and human services may:

1. Accept funds from cities, counties, the federal government, private organizations, and individuals for infancy and maternal hygiene, for other public health work and for the purpose of conducting a survey of existing medical hospitals and related institutions, planning of needed hospital construction and for construction and maintenance of such medical hospitals and related institutions. When approved by the governor of this state, the state department of health and human services may match the same from any unexpended portion of its appropriation in accordance with specifications agreed to or required by congressional act. All infancy and maternal hygiene and public health work must be done under the supervision of the state department of health and human services.
2. Adopt rules necessary to enable the state to be in compliance with any federal laws in order to qualify for any federal funds related to medical facilities or agencies licensed by the state department of health and human services.

SECTION 116. AMENDMENT. Section 23-01-14 of the North Dakota Century Code is amended and reenacted as follows:

23-01-14. ~~State department~~Department of health and human services authorized to transfer future accumulated fees.

As a continuing policy, the state department of health and human services may automatically from time to time transfer unclaimed fees on deposit with the Bank of North Dakota or other authorized depository to the state general fund when the unclaimed status has existed for a period of at least three years.

SECTION 117. AMENDMENT. Section 23-01-15 of the North Dakota Century Code is amended and reenacted as follows:

23-01-15. Research studies confidential - Penalty.

1. All information, records of interviews, written reports, statements, notes, memoranda, or other data procured by the state department of health and human services, in connection with studies conducted by the state department of health and human services, or carried on by the department jointly with other persons, agencies, or organizations, or procured by such other persons, agencies, or organizations, for the purpose of reducing the morbidity or mortality from any cause or condition of health is confidential and must be used solely for the purposes of medical or scientific research.
2. Such information, records, reports, statements, notes, memoranda, or other data is not admissible as evidence in any action of any kind in any court or before any other tribunal, board, agency, or person. Such information, records, reports, statements, notes, memoranda, or other data may not be exhibited nor their contents disclosed in any way, in whole or in part, by any officer or representative of the state department of health and human services, nor by any other person, except as may be necessary for the purpose of furthering the research project to which they relate. No person participating in such research project may disclose, in any manner, the information so obtained except in strict conformity with such research project. No officer or employee of said department may interview any patient named in any such report, nor a relative of any such patient, unless the consent of the attending physician and surgeon is first obtained.

3. The furnishing of such information to the state department of health and human services or its authorized representative, or to any other cooperating agency in such research project, does not subject any person, hospital, sanitarium, rest home, nursing home, or other person or agency furnishing such information, to any action for damages or other relief.

SECTION 118. AMENDMENT. Section 23-01-16 of the North Dakota Century Code is amended and reenacted as follows:

23-01-16. Dairy products - Joint standards.

The state department of health and human services and the dairy department of the department of agriculture shall jointly adopt a set of uniform standards in relation to all matters falling within their joint jurisdiction regarding dairy products. The state department of health and human services, district health units, municipal health departments or units, and the dairy department shall each be permitted to accept any inspection report of the other department or unit regarding the inspection of dairy products and the producers and processors of such products, when such report is based substantially upon standards conforming with the milk ordinance and code recommended by the United States public health service.

SECTION 119. AMENDMENT. Section 23-01-22 of the North Dakota Century Code is amended and reenacted as follows:

23-01-22. Department to employ waste management facility inspectors.

The state department of health and human services shall employ and establish the qualifications, duties, and compensation of at least one full-time inspector for each commercial, nonpublicly owned waste management disposal or incineration facility that accepts more than twenty-five thousand tons [22679.5 kilograms] per year of hazardous waste, industrial waste, nuclear waste, or ash resulting from the incineration of municipal solid waste. This section does not apply to any energy conversion facility or coal mining operation that disposes of its solid waste onsite. The department may require inspectors for those facilities that accept less than twenty-five thousand tons [22679.5 kilograms] per year. The facility inspector shall conduct regular inspections of the operating procedure and conditions of the facility and report the findings to the department on a regular basis. If an inspector discovers a condition at a facility that is likely to cause imminent harm to the health and safety of the public or environment, the inspector shall notify the department. The department shall proceed as provided by sections 23-29-10 and 23-29-11.

The department shall assess the owner or operator of a waste management facility that accepts hazardous waste, industrial waste, nuclear waste, or ash resulting from the incineration of municipal solid waste an annual fee to pay the salaries, wages, and operating expenses associated with employing an inspector for the facility. The owner or operator of the facility shall submit the fee to the department by July first of each year. Any fees collected must be deposited in the department's operating fund in the state treasury and any expenditures from the fund are subject to appropriation by the legislative assembly. If a facility begins operation after July first of any year, the owner or operator of the facility shall pay to the department a prorated fee for the fiscal year before the facility may begin accepting waste. Moneys in the waste management facility account may be spent by the department within the limits of legislative appropriation.

SECTION 120. AMENDMENT. Section 23-01-24 of the North Dakota Century Code is amended and reenacted as follows:

23-01-24. Health care cost and quality review program - Penalty.

The department of health and human services shall conduct a continuous program to review and improve the quality of health care in the state. The department may contract with a qualified person or organization to develop and implement the program. The department shall use the program to compile relevant information about the quality of health care in this state which will allow the department to evaluate the cost, quality, and outcomes of health care. The department shall establish and consult a provider advisory committee composed of health care providers regarding the data that is a cost-effective process for collecting and evaluating the information. The ~~state health officer~~department may assess against a provider a penalty of one hundred dollars per day for each day the provider willfully refuses to provide the department with information requested for use with the program, but the penalty may not exceed one thousand dollars for each request. A provider against whom a fee is assessed may appeal that assessment to the ~~state health council~~department. If the provider fails to pay the penalty, the ~~health council~~department may, in the county where the provider's principal place of business is located, initiate a civil action against the provider to collect the penalty. As used in this section, "provider" means a person who is licensed, certified, or otherwise authorized by the law of this state to administer health care in the ordinary course of business or professional practice. The department shall ensure that patient privacy is protected throughout the compilation and use of the information. The department shall evaluate data management capabilities in the state and shall organize its capabilities to provide information about the cost of care on an individual provider basis as well as a collective basis.

SECTION 121. AMENDMENT. Section 23-01-25 of the North Dakota Century Code is amended and reenacted as follows:

23-01-25. Commercial feed, insecticide, fungicide, rodenticide, fertilizer, and soil conditioner laws - Laboratory function.

Notwithstanding any other provision of law, any laboratory test or analysis required under chapter 4.1-34, 4.1-40, or 4.1-41 must be performed by the ~~state~~department of health and human services for the agriculture commissioner at no charge.

SECTION 122. AMENDMENT. Section 23-01-26 of the North Dakota Century Code is amended and reenacted as follows:

23-01-26. ~~State department of health~~Department - Indirect cost recoveries.

Notwithstanding section 54-44.1-15, the ~~state~~ department of health and human services may deposit indirect cost recoveries in its operating account.

SECTION 123. AMENDMENT. Section 23-01-27 of the North Dakota Century Code is amended and reenacted as follows:

23-01-27. Donated dental services program.

The ~~state~~ department of health and human services shall contract with the North Dakota dental association, or other appropriate and qualified organizations, to develop and administer a donated dental services program through which volunteer dentists provide comprehensive dental care for needy, disabled, aged, or medically compromised individuals. The volunteers will treat individuals through the program and, with the exception of certain dental laboratory costs, will fully donate their services and supplies. The contract must specify the responsibilities of the administering organization and include:

1. Establishment of a network of volunteer dentists, including dental specialists, volunteer dental laboratories, and other appropriate volunteer professionals to donate dental services to eligible individuals;
2. Establishment of a system to refer eligible individuals to appropriate volunteers;
3. Development and implementation of a public awareness campaign to educate eligible individuals about the availability of the program;
4. Provision of appropriate administrative and technical support to the program; and
5. Submission of an annual report to the state department of health and human services that:
 - a. Accounts for all program funds;
 - b. Reports the number of individuals served by the program and the number of dentists and dental laboratories participating as providers in the program;
 - c. Includes any other information required by the state department of health and human services; and
 - d. Performs, as required by the state department of health and human services, any other duty relating to the program.

SECTION 124. AMENDMENT. Section 23-01-28 of the North Dakota Century Code is amended and reenacted as follows:

23-01-28. Combined purchasing with local public health units - Continuing appropriation.

The state department of health and human services may make combined or joint purchases with or on behalf of local public health units for items or services. Payments received by the state department of health and human services from local public health units pursuant to a combined or joint purchase must be deposited in the operating fund and are appropriated as a standing and continuing appropriation to the state department of health and human services for the purpose of this section.

SECTION 125. AMENDMENT. Section 23-01-29 of the North Dakota Century Code is amended and reenacted as follows:

23-01-29. Bone marrow donor education.

The state department of health and human services shall provide information and educational materials to the public regarding bone marrow donation through the national marrow donor program. The department shall seek assistance from the national marrow donor program to establish a system to distribute materials, ensure that the materials are updated periodically, and address the education and recruitment of minority populations.

SECTION 126. AMENDMENT. Section 23-01-32 of the North Dakota Century Code is amended and reenacted as follows:

23-01-32. Viral hepatitis program - Vaccination - Study.

1. The state department of health and human services shall establish and administer a viral hepatitis program with the goal of distributing to residents of the state who are at an increased risk for exposure to viral hepatitis information that addresses the higher incidence of hepatitis C exposure and infection among these populations, addresses the dangers presented by the disease, and provides contacts for additional information and referrals.
2. The department shall establish a list of classes of individuals by category that are at increased risk for viral hepatitis exposure. The list must be consistent with recommendations developed by the federal centers for disease control and prevention. The department shall determine the type of information the department will distribute under the program and the form and manner of distribution.
3. The department shall establish a vaccination and testing program, to be coordinated by the department through local public health units.

SECTION 127. AMENDMENT. Section 23-01-33 of the North Dakota Century Code is amended and reenacted as follows:

23-01-33. Human papilloma virus - Information.

The state department of health and human services shall educate the public about the human papilloma virus and the availability of a human papilloma virus vaccine; promote immunization against the human papilloma virus; and distribute informational material regarding the human papilloma virus and the human papilloma virus vaccine. The department shall distribute the informational material through relevant department programs and divisions, including breast and cervical cancer control programs; immunization programs; family planning programs; and human immunodeficiency virus and sexually transmitted disease programs. Informational materials distributed must include the recommendations of the advisory committee on immunization practices of the federal centers for disease control and prevention; contain information relevant to the target populations of each of the participating programs and divisions distributing the informational material; and contain information regarding the availability of the vaccine through the vaccines for children program operated by the department under 42 U.S.C. 1396s, and the medical assistance program.

SECTION 128. AMENDMENT. Section 23-01-34 of the North Dakota Century Code is amended and reenacted as follows:

23-01-34. Children with special health care needs - Program administration.

The state department of health and human services shall administer programs for children with special health care needs as may be necessary to conform to title 5, part 2, of the federal Social Security Act, as amended through July 1, 2007 [Pub. L. 74-271; 49 Stat. 620; 42 U.S.C. 701 et seq.], including providing services and assistance to children with special health care needs and their families and developing and operating clinics for the identification, screening, referral, and treatment of children with special health care needs.

SECTION 129. AMENDMENT. Section 23-01-35 of the North Dakota Century Code is amended and reenacted as follows:

23-01-35. Tattooing, body piercing, branding, subdermal implants, or scarification - Permit - Fee - Adoption of rules - Exemptions - Injury reports.

1. A person may not operate a facility providing tattooing, body piercing, branding, subdermal implant, or scarification services without a permit issued by the department under this section. The holder of a permit shall display the permit in a conspicuous place at the facility for which the permit is issued. A permit issued under this section expires annually. An applicant for a permit shall submit an application for a permit to the department, on a form provided by the department, with a permit fee established by the department. The application must include the name and complete mailing address and street address of the facility and any other information reasonably required by the department for the administration of this section.
2. The ~~health council~~department of health and human services shall adopt rules to regulate any person that receives compensation for engaging in the practice of tattooing, body piercing, branding, subdermal implants, or scarification. The rules must establish health and safety requirements and limitations with respect to the age of an individual who may receive a tattoo, body piercing, or scarification and may prohibit any practice that the ~~health council~~department of health and human services deems unsafe or a threat to public health.
3. A facility is exempt from subsection 1 if the facility provides body piercing that is limited to the piercing of the noncartilaginous perimeter or lobe of the ear and the facility does not provide tattooing, branding, scarification, or subdermal implants. A person is exempt from regulation under subsection 2 if the person's practice under this section is limited to piercing of the noncartilaginous perimeter or lobe of the ear. A licensed health care professional acting within that professional's scope of practice and the associated medical facility are exempt from this section.
4. If a customer of a facility regulated under this section reports to the facility an injury the customer or operator of the facility believes to have resulted from the tattooing, body piercing, branding, subdermal implanting, or scarification provided at the facility, the operator of the facility shall provide the customer with written information on how to report the alleged injury to the ~~state~~department of health and human services. If a licensed health care professional treats a patient for an injury the professional determines, in the exercise of professional judgment, occurred as a result of a service regulated under this section, the professional shall report the circumstances to the ~~state~~department of health and human services. A licensed health care professional is immune from liability for making or not making a report under this subsection.
5. The fees established by the department must be based on the cost of conducting routine and complaint inspections and enforcement actions and preparing and sending license renewals. Fees collected under this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly. The department shall waive all or a portion of the fee for any facility that is subject to local jurisdiction.

²²⁶ **SECTION 130. AMENDMENT.** Section 23-01-37 of the North Dakota Century Code is amended and reenacted as follows:

²²⁶ Section 23-01-37 was also amended by section 1 of Senate Bill No. 2241, chapter 194.

23-01-37. Survey program - Health facilities construction or renovation projects - Innovation waivers.

1. The state department of health and human services shall conduct a life safety survey process for all health facilities licensed by the division of health facilities of the state department of health and human services during and at the conclusion of a construction, renovation, or construction and renovation project.
2. The department may charge a reasonable fee for the review of plans for construction, renovation, or construction and renovation projects performed under this section based on the size of the project. Revenues derived from the fees collected under this subsection must be deposited in the department's operating fund in the state treasury.
3. The state department of health and human services shall make a determination on a construction, renovation, or construction and renovation project of no more than one million dollars within sixty days of receipt of a complete application.
4. The state department of health and human services may approve a request for a waiver of a state law or rule relating to an innovative construction, renovation, or construction and renovation project if the lack of compliance does not adversely affect health or safety.
5. The department shall design and operate the program in a manner that will provide that the surveyor that performs a life safety survey under this section does not violate the federal requirements associated with Medicare-certified life safety surveys.

SECTION 131. AMENDMENT. Subdivision a of subsection 1 of section 23-01-39 of the North Dakota Century Code is amended and reenacted as follows:

- a. "Department" means the state department of health and human services.

SECTION 132. AMENDMENT. Section 23-01-40 of the North Dakota Century Code is amended and reenacted as follows:

23-01-40. Diabetes goals and plans - Report to legislative management.

1. The department of health and human services, ~~state department of health~~, Indian affairs commission, and public employees retirement system shall collaborate to identify goals and benchmarks while also developing individual agency plans to reduce the incidence of diabetes in the state, improve diabetes care, and control complications associated with diabetes.
2. Before June first of each even-numbered year the department of health and human services, ~~state department of health~~, Indian affairs commission, and public employees retirement system shall submit a report to the legislative management on the following:
 - a. The financial impact and reach diabetes is having on the agency, the state, and localities. Items included in this assessment must include the number of lives with diabetes impacted or covered by the agency, the number of lives with diabetes and family members impacted by prevention and diabetes control programs implemented by the agency, the financial toll or

impact diabetes and diabetes complications places on the agency's programs, and the financial toll or impact diabetes and diabetes complications places on the agency's programs in comparison to other chronic diseases and conditions.

- b. An assessment of the benefits of implemented programs and activities aimed at controlling diabetes and preventing the disease. This assessment must document the amount and source for any funding directed to the agency from the legislative assembly for programs and activities aimed at reaching those with diabetes.
- c. A description of the level of coordination existing between the agencies on activities, programmatic activities, and messaging on managing, treating, or preventing diabetes and diabetes complications.
- d. The development or revision of detailed action plans for battling diabetes with a range of actionable items for consideration by the legislative assembly. The plans must identify proposed action steps to reduce the impact of diabetes, prediabetes, and related diabetes complications. The plan must identify expected outcomes of the action steps proposed in the following biennium while also establishing benchmarks for controlling and preventing relevant forms of diabetes.
- e. The development of a detailed budget blueprint identifying needs, costs, and resources required to implement the plan identified in subdivision d. This blueprint must include a budget range for all options presented in the plan identified in subdivision d for consideration by the legislative assembly.

SECTION 133. AMENDMENT. Section 23-01-41 of the North Dakota Century Code is amended and reenacted as follows:

23-01-41. Autism spectrum disorder database - Rulemaking - Confidentiality.

1. The state department of health and human services shall establish and administer an autism spectrum disorder database. The database must include a record of all reported cases of autism spectrum disorder in the state and any other information determined relevant and appropriate by the department in order to complete epidemiologic surveys of the autism spectrum disorder, enable research and analysis of the autism spectrum disorder, and provide services to individuals with an autism spectrum disorder.
2. The state department of health and human services shall establish criteria regarding who is qualified to report a case of autism spectrum disorder to the database. In establishing this criteria, the department shall require that the reporter be a physician or psychologist or any other licensed or certified health care professional who is qualified by training and by licensure or certification to make the diagnosis of autism spectrum disorder.
3. The database established under this section must:
 - a. Include the reported individual's diagnoses under the most recent edition of the American psychiatric association's diagnostic and statistical manual of mental disorders; and

- b. Indicate whether a complete physical evaluation was performed by a licensed independent practitioner as part of the diagnostic process for autism spectrum disorder.
4. The ~~health council~~department of health and human services shall adopt rules to provide for mandatory reporting to the autism spectrum disorder database and to establish reporting requirements, including timeliness requirements. A reporter who makes the diagnosis an individual is affected with autism spectrum disorder, or the reporter's designee, shall report this diagnosis in the form or manner prescribed by the ~~state~~ department of health and human services.
5. The ~~state~~ department of health and human services shall keep confidential all records of the database which could be used to identify a reported individual; however, the department may provide these records to other state agencies as necessary to effect the purposes of this database without regard to the confidential nature of the records. If the department provides confidential records of the database to a state agency, the department shall notify the receiving agency of the confidential nature of the records and the receiving agency shall treat these records as confidential.

SECTION 134. AMENDMENT. Paragraph 1 of subdivision b of subsection 1 of section 23-01-42 of the North Dakota Century Code is amended and reenacted as follows:

- (1) That is approved by the United States food and drug administration for the treatment of a drug overdose and is recognized by the ~~state~~ department of health and human services for the treatment of a drug overdose; and

²²⁷ **SECTION 135. AMENDMENT.** Section 23-01-44 of the North Dakota Century Code is amended and reenacted as follows:

23-01-44. Syringe or needle exchange program - Authorization.

1. As used in this section:
 - a. "Program" means a syringe exchange program established and operated under this section.
 - b. "Qualified entity" means:
 - (1) A local health department;
 - (2) A city that operates a program within the boundaries of the city; or
 - (3) An organization that has been authorized to operate a program by the ~~state~~ department of health and human services, the board of county commissioners, or the governing body for the operation of a program within the boundaries of the city.
2. The ~~state~~ department of health, ~~in collaboration with the department of and human services behavioral health division,~~ shall design and administer a

²²⁷ Section 23-01-44 was also amended by section 1 of House Bill No. 1163, chapter 195.

syringe exchange program. ~~The state department of health shall administer the program.~~

3. The state department of health and human services may authorize a qualified entity to operate a program in a county if:
 - a. The area to be served is at risk of an increase or potential increase in prevalence of viral hepatitis or human immunodeficiency virus;
 - b. A syringe exchange program is medically appropriate as part of a comprehensive public health response; and
 - c. The qualified entity conducted a public hearing and submitted a report of the findings and an administration plan for the program to the state health officer.
4. A qualified entity operating a program under this chapter shall:
 - a. Register the program annually in the manner prescribed by the ~~state~~ department of health and human services;
 - b. Have a pharmacist, physician, or advanced practice registered nurse who is licensed in the state to provide oversight for the program;
 - c. Store and dispose of all syringes and needles collected in a safe and legal manner;
 - d. Provide education and training on drug overdose response and treatment, including the administration of an overdose reversal medication;
 - e. Provide education, referral, and linkage to human immunodeficiency virus, viral hepatitis, and sexually transmitted disease prevention, treatment, and care services;
 - f. Provide addiction treatment information and referrals to drug treatment programs, including programs in the local area and programs that offer medication-assisted treatment that includes a federal food and drug administration approved long-acting, non-addictive medication for the treatment of opioid or alcohol use disorder;
 - g. Provide syringe, needle, and injection supply distribution and collection without collecting or recording personally identifiable information;
 - h. Operate in a manner consistent with public health and safety; and
 - i. Ensure the program is medically appropriate and part of a comprehensive public health response.
5. The state department of health and human services may terminate a program for failure to comply with any of the provisions in this section.
6. A state agency may not provide general fund moneys to a program to purchase or otherwise acquire hypodermic syringes, needles, or injection supplies for a program under this section.

7. A law enforcement officer may not stop, search, or seize an individual based on the individual's participation in a program under this section. Syringes and needles appropriately collected under this section are not considered drug paraphernalia as provided in chapter 19-03.4 or possession of a controlled substance under section 19-03.1-23.
8. Each program shall file a semiannual report with the state department of health and human services containing the following information listed on a daily basis and by location, identified by the postal zip code, where the program distributed and collected syringes and needles:
 - a. The number of individuals served;
 - b. The number of syringes and needles collected;
 - c. The number of syringes and needles distributed; and
 - d. Any additional information requested by the state department of health and human services.

SECTION 136. AMENDMENT. Section 23-01.2-01 of the North Dakota Century Code is amended and reenacted as follows:

23-01.2-01. Trauma system established - Duties of health council.

The health council, in conjunction with the state department of health and human services, may establish and maintain a comprehensive trauma system for the state. The trauma system may include standards for the following components:

1. A system plan.
2. Prehospital emergency medical services.
3. Hospitals, for which the standards must include:
 - a. Standards for designation, redesignation, and dedesignation of trauma centers.
 - b. Standards for evaluation and quality improvement programs for designated trauma centers. The standards must require each trauma center to collect quality improvement data and to provide specified portions to the department for use in state and regional trauma quality improvement programs.
 - c. Qualifications for trauma center personnel.
4. A trauma registry. Data in the trauma registry is not subject to subpoena or discovery or introduction into evidence in any civil action. Designated trauma centers must participate in the trauma registry. A hospital not designated as a trauma center must provide to the registry a minimum set of data elements for all trauma patients as determined by the health council.
5. A trauma quality improvement program to monitor the performance of the trauma system. The proceedings and records of the program are not subject to subpoena or discovery or introduction into evidence in any civil action arising out of any matter that is the subject of consideration by the program.

SECTION 137. AMENDMENT. Subsection 2 of section 23-01.2-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The ~~state department of health council and human services~~ shall adopt rules that allow provisional trauma designation status for a hospital that is partially compliant with trauma designation standards. When issuing a provisional trauma designation, the state health council shall allow a reasonable amount of time, determined by the department, for a hospital to fully meet all trauma designation standards.

SECTION 138. AMENDMENT. Section 23-01.2-04 of the North Dakota Century Code is amended and reenacted as follows:

23-01.2-04. Medical director.

The ~~state health officer~~ executive director of the department of health and human services or designee shall appoint an emergency medical services and trauma medical director to provide medical oversight and consultation in the development and administration of the state emergency medical services and trauma systems. The medical director must be a physician licensed in the state and must be contracted and paid by the state department of health and human services.

SECTION 139. AMENDMENT. Subsection 8 of section 23-01.3-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Public health authority" means the state department of health and human services' health division, department of environmental quality, a local public health unit, and any authority or instrumentality of the United States, a tribal government, a state, or a political subdivision of a state, a foreign nation, or a political subdivision of a foreign nation, which is:
 - a. Primarily responsible for public health matters; and
 - b. Primarily engaged in activities such as injury reporting, public health surveillance, and public health investigation or intervention.

SECTION 140. AMENDMENT. Section 23-01.3-08 of the North Dakota Century Code is amended and reenacted as follows:

23-01.3-08. Status of information in possession of a local public health authority.

Any protected health information that is created or received by a local public health authority, and that is submitted or is required to be submitted to the ~~state department of health~~ and human services' health division, is confidential and subject to the protection of, and may be disclosed only as authorized by, this chapter.

SECTION 141. AMENDMENT. Section 23-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-01. Definitions.

As used in this chapter:

1. "Authorized representative" means a person that has the legal authority to act on behalf of the person named on a record, including a personal representative or guardian.

2. "Certified" means a copy of the original record on file with the state department of health and human services which is signed and sealed by the state registrar or deputy state registrar.
3. "Dead body" means a lifeless human body or parts of such body or bones thereof from the state of which it may reasonably be concluded that death recently occurred.
4. "Electronic birth registration system" means the electronic birth registration system maintained by the state department of health and human services.
5. "Electronic death registration system" means the electronic death registration system maintained by the state department of health and human services.
6. "Facts of death" means the demographic and personal information pertaining to an individual's death.
7. "Fetal death" or "birth resulting in stillbirth" means death occurring before the complete expulsion or extraction from its mother of a product of human conception. The death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.
8. "Filing" means the presentation of a record, report, or other information provided for in this chapter of a birth, death, fetal death, adoption, marriage, divorce, or other event as specified by the state health officer for registration by the state registrar.
9. "Final disposition" means the entombment, burial, interment, cremation, whole-body donation to a school of medicine, removal from the state, or other disposition of a dead body or fetus.
10. "Health statistics" means data derived from records of birth, death, fetal death, marriage, divorce, or other records relating to the health of the populace or the state of the environment.
11. "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment, or nursing, custodial, or domiciliary care to two or more individuals unrelated by blood, or to which individuals are committed by law.
12. "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.
13. "Medical certification" means the medical information pertaining to an individual's death, including the cause and manner of death.
14. "Miscarriage of birth" means the expulsion of a fetus from the womb, spontaneously or as a result of an accident, before twenty weeks gestation.

15. "Personal or real property interests" means ownership or other legal rights or duties concerning personal or real property.
16. "Physician" means an individual authorized or licensed to practice medicine or osteopathy under chapter 43-17.
17. "Registration" means the acceptance by the state registrar and incorporation into official records, reports, or other records provided for in this chapter, of birth, death, fetal death, marriage, divorce, or other records as may be determined by the state health officer.
18. "Relative" means an individual's current or surviving spouse, a parent or legal guardian, a child, a grandparent, or a grandchild. The state registrar may require proof of the relationship.
19. "Subregistrar" means a funeral practitioner or other suitable individual from a licensed funeral home who is appointed by the state registrar for the purpose of issuing final disposition-transit permits.
20. "System of health statistics tabulation and analysis" includes the tabulation, analysis, and presentation or publication of statistical data derived from health statistics.
21. "System of vital records registration" includes the registration, collection, preservation, amendment, and certification of birth, death, fetal death, marriage, divorce, or other records as may be determined necessary by the state health officer or the state health officer's designee.

SECTION 142. AMENDMENT. Section 23-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-02. Office of statistical services.

There is hereby established in the state department of health and human services an office of statistical services which shall install, maintain, and operate a system of health statistics tabulation and analysis and a system of vital records registration throughout the state. ~~The state health officer~~executive director of the department of health and human services or designee may create within the office of statistical services such working divisions as may be necessary to comply with the provisions of this chapter and shall appoint the directors of such divisions in accordance with the merit system laws and regulations of the state of North Dakota.

SECTION 143. AMENDMENT. Section 23-02.1-03 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-03. Director of the office of statistical services and associative duties, state and deputy state registrars.

~~The state health officer~~executive director of the department of health and human services or designee shall appoint a director of the office of statistical services, in accordance with the merit system laws and regulations of the state of North Dakota, who must be the ex officio state registrar of vital statistics. The deputy state registrar of vital statistics must also be appointed by the ~~state health officer~~executive director of the department of health and human services or designee. The director of the office of statistical services shall administer and enforce this chapter and the rules and regulations issued hereunder, and issue instructions for the efficient

administration of a statewide system of health statistics tabulation and analysis and a statewide system of vital records registration. The director of the office of statistical services may delegate such functions and duties vested in the director to the officers and employees of the office of statistical services as the director deems necessary and expedient.

SECTION 144. AMENDMENT. Section 23-02.1-04 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-04. Duties of the state department of health.

The ~~state department of health is authorized to~~department of health and human services may adopt, amend, and repeal rules and regulations for the purposes of carrying out the provisions of this chapter, in accordance with chapter 28-32.

SECTION 145. AMENDMENT. Subdivision c of subsection 1 of section 23-02.1-05 of the North Dakota Century Code is amended and reenacted as follows:

- c. Prescribe, with the approval of the ~~state department of health and human services~~department of health and human services, and distribute such forms as required by this chapter and the rules and regulations issued hereunder.

SECTION 146. AMENDMENT. Section 23-02.1-11 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-11. Form of records.

The form of the records, reports, and other information required by this chapter is subject to the approval of and modification by the ~~state department of health and human services~~department of health and human services. In order to maintain uniformity in the system of vital records registration and the system of health statistics tabulation and analysis, substantial efforts should be made to ensure that information collected parallels that collected by other primary registration areas.

SECTION 147. AMENDMENT. Section 23-02.1-13 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-13. Birth registration.

1. A birth record for each live birth that occurs in this state must be filed with the state registrar.
2. When a birth occurs in an institution, the person in charge of the institution or a designated representative must use the ~~state department of health's health and human services'~~department of health and human services' electronic birth registration system to report the birth, including all personal and medical facts, to the state registrar within five days after the birth.
3. When a birth occurs outside an institution, the required forms prescribed by the ~~state department of health and human services~~department of health and human services must be prepared and filed with the state registrar, within thirty days of the birth by one of the following in the indicated order of priority:
 - a. The physician in attendance at or immediately after the birth, or in the absence of such an individual;

- b. Any other individual in attendance at or immediately after the birth, or in the absence of such an individual; or
 - c. The father, the mother, or in the absence of the father and the inability of the mother, the individual in charge of the premises where the birth occurred.
4. If a man and the mother are or have been married or have attempted to marry each other in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born during the marriage or attempted marriage, or within three hundred days after the termination of cohabitation or after the marriage or attempted marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the man must be entered on the record as the father of the child unless the presumption of paternity has been rebutted by a court decree.
5. If the child is not born during the marriage of the mother, or within three hundred days after a marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the father may not be entered on the birth record unless:
- a. After the child's birth, the father and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
 - (1) He has acknowledged his paternity of the child in writing filed with the state registrar; or
 - (2) He is obligated to support the child under a written voluntary promise or by court order;
 - b. After the child's birth, the child's natural mother and the father voluntarily acknowledge the child's paternity on a form prescribed by the state department of health and human services, signed by the child's natural mother and biological father, and filed with the state registrar; or
 - c. A court or other entity of competent jurisdiction has adjudicated paternity.
6. If, in accordance with subsections 4 and 5, the name of the father of the child is not entered on the birth record, the child's surname must be shown on the birth record as the current legal surname of the mother at the time of birth unless an affidavit or an acknowledgment of paternity signed by both parents is filed with the state department of health and human services.

SECTION 148. AMENDMENT. Section 23-02.1-15 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-15. Delayed registration of birth.

1. When the birth of an individual born in this state has not been registered, a record may be filed in accordance with the regulations of the state department of health and human services. Such record must be registered subject to such evidentiary requirements as the state department of health and human services shall prescribe to substantiate the alleged facts of birth.

2. Records of birth registered one year or more after the date of occurrence must be marked "delayed" and show on the face of the record the date of delayed registration.
3. A summary statement of the evidence submitted in support of the delayed registration must be endorsed on the record.
4.
 - a. When an applicant does not submit the minimum documentation required in the regulations for delayed registration or when the state registrar finds reason to question the validity or adequacy of the record or documentary evidence, the state registrar may not register the delayed record and shall advise the applicant of the reasons for this action. In the event that the deficiencies are not corrected, the state registrar shall advise the applicant of the right of appeal to a court of competent jurisdiction for a judicial determination of the birth facts.
 - b. The state department of health and human services may by regulation provide for the dismissal of an application that is more than one year old and is not being actively pursued.
5. A report of live birth may not be registered for a deceased individual one year or more after that individual's date of birth.

SECTION 149. AMENDMENT. Section 23-02.1-16 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-16. Delayed registration of death.

When a death occurring in this state has not been registered within the time period specified in section 23-02.1-19, a record may be filed in accordance with regulations of the state department of health and human services.

1. Such records must be registered subject to such evidentiary requirements as the state department of health and human services may by regulation prescribe to substantiate the alleged facts of death.
2. Records of death registered one year or more after the date of occurrence must be marked "delayed" and must show on their face the date of delayed registration.

SECTION 150. AMENDMENT. Subsection 2 of section 23-02.1-17 of the North Dakota Century Code is amended and reenacted as follows:

2. Information in the possession of the petitioner necessary to prepare the adoption report must be furnished with the petition for adoption by each petitioner for adoption or petitioner's attorney. The department of health and human services or other persons concerned shall supply the court with such additional information as may be necessary to complete the report. The provision of such information is a prerequisite to the issuance of a final decree.

SECTION 151. AMENDMENT. Subsection 4 of section 23-02.1-18 of the North Dakota Century Code is amended and reenacted as follows:

4. If no birth record is on file for the person for whom a new birth record is to be established under this section, an original birth record must be filed with the

state registrar in accordance with the appropriate rules and regulations promulgated by the state department of health and human services. The new record is also to be prepared on the standard forms in use at the time of the adoption, legitimation, or paternity determination.

SECTION 152. AMENDMENT. Section 23-02.1-19 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-19. Death registration.

1. A death record for each death that occurs in this state must be filed with the state registrar in accordance with the rules and regulations set forth by the state department of health and human services using the electronic death registration system. All registration and issuing of copies of death records will be completed by the state department of health and human services.
2. The funeral director shall obtain the facts of death from the next of kin or the best qualified individual or source available and must file the facts of death information using the electronic death registration system within three days after assuming custody of the dead body. The funeral director shall obtain the medical certification of death from the individual responsible for the medical certification.
3. The medical certification must be completed and filed using the electronic death registration system within ten days after death by the physician, physician assistant, or nurse practitioner in charge of the patient's care for the illness or condition which resulted in death except when inquiry is required by the local health officer or coroner.
4. When death occurred without medical attendance or when inquiry is required by the local health officer or coroner, the county coroner shall investigate the cause of death, and shall obtain medical information about the individual from the individual's medical records or last-known physician or physician assistant, and shall complete and file the medical certification within ten days after taking charge of the case using the electronic death registration system.
5. If the cause of death cannot be determined within ten days after death, the medical certification may be filed after the prescribed period, in accordance with rules adopted by the state department of health and human services. The attending physician, physician assistant, nurse practitioner, or coroner shall give the funeral director in custody of the body notice of the reason for the delay and final disposition may not be made until authorized by the attending physician, physician assistant, nurse practitioner, or coroner.
6. When a death is presumed to have occurred within this state but the body cannot be located, a death record may be prepared by the state registrar upon receipt of findings of a court of competent jurisdiction, including the facts of death and medical certification required to complete the death record. The death record must be marked "presumptive" and must show on the face of the death record the date of registration and must identify the court and the date of the decree.
7. Each death registration must include the social security number of the decedent, if the information is available. A social security number included on a death record is confidential and may be disclosed only to a relative or authorized representative of the individual named on the record, to a person

with personal or real property interests that depend upon information contained in the death record, or by an order of a court of competent jurisdiction.

SECTION 153. AMENDMENT. Section 23-02.1-20 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-20. Fetal death registration.

1. A fetal death record for each fetal death that occurs in this state after a gestation period of twenty completed weeks or more must be filed with the state registrar.
2. When a fetal death occurs in an institution, the person in charge of the institution or a designated representative shall use the state department of health's health and human services electronic fetal death registration system to report the fetal death, including all personal and medical facts, to the state registrar within ten days after the delivery. If a fetal death occurs outside of an institution, a funeral director or other individual in attendance at or after delivery shall file the fetal death record.
3. When inquiry is required by the local health officer or coroner or in the absence of medical attendance, the county coroner shall investigate the cause of fetal death, and shall obtain medical information about the individual from that individual's medical records or last-known physician or physician assistant and file the medical certification within ten days after taking charge of the case using the electronic death registration system.
4. If the cause of fetal death cannot be determined within ten days after death, the medical certification may be filed after the prescribed period of time in accordance with rules adopted by the state department of health and human services. The attending physician, physician assistant, nurse practitioner, or coroner shall give the funeral director in custody of the fetus the notice of the reason for the delay and final disposition may not be made until authorized by the attending physician, physician assistant, nurse practitioner, or coroner.
5. The provision for entering the name of the father of the fetus on the fetal death record and the reporting of out-of-wedlock fetal deaths concur exactly with those set forth in section 23-02.1-13.

SECTION 154. AMENDMENT. Section 23-02.1-20.1 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-20.1. Fetal loss.

The state registrar may issue a certified copy of a fetal loss to an individual who experiences a documented miscarriage of birth, if the individual provides to the state registrar a completed fetal loss request form established by the state department of health and human services which is signed by the mother or the father and a letter signed by a hospital, physician, or other medical attendant documenting proof of pregnancy and fetal loss.

SECTION 155. AMENDMENT. Section 23-02.1-22 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-22. Extension of time.

1. The state department of health and human services may, by regulation and upon such conditions as it may prescribe to assure compliance with the purposes of this chapter, provide for the extension of the periods of time prescribed in sections 23-02.1-19, 23-02.1-20, and 23-02.1-21 for the filing of death records, fetal death records, medical certification of death, and for the obtaining of final disposition-transit permits in cases in which compliance with the applicable prescribed period would result in undue hardship.
2. Regulations of the state department of health and human services may provide for the issuance of a final disposition-transit permit under section 23-02.1-21 before the filing of a record of death or fetal death upon conditions designed to assure compliance with the purposes of this chapter in cases in which compliance with the requirement that the records be filed before the issuance of the permit would result in undue hardship.

SECTION 156. AMENDMENT. Section 23-02.1-25 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-25. Correction and amendment of vital records.

1. A record registered under this chapter may be amended only in accordance with this chapter and regulations under this chapter adopted by the state department of health and human services to protect the integrity and accuracy of vital records.
2. A record that is amended under this section must be marked "amended" except as provided in subsection 4. The date of amendment and a summary description of the evidence submitted in support of the amendment must be endorsed on or made a part of the record. The state department of health and human services shall prescribe by regulation the conditions under which additions or minor corrections may be made to birth records within one year after the date of birth without the record being considered as amended.
3. Upon receipt of a certified copy of a court order that is amending a birth, death, or fetal death record and upon request of such individual or the individual's parent, guardian, or legal representative, the state registrar shall amend the record as directed in the court order; however, if the state registrar has information to believe the facts of the court order are false or inaccurate, the state registrar shall provide the court and any known parties with the correct information.
4. Upon receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents and upon request, the state registrar shall amend a record of birth to show such paternity if paternity is not shown on the record. Upon request of the parents, the surname of the child must be changed on the appropriate record to the surname designated by the parents on the acknowledgment of paternity. Such record may not be marked as "amended". The provisions of this subsection apply also in their entirety to records of fetal death.

²²⁸ **SECTION 157. AMENDMENT.** Subsection 6 of section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

- ²²⁸ Section 23-02.1-27 was also amended by section 158 of House Bill No. 1247, chapter 352, section 4 of Senate Bill No. 2035, chapter 56, and section 1 of Senate Bill No. 2123, chapter 196.

6. The state department of health and human services may grant limited access to birth and death information to divisions and programs of the ~~state department of health and human services~~, the department of transportation, the protection and advocacy project, and the department of information technology, ~~and to the department of human services~~ necessary for the purpose of completing their respective official duties.

²²⁹ **SECTION 158. AMENDMENT.** Subsection 7 of section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

7. The state department of health and human services may issue, through electronic means determined by the state department of health and human services, verifications of information contained on birth or death records filed with the state registrar when such information is provided and a verification is requested by a governmental agency, whether foreign or domestic, in the conduct of the agency's official duties. The state department of health and human services may also issue these electronic verifications for a negotiated and agreed-upon fee to:
 - a. Benefit-paying parties, such as annuity companies, pension plans, and life insurance companies, that demonstrate a need for such information to determine whether the benefits the benefit-paying party are paying should be terminated or distributed to a beneficiary;
 - b. Physicians licensed to practice in the United States who demonstrate such information is needed to determine whether a patient the physician is treating has been lost to care;
 - c. Attorneys licensed to practice in the United States who demonstrate that the information is necessary to administer the attorneys' client's estate; or
 - d. Other entities for fraud prevention as determined by the state registrar.

SECTION 159. AMENDMENT. Subsection 3 of section 23-02.1-28 of the North Dakota Century Code is amended and reenacted as follows:

3. Data or copies may be furnished for statistical purposes to federal, state, local, or other public or private agencies, including the federal agency responsible for national vital statistics, upon such terms and conditions as may be prescribed by the state department of health and human services through rules and regulations adopted pursuant to this chapter.

SECTION 160. AMENDMENT. Section 23-02.1-29 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-29. Fees.

1. The state department of health and human services shall prescribe the fees, if any, not to exceed fifteen dollars, to be paid for the following:
 - a. Each certified copy of a record.

²²⁹ Section 23-02.1-27 was also amended by section 157 of House Bill No. 1247, chapter 352, section 4 of Senate Bill No. 2035, chapter 56, and section 1 of Senate Bill No. 2123, chapter 196.

- b. Each certified statement of the facts of birth other than a copy of the original birth record.
- c. Each filing of a new record of birth or fetal death following adoption.
- d. Each filing of a delayed record of birth or death except as provided for in subsection 4 of section 23-02.1-18.
- e. Each filing of an amendment to a birth or death record.
- f. A search of the files or records when no copy is made.
- g. A noncertified informational copy of a death or marriage record.

The fee for each additional copy of a death or fetal death record, requested at the same time, may not exceed ten dollars.

- 2. Except as otherwise provided in subsection 3, fees collected under this section by the state registrar must be deposited in the operating fund of the state department of health and human services, according to procedures established by the state treasurer.
- 3. The state department of health and human services shall quarterly pay fees in the amount of two dollars for the issuance of each certified copy of a birth record, authorized by subsection 1, into the children's trust fund created by section 50-27-01.
- 4. All fees collected in excess of the fees appropriated must be transferred to the general fund of this state at the end of each biennium.

SECTION 161. AMENDMENT. Subsection 3 of section 23-02.1-30 of the North Dakota Century Code is amended and reenacted as follows:

- 3. A funeral director, embalmer, or other person who removed from the place of death or transports or finally disposes of a dead body or fetus, in addition to filing any record or other form required by this chapter, shall keep a record which must identify the body, and the information pertaining to receipt, removal, and delivery of the body as may be prescribed in regulations adopted by the state department of health and human services.

SECTION 162. AMENDMENT. Subsection 6 of section 23-06-03 of the North Dakota Century Code is amended and reenacted as follows:

- 6. a. If the deceased did not leave sufficient means to pay for expenses of final disposition, including the cost of a casket, and is not survived by an individual described by subsection 1 and identified for financial responsibility within the human service zone's general assistance policy, within fifteen days of application for services the human service zone of the county in which the deceased had residence for general assistance purposes or, if residence cannot be established, within fifteen days of application for assistance the human service zone of the county in which the death occurs shall employ a person to arrange for and supervise the final disposition. If the deceased was a resident or inmate of a public institution, within fifteen days of application for assistance the human service zone in which the deceased was a resident for general assistance

purposes immediately before entering the institution shall employ a person to arrange for and supervise the final disposition.

- b. The department of health and human services may negotiate with the interested funeral directors or funeral homes regarding cremation expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand five hundred dollars.
- c. The department of health and human services may provide for the use of a military casket or urn, if the deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the negotiated expenses of this section or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary casket.
- d. The human service zone shall pay the charge for funeral expenses as negotiated by the department of health and human services. The human service zone may not decrease the human service zone payment due to a nominal amount left by the deceased or contributed by kin or any other party to defray the expenses of burial or cremation. Funds adequate to allow for burial instead of cremation are considered nominal under this section.

SECTION 163. AMENDMENT. Subsection 1 of section 23-06-04 of the North Dakota Century Code is amended and reenacted as follows:

1. The dead body of a human being must be disposed of by the person charged with that duty within eight days after the death of such person except when any of the following occur:
 - a. The right to dissect the body is expressly conferred by law.
 - b. The body is being carried through this state.
 - c. The body is being removed from this state for the purpose of final disposition in some other state.
 - d. A permit is obtained from the local health officer or the state department of health and human services allowing a longer time during which the body need not be disposed. The permit shall state the additional length of time during which the body need not be disposed.
 - e. The body is being stored for an extended period of time in a vault determined suitable by the state department of health and human services, but the body may not be stored in a vault for a period of more than eight days during the months of June through October unless a permit is obtained from the local health officer or the state department of health and human services.

SECTION 164. AMENDMENT. Section 23-06-07 of the North Dakota Century Code is amended and reenacted as follows:

23-06-07. Regulation of final disposition - Issuance of final disposition-transit permit regulated.

The body of any individual whose death occurs in this state may not be interred, deposited in a vault or tomb, cremated, donated to a school of medicine, or otherwise disposed as authorized by law, until a final disposition-transit permit has been properly issued by a subregistrar. If the certificate is incorrect or incomplete, the subregistrar may not issue the permit until it is corrected or completed. In the case of any death outside of this state, a final disposition-transit permit issued in accordance with the law and the health regulations in force in the state where the death occurred, when accompanying a body shipped through or into this state, may be accepted with the same effect as a permit from a subregistrar. If the death occurred from some disease that is held to be communicable by the state department of health and human services, the subregistrar shall refuse to issue a permit for the removal or other disposition of the body except under the conditions prescribed by the ~~state~~ department of health and human services and the local board of health.

SECTION 165. AMENDMENT. Section 23-06-20 of the North Dakota Century Code is amended and reenacted as follows:

23-06-20. Where body may be buried.

No dead human body may be buried in this state except in a properly registered cemetery or in some other place requested by the relatives and friends of the deceased if the same is authorized by the state department of health and human services and all rules and regulations promulgated by the department in that connection have been complied with.

SECTION 166. AMENDMENT. Section 23-06-21 of the North Dakota Century Code is amended and reenacted as follows:

23-06-21. Regulation of cemeteries.

All persons, corporations, municipalities, associations, and organizations owning, conducting, or maintaining a cemetery or plot for the burial of dead human bodies shall:

1. Provide for a sexton or secretary.
2. Cause the lot or parcel of ground used and designated as a cemetery to be platted into orderly blocks and lots, alleys and streets or driveways, giving to each a distinctive name or number that must be a permanent designation of its location.
3. File the original plat with the recorder of the county in which the cemetery or place of burial is located and the copy or blueprint thereof with the sexton or secretary.
4. Register with the state department of health and human services the name and location of the cemetery or place of burial, the name and address of the sexton, and the name and address of other officers of the cemetery association, corporation, or organization.
5. Furnish such information and reports as the state department of health and human services may require including the submission of plans and specifications for review and approval before constructing, erecting, or placing on the burial site for the burial or disposition of any human remains any interment structure or device constructed or placed wholly or partially above the natural surface of the ground.

6. Keep a local register of all burials showing as to each burial the name of the deceased, the date and location of burial, the date of death, and the name and address of the undertaker.

SECTION 167. AMENDMENT. Section 23-06-22 of the North Dakota Century Code is amended and reenacted as follows:

23-06-22. Sexton - Term of office, records, duties.

The sexton or secretary appointed by the person, corporation, municipality, association, or organization conducting a cemetery for the burial of dead human bodies shall hold office until a successor is appointed and qualified. The sexton or secretary shall transfer all records to the successor. The sexton or secretary shall enforce the laws of the state and the rules and regulations of the state department of health and human services with respect to the burial of dead human bodies within the cemetery under the sexton's or secretary's charge.

SECTION 168. AMENDMENT. Section 23-06-23 of the North Dakota Century Code is amended and reenacted as follows:

23-06-23. ~~State department of health~~Department to enforce regulation of cemeteries - Injunction.

The ~~state department of health~~ and human services shall make and enforce such rules and regulations as are necessary to carry out the laws relating to the regulation of cemeteries and may, through injunction or other legal process, enforce compliance.

SECTION 169. AMENDMENT. Subsection 7 of section 23-06-27 of the North Dakota Century Code is amended and reenacted as follows:

7. Subsection 3 does not apply to the inadvertent disturbance of a human burial site, human remains, or burial goods when the state department of health and human services and the state historical society have been notified of the disturbance and the human remains and burial goods must be studied and reinterred pursuant to rules adopted by the state department of health and human services and the state historical society. Subsection 3 also does not apply to situations in which the state department of health and human services and the state historical society are notified of the need to disinter and move the contents of human burial sites that are recorded with the state historical society to prevent the destruction of the human burial sites by actions including the construction of highways, dams, reservoirs, coal mines, power generation and transmission facilities, pipelines, farming practices, and other developments. Where feasible, the developments should avoid disturbance of the human burial sites. In these situations the disinterred human remains and burial goods must be studied and reinterred pursuant to rules adopted by the state department of health and human services and the state historical society.

SECTION 170. AMENDMENT. Section 23-06-30 of the North Dakota Century Code is amended and reenacted as follows:

23-06-30. Abandoned cemeteries to be maintained by counties.

The board of county commissioners of each county may provide for the identification, cataloguing, recording, and shall provide for the general maintenance and upkeep of each abandoned cemetery located within such county using revenues derived from its general fund levy authority. The board shall, at least once each year,

proceed to have the weeds and grass cut, restore gravestones to their original placement, and perform any other general maintenance necessary to maintain the dignity and appearance of the grounds. For the purposes of this section, a cemetery means any tract of land used as a burial plot and which is filed with the recorder of the county as a public burying place. The board of county commissioners of each county shall provide for the registration, with the state department of health and human services, of each abandoned cemetery within such county unless such cemetery has been previously registered. Such registration must take place within one year of notification being made to the board, by any interested party of the existence of such abandoned cemetery.

SECTION 171. AMENDMENT. Subsection 1 of section 23-06.6-19 of the North Dakota Century Code is amended and reenacted as follows:

1. The state department of health and human services may establish or contract for the establishment of a donor registry.

SECTION 172. AMENDMENT. Section 23-07-01 of the North Dakota Century Code is amended and reenacted as follows:

23-07-01. State department of health ~~Department~~ - Collection of public health information.

The state department of health and human services shall designate the diseases or conditions that must be reported. Such diseases or conditions may include contagious, infectious, sexually transmitted, or chronic diseases or any illness or injury which may have a significant impact on public health. The state department of health and human services shall maintain a uniform statewide population-based registry system for the collection of data pertaining to the incidence, prevalence, risk factors, management, survival, mortality, and geographic distribution of cancer and reportable benign tumors.

SECTION 173. AMENDMENT. Section 23-07-01.1 of the North Dakota Century Code is amended and reenacted as follows:

23-07-01.1. Reporting of physical or mental disorders.

The state department of health and human services shall define disorders characterized by lapses of consciousness, gross physical or mental impairments for the purposes of the reports hereinafter referred to:

1. A physician or other health care provider may report immediately to the department of transportation in writing, the name, date of birth, and address of every individual fourteen years of age or over coming before them for examination, attendance, care, or treatment if there is reasonable cause to believe that the individual due to physical or mental reason is incapable of safely operating a motor vehicle or diagnosed as a case of a disorder defined as characterized by lapses of consciousness, gross physical or mental impairments, and the report is necessary to prevent or lessen a serious and imminent threat to the health or safety of the individual or the public.
2. Such reports as required in this section are for the information of the director of the department of transportation in determining the eligibility of any person to operate a motor vehicle on the highways of this state and must be kept confidential and not divulged to any person or used as evidence in any trial, except that the reports may be admitted in proceedings under section 39-06-33.

3. The physician-patient privilege provided for by rules 501 and 503 of the North Dakota Rules of Evidence may not be asserted to exclude evidence regarding the mental or physical incapacity of a person to safely operate a motor vehicle in the reports as required under the provisions of this section.
4. Any physician or other medical professional who fails to make a report or who in good faith makes a report, gives an opinion or recommendation pursuant to this section, or participates in any proceeding founded upon this section is immune from any liability, civil or criminal, that might otherwise be incurred, as a result of such report, except for perjury.

SECTION 174. AMENDMENT. Section 23-07-02 of the North Dakota Century Code is amended and reenacted as follows:

23-07-02. Who to report reportable diseases.

Except as otherwise provided by section 23-07-02.1, the following persons or their designees shall report to the state department of health and human services any reportable disease coming to their knowledge:

1. All health care providers, including physicians, physician assistants, nurse practitioners, nurses, dentists, medical examiners or coroners, pharmacists, emergency medical service providers, and local health officers.
2. The director, principal manager, or chief executive officer of:
 - a. Health care institutions, including hospitals, medical centers, clinics, long-term care facilities, assisted living facilities, or other institutional facilities;
 - b. Medical or diagnostic laboratories;
 - c. Blood bank collection or storage centers;
 - d. Public and private elementary and secondary schools;
 - e. Public and private universities and colleges;
 - f. Health or correctional institutions operated or regulated by municipal, county or multicounty, state, or federal governments;
 - g. Funeral establishments and mortuaries; and
 - h. Child care facilities or camps.
3. The state veterinarian, if the disease may be transmitted directly or indirectly to or between humans and animals.
4. A person having knowledge that a person or persons are suspected of having a reportable disease may notify the department and provide all information known to the person reporting concerning the reportable disease or condition of the person or persons.

If the person reporting is the attending physician or the physician's designee, the physician or the physician's designee shall report not less than twice a week, in the form and manner directed by the state department of health and human services, the

condition of the person afflicted and the state of the disease. A person making a report in good faith is immune from liability for any damages which may be caused by that act.

SECTION 175. AMENDMENT. Section 23-07-02.1 of the North Dakota Century Code is amended and reenacted as follows:

23-07-02.1. Reports of human immunodeficiency virus infection - Penalty.

Every attending physician treating an individual known by the physician to have a diagnosis of human immunodeficiency virus infection, acquired immune deficiency syndrome, or human immunodeficiency virus-related illness, including death from human immunodeficiency virus infection, shall make a report on that individual to the state department of health and human services. A person treating an individual known to have human immunodeficiency virus infection in a hospital, a clinic, a sanitarium, the physical custody of the department of corrections and rehabilitation, a regional or local correctional facility or juvenile detention center, the North Dakota youth correctional center, or other private or public institution shall make a report on that individual to the facility administrator or the facility administrator's designee. Further disclosure of information on any individual known to have human immunodeficiency virus infection may only be provided to medical personnel providing direct care to the individual or as otherwise authorized by law. The designated official shall, if satisfied that the report is valid, make a report to the department on each individual having a diagnosis of human immunodeficiency virus infection, acquired immune deficiency syndrome, or human immunodeficiency virus-related illness, including death from human immunodeficiency virus infection, unless the diagnosed individual's attending physician has made such a report. The reports required under this section must contain the name, date of birth, sex, and address of the individual reported on and the name and address of the physician or designated official making the report. Failure by a facility to designate an official to whom reports must be made is an infraction. Any person who in good faith complies with this section is immune from civil and criminal liability for any action taken in compliance with this section.

SECTION 176. AMENDMENT. Section 23-07-02.2 of the North Dakota Century Code is amended and reenacted as follows:

23-07-02.2. Confidentiality of reports.

A report required by section 23-07-02.1 and held by the state department of health and human services is confidential information. The information may not be disclosed, shared with any agency or institution, or made public, upon subpoena, search warrant, discovery proceedings, or otherwise, except that:

1. Disclosure may be made of medical or epidemiological information for statistical purposes in a manner such that no individual person can be identified;
2. Disclosure may be made of medical or epidemiological information to the extent necessary to enforce section 23-07-02.1 and this section and related rules concerning the treatment, control, and investigation of human immunodeficiency virus infection by public health officials; or
3. Disclosure may be made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of any individual.

No officer or employee of the state department of health and human services may be examined in any judicial, executive, legislative, or other proceeding regarding the

existence or content of any individual's report retained by the department under section 23-07-02.1.

²³⁰ **SECTION 177. AMENDMENT.** Subsection 3 of section 23-07-02.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The temporary order may be issued and is effective without regard to chapter 28-32 for a period of ninety days, unless earlier revoked by the state health officer. Emergency rulemaking must be initiated under chapter 28-32 within ninety days of the order or the order expires. The temporary order and any emergency rulemaking under this section are effective without the necessity of approval from the ~~health council~~department of health and human services.

SECTION 178. AMENDMENT. Section 23-07-03 of the North Dakota Century Code is amended and reenacted as follows:

23-07-03. Report of cases of sexually transmitted disease.

The superintendent of a hospital, dispensary, or charitable or penal institution, in which there is a case of sexually transmitted disease, or the superintendent's designee, shall report such case to the nearest health officer having jurisdiction. The report must be made in the form and manner directed by the ~~state~~ department of health and human services.

SECTION 179. AMENDMENT. Section 23-07-05 of the North Dakota Century Code is amended and reenacted as follows:

23-07-05. Local health officers to report reportable disease to ~~state~~ department of health and human services.

At such time as may be required by the ~~state~~ department of health and human services, each local health officer shall submit to such department, on blanks furnished by the department for that purpose, a summarized report of the reportable diseases reported to the health officer during the week. When no cases have been reported during the week, the report must be made with the notation "No cases reported".

SECTION 180. AMENDMENT. Subsection 2 of section 23-07-07.5 of the North Dakota Century Code is amended and reenacted as follows:

2. The results of any positive or reactive test must be reported to the ~~state~~ department of health and human services in the manner prescribed by the department and to the individual tested. Subsection 1 does not require the testing of an individual before sentencing or the testing of an individual held in a jail or correctional facility awaiting transfer to the state penitentiary.

²³¹ **SECTION 181. AMENDMENT.** Section 23-07-07.6 of the North Dakota Century Code is amended and reenacted as follows:

23-07-07.6. Report of testing result of imprisoned individuals.

²³⁰ Section 23-07-02.3 was also amended by section 1 of House Bill No. 1219, chapter 197.

²³¹ Section 23-07-07.6 was also amended by section 5 of Senate Bill No. 2035, chapter 56.

Notwithstanding any other provision of law, the state department of health and human services or any other agency shall release the results of any testing for any reportable disease performed on an individual convicted of a crime who is imprisoned if the request is made by any individual and the individual provides written proof from the administrator of the facility with control over the individual imprisoned which states that the individual has had a significant exposure as defined in section 23-07.3-01.

232 SECTION 182. AMENDMENT. Section 23-07-15 of the North Dakota Century Code is amended and reenacted as follows:

23-07-15. Removal of person afflicted with contagious or infectious disease - Removal of person who died of such disease - Prohibited.

No person, unless the person has a permit from the local board of health or state department of health and human services, may remove or cause to be removed from without this state into this state, or from one building to another within this state, or from or to any railroad car or motor vehicle, any person afflicted with a contagious or infectious disease, or the body of any person who died of any such disease.

SECTION 183. AMENDMENT. Section 23-07-17.1 of the North Dakota Century Code is amended and reenacted as follows:

23-07-17.1. Inoculation required before admission to school.

1. A child may not be admitted to any public, private, or parochial school, or day care center, child care facility, head start program, or nursery school operating in this state or be supervised through home-based instruction unless the child's parent or guardian presents to the institution authorities a certification from a licensed physician or authorized representative of the state department of health and human services that the child has received age-appropriate immunization against diphtheria, pertussis, tetanus, measles, rubella (German measles), mumps, hepatitis B, haemophilus influenza type b (Hib), varicella (chickenpox), poliomyelitis, pneumococcal disease, meningococcal disease, rotavirus, and hepatitis A. In the case of a child receiving home-based instruction, the child's parent or legal guardian shall file the certification with the public school district in which the child resides.
2. A child may enter an institution upon submitting written proof from a licensed physician or authorized representative of the state department of health and human services stating that the child has started receiving the required immunization or has a written consent by the child's parent or guardian for a local health service or department to administer the needed immunization without charge or has complied with the requirements for certificate of exemption as provided for in subsection 3.
3. Any minor child, through the child's parent or guardian, may submit to the institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by the child's parent or guardian whose religious, philosophical, or moral beliefs are opposed to such immunization. The minor child is then exempt from the provisions of this section.

²³² Section 23-07-15 was also amended by section 2 of House Bill No. 1219, chapter 197.

4. The enforcement of subsections 1, 2, and 3 is the responsibility of the designated institution authority.
5. The immunizations required, and the procedure for their administration, as prescribed by the state department of health and human services, must conform to recognized standard medical practices in the state. The state department of health and human services shall administer the provisions of this section and shall promulgate rules and regulations in the manner prescribed by chapter 28-32 for the purpose of administering this section.
6. When, in the opinion of the health officer, danger of an epidemic exists from any of the communicable diseases for which immunization is required under this section, the exemptions from immunization against such disease may not be recognized and children not immunized must be excluded from an institution listed in subsection 1 until, in the opinion of the health officer, the danger of the epidemic is over. The designated institution authority shall notify those parents or guardians taking legal exception to the immunization requirements that their children are excluded from school during an epidemic as determined by the state department of health and human services.
7. When, in the opinion of the health officer, extenuating circumstances make it difficult or impossible to comply with immunization requirements, the health officer may authorize children who are not immunized to be admitted to an institution listed in subsection 1 until the health officer determines that the extenuating circumstances no longer exist. Extenuating circumstances include a shortage of vaccine and other temporary circumstances.

SECTION 184. AMENDMENT. Section 23-07-21 of the North Dakota Century Code is amended and reenacted as follows:

23-07-21. Penalties.

Except as otherwise provided in this section, a person is guilty of an infraction:

1. Who violates or fails to obey any provision of this chapter, any lawful rule made by the state department of health and human services, or any order issued by any state, district, county, or municipal health officer;
2. Who violates any quarantine law or regulation, or who leaves a quarantined area without being discharged; or
3. Who, knowing that the person is infected with a sexually transmitted disease, willfully exposes another person to infection.

Any person required to make a report under section 23-07-02.1 who releases or makes public confidential information or otherwise breaches the confidentiality requirements of section 23-07-02.2 is guilty of a class C felony.

SECTION 185. AMENDMENT. Subsection 2 of section 23-07.1-01.1 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the state department of health and human services, including local public health units.

SECTION 186. AMENDMENT. Section 23-07.1-04 of the North Dakota Century Code is amended and reenacted as follows:

23-07.1-04. State health officer - Designee - Responsibility.

The state health officer or designee is responsible for the inpatient and outpatient care of persons afflicted or suspected of being afflicted with tuberculosis. If the state health officer determines that suspected or actual tuberculous patients may be adequately cared for on an inpatient basis by contract with general hospitals or other appropriate facilities, authority for contracting with such facilities is granted to the ~~state health officer~~department of health and human services. In addition, the ~~state health officer~~department of health and human services is authorized to establish and maintain the necessary outpatient clinics for diagnostic workup and evaluation on all suspected or actual tuberculous patients in the state. The ~~state health officer~~department of health and human services shall pay the contract fee to general hospitals or other appropriate facilities and provide funds to the outpatient evaluation clinics from funds to be appropriated for this purpose by the legislative assembly. The state's claim on patient benefits as provided in section 23-07.1-03 applies insofar as applicable to tuberculous patients in general hospitals and for services rendered in outpatient clinics. The state health officer or a designee has the power to:

1. Do any act necessary and proper in the performance of the functions imposed upon the state health officer by the provisions of this chapter.
2. Issue orders and compel obedience thereto.
3. Administer oaths.

SECTION 187. AMENDMENT. Section 23-07.1-14 of the North Dakota Century Code is amended and reenacted as follows:

23-07.1-14. Care of tubercular patients - Acceptance of federal funds - General hospital.

The ~~state health officer, or a designee, is hereby authorized to~~department may contract with public or private agencies for the care of persons having tuberculosis. The ~~state health officer~~department is hereby authorized to accept any federal funds or to enter into any federal programs on behalf of persons having tuberculosis in North Dakota. The ~~state health officer~~department may also utilize general hospitals or other appropriate facilities in the placement of recalcitrant persons having tuberculosis.

SECTION 188. AMENDMENT. Section 23-07.2-02 of the North Dakota Century Code is amended and reenacted as follows:

23-07.2-02. Blood disorder assistance program.

The ~~state health officer~~department of health and human services shall establish a program of financial assistance to persons suffering from hemophilia and other related congenital bleeding disorders. The program shall assist those persons to purchase the blood derivatives and supplies necessary for home care.

SECTION 189. AMENDMENT. Section 23-07.2-03 of the North Dakota Century Code is amended and reenacted as follows:

23-07.2-03. Recovery from other sources.

The ~~state health officer~~department of health and human services may enter into agreements with third parties, including any insurer or private sources, for recovery of payments for blood products and supplies used in home care by persons participating in the program.

SECTION 190. AMENDMENT. Section 23-07.2-04 of the North Dakota Century Code is amended and reenacted as follows:

23-07.2-04. Rulemaking authority.

The ~~state health officer~~department of health and human services shall:

1. Establish a reasonable cost for blood products and supplies used in home care as a basis of reimbursement under this chapter.
2. Determine when reimbursement may not be made under this chapter for any blood products or supplies which are not purchased in compliance with regulations promulgated pursuant to this chapter. Reimbursement may not be made under this chapter for any portion of the costs of blood products or supplies which are payable under any other state or federal program or under any grant, contract, or any other contractual arrangement.
3. Define what constitutes "home care".
4. Define what constitutes "income", "net worth", and "patient eligibility" for assistance.
5. Provide guidelines to determine individual liability.
6. Adopt all rules necessary to implement subsections 1 through 5 pursuant to chapter 28-32.

SECTION 191. AMENDMENT. Subsection 4 of section 23-07.4-01 of the North Dakota Century Code is amended and reenacted as follows:

4. Upon issuance of any order under subsection 2 or 3, the state health officer or a designee of the state health officer shall promptly, personally, and confidentially notify the person who is the subject of the order, stating the grounds and provisions of the order and the right to contest the order, the right to be present at a judicial hearing in the district court serving the county in which the person resides to review the order, and the right to be represented by counsel during the hearing. If the person who is the subject of the order refuses to comply with the order and refuses to cooperate voluntarily with the state health officer or a designee of the state health officer, the state health officer or designee may petition the district court serving the county in which the person resides for an order of compliance. The state health officer or designee shall request the state's attorney in the county in which the person resides to file the petition in the district court. If an order of compliance is requested, the court shall hear the matter within ten days after the request. Notice of the place, date, and time of the court hearing must be made by personal service or, if the person is not available, must be mailed to the person who is the subject of the order by certified mail at the person's last-known address. Proof of mailing by the state health officer or designee is sufficient notice under this section. The burden of proof is on the state health officer or designee to show by clear and convincing evidence that the specified grounds exist for the issuance of the order and for the need for compliance and that the terms and conditions imposed in the order are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order. If the court dismisses the order, the fact that the order was issued must be expunged from the records of the ~~state~~ department of

health and human services. If the court affirms or modifies the order and the person subject to the order is infected with the human immunodeficiency virus, the court shall require the person to disclose the names and addresses, if known, of persons with whom the person has had contact that poses an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus. Failure to comply with court-ordered disclosure constitutes contempt of court.

SECTION 192. AMENDMENT. Subsection 3 of section 23-07.4-02 of the North Dakota Century Code is amended and reenacted as follows:

3. Any order issued by the district court under subsection 2 is subject to review in a court hearing. Prompt, personal, and confidential notice of the place, date, and time of the court hearing and of the person's right to be present at the hearing and the right to representation by counsel during the hearing must be given to the person who is the subject of the court order. The hearing must be conducted by the court within forty-eight hours after the order is issued. The burden of proof is on the state health officer or designee to show by clear and convincing evidence that grounds exist for the order issued by the court under subsection 2 and that the terms and conditions imposed in the order are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order. If the court dismisses the order, the fact that the order was issued must be expunged from the records of the state department of health and human services. If the court affirms or modifies the order and the person subject to the order is infected with the human immunodeficiency virus, the court shall require the person to disclose the names and addresses, if known, of persons with whom the person subject to the order has had contact that poses an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus. Failure to comply with court-ordered disclosure constitutes contempt of court.

SECTION 193. AMENDMENT. Section 23-07.6-04 of the North Dakota Century Code is amended and reenacted as follows:

23-07.6-04. Place of confinement.

A respondent must be confined in a place designated in the written directive until the health officer who issued the written directive determines that the respondent no longer poses a substantial threat to the public health or until a court of competent jurisdiction orders the release of the respondent. The state department of health and human services or the local board may establish and maintain places of confinement.

SECTION 194. AMENDMENT. Subsection 3 of section 23-07.7-02 of the North Dakota Century Code is amended and reenacted as follows:

3. The laboratory shall send a copy of the test results to the physicians designated in the court order, who shall then release the test results to the defendant or alleged juvenile offender and each requesting victim as designated in the court order. The court order must be served on the physicians before any test. The laboratory also shall send a copy of test results that indicate exposure to or infection by acquired immunodeficiency syndrome virus, acquired immunodeficiency syndrome-related conditions, or other sexually transmitted diseases to the state department of health and human services.

²³³ **SECTION 195. AMENDMENT.** Subsection 4 of section 23-09-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the state department of health and human services.

SECTION 196. AMENDMENT. Section 23-09-02 of the North Dakota Century Code is amended and reenacted as follows:

23-09-02. State department of health~~Department to enforce provisions of chapter.~~

The department shall enforce the provisions of this chapter. Under no circumstances may any other state agency adopt rules that relate in any way to the provisions of this chapter.

SECTION 197. AMENDMENT. Subsection 2 of section 23-09.1-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the state department of health and human services.

SECTION 198. AMENDMENT. Section 23-09.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-09.1-02. Bed and breakfast facilities - Powers of state department of health.

The department shall establish by rule the procedures for licensing, qualifying, classifying, inspecting, and regulating persons providing bed and breakfast facilities in private homes, including rules affecting the health and safety of the facility and the persons using the facility. No political subdivision, including a home rule city or county, may impose health and safety, licensure, or inspection requirements that exceed the requirements of this chapter or rules adopted by the department.

SECTION 199. AMENDMENT. Subsection 1 of section 23-09.2-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the state department of health and human services.

SECTION 200. AMENDMENT. Subsection 2 of section 23-09.3-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the state department of health and human services.

²³⁴ **SECTION 201. AMENDMENT.** Section 23-09.3-01.1 of the North Dakota Century Code is amended and reenacted as follows:

23-09.3-01.1. Moratorium on expansion of basic care bed capacity.

1. Basic care beds may not be added to the state's licensed bed capacity during the period between August 1, 2019, and July 31, 2021, except if:
 - a. A nursing facility converts nursing facility beds to basic care;

²³³ Section 23-09-01 was also amended by section 1 of Senate Bill No. 2226, chapter 199.

²³⁴ Section 23-09.3-01.1 was also amended by section 1 of House Bill No. 1332, chapter 201.

- b. An entity licenses bed capacity transferred as basic care bed capacity under section 23-16-01.1;
 - c. An entity demonstrates to the ~~state department of health and the department of human services~~ that basic care services are not readily available within a designated area of the state or that existing basic care beds within a fifty-mile [80.47-kilometer] radius have been occupied at ninety percent or more for the previous twelve months. In determining whether basic care services will be readily available if an additional license is issued, preference may be given to an entity that agrees to any participation program established by the ~~department of human services~~ for individuals eligible for services under the medical assistance program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or
 - d. The ~~state department of health and the department of human services~~ grant approval of new basic care beds to an entity. The approved entity shall license the beds within forty-eight months from the date of approval.
2. Transfers of basic care beds from one basic care facility to another entity is permitted. Transferred basic care beds must become licensed within seventy-two months of transfer. The entity receiving the transferred beds or any new facility may seek to participate in the basic care assistance program. If the entity can demonstrate that individuals can be cared for at a more independent level and that this service will delay entry into the nursing facility, the entity may be approved for basic care assistance funds.
 3. If an Indian tribe acquires basic care beds, the tribal facility must meet state licensing requirements for those beds within seventy-two months of acquisition. A tribal facility may seek to participate in the basic care assistance program. Basic care assistance payments may only be made to a tribal facility that agrees to participate and adhere to all federal and state requirements of the basic care assistance program including participation, screening, ratesetting, and licensing requirements.

SECTION 202. AMENDMENT. Section 23-09.3-05.1 of the North Dakota Century Code is amended and reenacted as follows:

23-09.3-05.1. Application for license - License fee.

Applicants for a license shall file applications under oath with the ~~state department of health~~ upon forms prescribed. An application for a license for facilities not owned by the state or its political subdivisions must be accompanied by a fee of ten dollars per bed. License fees collected pursuant to this section must be deposited in the ~~state department of health services~~ operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 203. AMENDMENT. Subsection 2 of section 23-09.4-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the ~~state department of health and human services~~.

SECTION 204. AMENDMENT. Subsection 9 of section 23-09.5-02 of the North Dakota Century Code is amended and reenacted as follows:

9. The state department of health and human services or a local regulating authority may conduct an investigation upon complaint of an illness or environmental health complaint.

²³⁵ **SECTION 205. AMENDMENT.** Subsection 2 of section 23-10-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the state department of health and human services.

SECTION 206. AMENDMENT. Subsection 11 of section 23-12-09 of the North Dakota Century Code is amended and reenacted as follows:

11. "Public place" means an area which the public enters. Some examples of public places are publicly owned buildings, vehicles, or offices; bars; bingo facilities; gambling and gaming facilities as defined in section 12.1-28-01; child care and adult day care facilities subject to licensure by the department of health and human services, including those operated in private homes; convention facilities; educational facilities, both public and private; facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance; financial institutions; health care facilities; hotels and motels, including all rooms that are rented to guests; laundromats; any common areas in apartment buildings, condominiums, mobile home parks, retirement facilities, nursing homes, and other multiple-unit residential facilities; private and semi-private nursing home rooms; museums, libraries, galleries, and aquariums; polling places; professional offices; public transportation facilities, including buses, trains, airplanes and similar aircraft, taxicabs and similar vehicles such as town cars and limousines when used for public transportation, and ticket, boarding, and waiting areas of public transit facilities, including bus and train stations and airports; reception areas; restaurants; retail food production and marketing establishments; retail service establishments; retail stores, including tobacco and hookah establishments; rooms, chambers, places of meeting or public assembly, including school buildings; shopping malls; sports arenas; theaters; and waiting rooms.

SECTION 207. AMENDMENT. Subdivision a of subsection 3 of section 23-12-10 of the North Dakota Century Code is amended and reenacted as follows:

- a. Private residences, except those residences used as a child care, adult day care, or health care facility subject to licensure by the department of health and human services.

SECTION 208. AMENDMENT. Subsection 1 of section 23-12-10.2 of the North Dakota Century Code is amended and reenacted as follows:

1. State agencies with statutory jurisdiction over a state-owned building or office shall enforce section 23-12-10. These agencies include the fire marshal department, state department of health, ~~department of~~ and human services, legislative council, and office of management and budget.

SECTION 209. AMENDMENT. Subsection 2 of section 23-12-10.4 of the North Dakota Century Code is amended and reenacted as follows:

²³⁵ Section 23-10-01 was also amended by section 1 of House Bill No. 1103, chapter 202.

2. The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this chapter may request from the state department of health and human services the signs necessary to comply with the signage requirements of subsection 1.

SECTION 210. AMENDMENT. Subsection 2 of section 23-12-17 of the North Dakota Century Code is amended and reenacted as follows:

2. The state department of health and human services shall establish guidelines for employers concerning workplace breastfeeding and infant friendly designations.

SECTION 211. AMENDMENT. Section 23-16-01 of the North Dakota Century Code is amended and reenacted as follows:

23-16-01. Licensure of medical hospitals and state hospitals.

After July 1, 1947, no person, partnership, association, corporation, limited liability company, county or municipal corporation, or agency thereof, which maintains and operates organized facilities for the diagnosis, treatment, or care of two or more nonrelated persons suffering from illness, injury, or deformity or where obstetrical or other care is rendered over a period exceeding twenty-four hours, may be established, conducted, or maintained in the state of North Dakota without obtaining annually a license therefor in the manner hereinafter provided in sections 23-16-02 and 23-16-03. Chiropractic hospitals, sanatoriums, and hospitals such as those for unmarried mothers maintained and operated by the department of health and human services are not required to obtain a license under this chapter.

In the case of emergency or transfer beds attached to and forming a part of a licensed medical doctor's office, the state department of health and human services has the right of inspection, but no license may be required under the provisions of this chapter when the number of such beds does not exceed four.

²³⁶ **SECTION 212. AMENDMENT.** Subsection 6 of section 23-16-01.1 of the North Dakota Century Code is amended and reenacted as follows:

6. A nursing facility, upon prior written notice to the state department of health and human services, may delicense a maximum of twenty-five percent of its licensed nursing facility bed capacity and have the delicensed nursing facility held for a period of forty-eight months. The total delicensed nursing facility bed capacity that may be held for a nursing facility at no time may be greater than fifty percent of the number of currently licensed beds in the nursing facility. Delicensed nursing facility bed capacity in excess of fifty percent of the nursing facility's licensed capacity may not be held and is not eligible for the provisions of subsection 7. Delicensed bed capacity not sold or relicensed at the conclusion of the forty-eight-month holding period ceases to exist.

SECTION 213. AMENDMENT. Section 23-16-03 of the North Dakota Century Code is amended and reenacted as follows:

23-16-03. Application for license - License fee.

Applicants for license shall file applications under oath with the state department of health and human services upon forms prescribed. Applications must be signed by

²³⁶ Section 23-16-01.1 was also amended by section 1 of House Bill No. 1065, chapter 205, and section 2 of House Bill No. 1332, chapter 201.

the owner, or in the case of a corporation by two of its officers, or in the case of a county or municipal unit by the head of the governmental department having jurisdiction over it. Applications must set forth the full name and address of the owner of the institution for which license is sought, the names of the persons in control thereof, and such additional information as the state department of health and human services may require, including affirmative evidence of ability to comply with such minimum standards, rules, and regulations as may be lawfully prescribed pursuant to this section. An application for a license for facilities not owned by the state or its political subdivisions must be accompanied by the following fees:

1. For each licensed acute care bed, ten dollars.
2. For each licensed skill care bed, ten dollars.

License fees collected pursuant to this section must be deposited in the state department of health and human services services operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 214. AMENDMENT. Section 23-16-04 of the North Dakota Century Code is amended and reenacted as follows:

23-16-04. Licenses.

Licenses issued hereunder expire one year after date of issuance or upon such uniform dates annually, as the department of health council and human services may prescribe by rule. Licenses must be issued only for the premises and persons named in the application and are not transferable or assignable. Licenses must be posted in a conspicuous place on the licensed premises.

SECTION 215. AMENDMENT. Section 23-16-05 of the North Dakota Century Code is amended and reenacted as follows:

23-16-05. Inspections, consultations, and approval of plans.

The state department of health and human services shall make or cause to be made such inspections as may be prescribed by regulation. The health council may prescribe by regulations that any licensee or prospective applicant desiring to make a substantial alteration or addition to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the state department of health and human services for preliminary inspection, recommendation, and approval.

SECTION 216. AMENDMENT. Section 23-16-06 of the North Dakota Century Code is amended and reenacted as follows:

23-16-06. Authority to issue, deny, suspend, or revoke licenses.

The state department of health and human services shall issue licenses for the operation of institutions subject to this chapter which are found to comply with the provisions of this chapter and ~~such regulations as are lawfully promulgated by the health council rules adopted by the department.~~ The state health officer with the approval of the health council may, after a hearing, suspend or revoke licenses issued hereunder on any of the following grounds:

1. Violation of any of the provisions of this chapter or the rules and regulations promulgated pursuant thereto.

2. Permitting, aiding, or abetting the commission of any unlawful act.
3. Conduct or practices detrimental to the health or safety of patients and employees of said institutions; provided that this provision may not be construed to have any reference to practices authorized by law; and provided further that no license may be suspended or revoked for any trivial violation.

No application for a license may be denied, or any licenses suspended or revoked, except after a hearing before the health council held pursuant to written notice to the applicant or licensee, served by registered or certified mail, which notice must concisely state the grounds for such denial or for such proposed suspension or revocation and must fix the time and place of hearing which may not be less than thirty days after the date of the mailing of such notice. After such hearing, the council shall make an order, either denying the application for license or granting the same, or suspending or revoking such license, or dismissing the proceedings to suspend or revoke as the merits of the case warrant. The council shall send a copy of its order to the applicant or licensee by registered or certified mail, which must contain its findings and conclusions, and such order, except an order of dismissal, becomes final thirty days after the date of mailing unless the applicant or licensee appeals therefrom in the manner provided by section 23-16-10.

SECTION 217. AMENDMENT. Section 23-16-08 of the North Dakota Century Code is amended and reenacted as follows:

23-16-08. Offering or advertising to dispose of infants prohibited.

No hospital providing maternity care may in any way offer to dispose of any child or advertise that it will give children for adoption or hold itself out, directly or indirectly, as being able to dispose of children, however, such hospitals may inform an unmarried mother of child-placing agencies licensed by the department of health and human services.

SECTION 218. AMENDMENT. Section 23-16-09 of the North Dakota Century Code is amended and reenacted as follows:

23-16-09. Information confidential.

Information other than reports relating to vital statistics received by the state department of health and human services through inspection or otherwise, authorized under this chapter are confidential and may not be disclosed publicly except in a proceeding involving the question of license. No agent of the state department of health and human services or of any board of health, may disclose individually identifiable health information of such an institution obtained in the course of a survey or inspection except in a judicial or administrative proceeding in response to an order of a court or administrative tribunal.

SECTION 219. AMENDMENT. Subsection 2 of section 23-16-11 of the North Dakota Century Code is amended and reenacted as follows:

2. In addition to any criminal sanctions that may be imposed pursuant to law, any person maintaining or operating a nursing facility licensed by the department who is found guilty of knowingly violating any provision of this title or any rules adopted under this title, or any person maintaining or operating a nursing facility found to have deficiencies during a survey of the nursing facility, may be assessed a civil penalty not to exceed one thousand dollars for each violation and for each day the violation continues plus interest and any costs incurred by the department to enforce this penalty. This civil penalty may be

imposed by a court in a civil proceeding or by the state health officer through an administrative hearing under chapter 28-32. If a civil penalty levied by the department after an administrative hearing is not paid within thirty days after a final determination that a civil penalty is owed, unless the determination of a civil penalty is appealed to a district court, the civil penalty and any costs incurred by the department to enforce the penalty may be withheld from payments due to the person or nursing facility from the department of health and human services. Any funds received as penalties must be applied to protect residents of the nursing facility, to relocate residents, to maintain operation of the nursing facility, and to reimburse residents for loss of personal funds.

SECTION 220. AMENDMENT. Section 23-16-12 of the North Dakota Century Code is amended and reenacted as follows:

23-16-12. Injunction.

The state department of health and human services, in accordance with the laws of the state governing injunctions and other process, may maintain an action in the name of the state against any person, partnership, association, corporation, or limited liability company for establishing, conducting, managing, or operating any hospital within the meaning of the chapter without first having a license therefor as herein provided or without first obtaining from the state department of health and human services written approval of plans and specifications for major alterations of, additions to, or construction of health facilities.

SECTION 221. AMENDMENT. Subsection 1 of section 23-16.1-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the state department of health and human services.

SECTION 222. AMENDMENT. Section 23-17-08 of the North Dakota Century Code is amended and reenacted as follows:

23-17-08. Establishment of advisory committee.

The chiropractic board of examiners shall request the governor to appoint an advisory committee consisting of the executive director of the department of health and human services, one chiropractic hospital superintendent, and one person interested in chiropractic hospitals. One member is to serve for three years, one for two, and one is to serve for one year from the date of their appointment or until their successors are duly appointed. Following this first appointment, the term of office must be for three years. This advisory committee shall act in an advisory capacity to the chiropractic board of examiners in dealing with matters pertaining to particular problems of chiropractic hospitals and sanatoriums and other related institutions.

SECTION 223. AMENDMENT. Subsection 2 of section 23-17.3-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the state department of health and human services.

SECTION 224. AMENDMENT. Section 23-17.3-08 of the North Dakota Century Code is amended and reenacted as follows:

23-17.3-08. Rules ~~State department of health~~.

The department shall adopt necessary rules relating to the home health agencies licensed pursuant to section 23-17.3-02, including rules governing:

1. Qualifications of professional and ancillary personnel in order to furnish adequately home health services.
2. Standards for the organization and quality of patient care.
3. Procedures for maintaining records.
4. Provision for contractual arrangements for professional and ancillary health services.
5. Procedures for application, issuance, and renewal of license.
6. Procedures for denial, suspension, or revocation of license.
7. Inspections of licensed home health agencies.

SECTION 225. AMENDMENT. Section 23-17.3-10 of the North Dakota Century Code is amended and reenacted as follows:

23-17.3-10. Information confidential.

Information received under this chapter by the ~~state department of health~~, through inspection or otherwise, is confidential and may not be disclosed except:

1. In a proceeding involving the question of license;
2. In a judicial proceeding, upon a court order; or
3. To a health or social services agency with specific responsibility for a patient's care.

SECTION 226. AMENDMENT. Subsection 2 of section 23-17.4-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the state department of health and human services.

SECTION 227. AMENDMENT. Section 23-21-16 of the North Dakota Century Code is amended and reenacted as follows:

23-21-16. Removal and reinterment by cemetery authority.

After the completion of notice, and after the expiration of the period of six months specified in the notice, any cemetery authority may cause the removal of all human remains interred in the cemetery or portion from which the remains have been ordered removed, and may reinter such remains in any other place in this state where interments are permitted, without further notice to any person claiming any interest in the cemetery, or portion affected, or in the remains interred therein. Whenever any remains are removed from any cemetery or portion of a cemetery pursuant to this chapter by a cemetery authority, such remains must be reinterred as near as possible to the cemetery from which such remains were taken. The remains of each person reinterred must be placed in a separate and suitable receptacle and decently and respectfully interred under rules and regulations adopted by the cemetery authority making the removal and the ~~state department of health~~ and human services.

SECTION 228. AMENDMENT. Section 23-21.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

23-21.1-02.1. License to operate a perpetual care cemetery - Fee.

No organization may operate as a perpetual care cemetery unless licensed on forms provided by the state department of health and human services by the recorder of the county within which the cemetery is located, unless the board of county commissioners designates a different official. The license must be renewed by or before July first of each year. Prior to issuance or renewal of a license, the recorder, or designated official, shall determine if the applicant is in full compliance with the provisions of this chapter. When applying for a license renewal, the applicant shall report to the recorder, or designated official, the number of spaces sold, the gross amount of receipts from the sale of spaces, and the amount of money transferred to the perpetual care trust fund during the organization's previous fiscal year. The license fee must be five dollars per year, except that any perpetual care cemetery which has sold less than ten spaces during the previous fiscal year may not be required to pay a license fee.

SECTION 229. AMENDMENT. Subsection 1 of section 23-21.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Any organization subject to this chapter which is organized or commences business in this state and desires to operate as a perpetual care cemetery, before selling or disposing of any interment space or lots, shall establish a minimum perpetual care and maintenance guarantee fund of twenty-five thousand dollars in cash, except that the minimum perpetual care and maintenance guarantee fund for organizations in operation on July 1, 1963, must be five thousand dollars. The perpetual care and maintenance guarantee fund must be permanently set aside in trust to be administered under the jurisdiction of the district court of the county wherein the cemetery is located. The district court shall have jurisdiction over the approval of trustees, reports and accounting of trustees, amount of surety bond required, and investment of funds as provided by chapters 59-09, 59-10, 59-11, 59-12, 59-13, 59-14, 59-15, 59-16, 59-17, 59-18, and 59-19 relating to the administration of trust estates. Only the income from such fund may be used for the care and maintenance of the cemetery for which it was established. All such organizations shall submit at least annually, to the district court, such reports as are required. The clerks of each of the district courts shall transmit copies of all reports, and rules and regulations enacted by the organization, to the state department of health and human services and the commissioner of financial institutions.

SECTION 230. AMENDMENT. Section 23-23-03 of the North Dakota Century Code is amended and reenacted as follows:

23-23-03. Enforcement by health officer - Seizure - Inspection - Injunction.

It is the duty of the state health officer to enforce the provisions of this chapter, and for that purpose the investigators, inspectors, representatives, and agents of the state department of health and human services shall have the full power and authority of peace officers in this state, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents, or other evidence. The state health officer may institute, in its own name, proceedings to enjoin and restrain violations of this chapter, regardless of

whether the defendant has been convicted of violation of the penal provisions thereof, and may not be required to pay any costs or filing fees or furnish any bond in connection therewith.

SECTION 231. AMENDMENT. Section 23-27-01 of the North Dakota Century Code is amended and reenacted as follows:

23-27-01. License required - Licensing of emergency medical services operations - Exception - Waiver.

1. The state department of health and human services shall license emergency medical services operations and may designate their service areas. The department shall limit the issuance of a license for any new emergency medical services operation based on the needs of the service area. A license for an emergency medical services operation is nontransferable.
2. Emergency medical services may not be advertised, offered, or provided to the public except by an emergency medical services operator that provides the emergency medical services through emergency medical services personnel.
3. Except as otherwise provided under subsection 4, an emergency medical services operator must be separately licensed for each of the operator's emergency medical services operations and an operation that is headquartered from a separate location must be considered a separate operation. Under this subsection, an operation with a single headquarters site may dispatch vehicles and emergency medical services personnel from more than one location if calls requesting services are received and orders for vehicle dispatch are made at the single headquarters site.
4. Notwithstanding subsection 3, an operator of an emergency medical services operation may operate one or more substation ambulance services operations under a single license if:
 - a. The headquarters ambulance services operation is not a substation ambulance services operation of another emergency medical services operation;
 - b. The substation ambulance services operation area borders the headquarters ambulance services operation area or borders another substation of the headquarters ambulance services operation;
 - c. The headquarters ambulance services operation and the substation ambulance services operation are dispatched by the same entity; and
 - d. The operator of the emergency medical services operation pays a license fee for each of its substation ambulance services operations.
5. The provisions of this chapter do not apply to an operator from another state which is headquartered at a location outside of this state and transports patients across state lines, but the operator may not treat patients within this state or pick up patients within this state for transportation to locations within this state, except as provided by rule.
6. The ~~stated~~department of health ~~council~~and human services shall adopt rules for special licenses and waiver provisions for an operator of an emergency

medical services operation intended for industrial sites not available to the general public.

²³⁷ **SECTION 232. AMENDMENT.** Subsection 1 of section 23-27-02 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the state department of health and human services.

SECTION 233. AMENDMENT. Section 23-27-03 of the North Dakota Century Code is amended and reenacted as follows:

23-27-03. License fees.

The fee for an emergency medical services operation license to operate an emergency medical services operation or a substation ambulance services operation must be set by the state health council at a sum of not more than twenty-five dollars annually, as may be required to defray the costs of administration of the licensing program. This operation license fee does not apply to licensure or certification of emergency medical services personnel. All license fees must be paid to the ~~state~~ department of health and human services and deposited with the state treasurer and credited to the state general fund.

²³⁸ **SECTION 234. AMENDMENT.** Subsection 1 of section 23-27-04 of the North Dakota Century Code is amended and reenacted as follows:

1. An emergency medical services operation within this state may not operate unless the operation is licensed in accordance with this chapter and rules adopted by the ~~statedepartment of health council~~ and human services. The rules must include:
 - a. Time when operator's services must be available.
 - b. Type of motor vehicle operator's license needed for drivers of ground vehicles.
 - c. Training standards for operation personnel.
 - d. Equipment and ground vehicle standards.
 - e. Annual license fees.
 - f. Number of personnel required for each run.
 - g. The scope of practice for uncertified drivers, certified personnel, and emergency medical services professionals.
 - h. Performance standards, which may include response time standards.
 - i. Other requirements as may be found necessary to carry out the intent of this chapter.

²³⁷ Section 23-27-02 was also amended by section 1 of Senate Bill No. 2133, chapter 207.

²³⁸ Section 23-27-04 was also amended by section 2 of Senate Bill No. 2133, chapter 207.

SECTION 235. AMENDMENT. Section 23-27-04.2 of the North Dakota Century Code is amended and reenacted as follows:

23-27-04.2. Emergency medical services - State assistance.

The state department of health and human services shall assist in the training of emergency medical services personnel of certain emergency medical services operations as determined by the department and financially shall assist certain emergency medical services operations as determined by the department in obtaining equipment. Assistance provided under this section must be within the limits of legislative appropriation. The department shall adopt criteria for eligibility for assistance in the training of emergency medical services personnel of various types of emergency medical services operations. To qualify for financial assistance for equipment an emergency medical services operation shall certify, in the manner required by the department, that the operation has fifty percent of the amount of funds necessary for identified equipment acquisitions. The department shall adopt a schedule of eligibility for financial assistance for equipment. The schedule must provide for a direct relationship between the amount of funds certified and the number of responses during the preceding calendar year for the purpose of rendering medical care, transportation, or both, to individuals who were sick or incapacitated. The schedule must require that as the number of responses increases, a greater amount of funds certified is required. The schedule must classify responses and the financial assistance available for various classifications. The department may establish minimum and maximum amounts of financial assistance to be provided to an emergency medical services operation under this section. If applications for financial assistance exceed the amount of allocated and available funds, the department may prorate the funds among the applicants in accordance with criteria adopted by the department. No more than one-half of the funds appropriated by the legislative assembly each biennium and allocated for training assistance may be distributed in the first year of the biennium.

²³⁹ **SECTION 236. AMENDMENT.** Section 23-27-04.3 of the North Dakota Century Code is amended and reenacted as follows:

23-27-04.3. Emergency medical services personnel training, testing, certification, licensure, and quality review - Penalty.

The statedepartment of health counciland human services shall adopt rules prescribing minimum training, testing, certification, licensure, and quality review standards for emergency medical services personnel, instructors, and training institutions. Rules adopted must include a definition of minimum applicable standards, a definition of emergency medical services personnel, provide for a mechanism for certifying or licensing persons who have met the required standards, provide a mechanism to review and improve the quality of care rendered by emergency medical services personnel, and define minimum standards for emergency medical services training institutions. Licensing as an emergency medical services training institution is optional. It is a class B misdemeanor for an individual to willfully misrepresent that individual's certification or licensing status as emergency medical services personnel. Quality review and improvement information, data, records, and proceedings are not subject to subpoena or discovery or introduction into evidence in any civil action.

SECTION 237. AMENDMENT. Section 23-27-04.7 of the North Dakota Century Code is amended and reenacted as follows:

²³⁹ Section 23-27-04.3 was also amended by section 3 of Senate Bill No. 2133, chapter 207.

23-27-04.7. County reporting - Use of property tax levies.

The board of county commissioners of every county in this state shall conduct an annual review of the emergency medical services coverage within that county and shall submit an annual report to the state health officer in a format approved by the state department of health and human services. A taxing district that levies a special emergency medical services or ambulance service levy shall allocate all of the special tax levy revenue collected in a particular township to the ambulance service that serves the largest area within that township.

SECTION 238. AMENDMENT. Subsection 6 of section 23-27-04.10 of the North Dakota Century Code is amended and reenacted as follows:

6. The ~~statedepartment of health council~~and human services shall adopt rules establishing air ambulance service provider requirements that must address transport plans, including auto launch protocol and auto launch cancellation protocol; transporting to the nearest appropriate medical facility; medical necessity; and informed consent. As necessary, the ~~statedepartment of health council~~and human services shall adopt rules relating to quality of care standards and other appropriate requirements regarding air ambulance service providers.

SECTION 239. AMENDMENT. Section 23-34-02 of the North Dakota Century Code is amended and reenacted as follows:

23-34-02. Peer review records - Confidentiality.

1. Peer review records are confidential and may be used by a peer review organization and the organization members only for conducting a professional peer review.
2. A health care organization may release reports, data compilations, analyses, and summaries, which are prepared by a peer review organization and which identify or analyze trends in medical errors to the state department of health and human services, the North Dakota hospital association, and the North Dakota hospital foundation.
3. The state department of health and human services, the North Dakota hospital association, and the North Dakota hospital foundation may release any information provided under subsection 2 to the public.
4. This section does not prohibit access of the state department of health and human services to peer review records to determine compliance with requirements of federal or state law for the survey and certification of a health care facility or for trauma center designation and as authorized under any rules issued under section 23-01.2-01 or 23-01-11 to enable the state to be in compliance with any federal laws to qualify for any federal funds related to medical facilities or agencies licensed by the state department of health and human services.

SECTION 240. AMENDMENT. Section 23-34-02.1 of the North Dakota Century Code is amended and reenacted as follows:

23-34-02.1. Peer review organization reports - Admissibility.

Any report, data, data compilation, analyses, or summary that is generated by a peer review organization and made available to the state department of health and

human services or the public by the state department of health and human services, the North Dakota hospital association, or the North Dakota hospital foundation, may not be introduced into evidence, for any purpose, in any civil or administrative proceeding.

SECTION 241. AMENDMENT. Subsection 2 of section 23-35-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the state department of health and human services.

SECTION 242. AMENDMENT. Section 23-35-02 of the North Dakota Century Code is amended and reenacted as follows:

23-35-02. Public health units.

All land in the state must be in a public health unit before January 1, 2001. The ~~health council~~department of health and human services may issue rules defining the core functions a public health unit shall undertake.

SECTION 243. AMENDMENT. Subsection 4 of section 23-36-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the state department of health and human services.

SECTION 244. AMENDMENT. Section 23-38.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-38.1-01. Cardiac ready community grant program.

The state department of health and human services shall establish a cardiac ready community grant program. The primary purpose of the program is to support bystander, emergency responder, and community private public partnerships for strengthening community-based capacity for cardiac and stroke emergency response and risk reduction programs throughout the state. The program must build on and may not duplicate existing programs. The department shall award grants on a competitive basis based on criteria established by an advisory committee. To facilitate volume purchasing savings, the department may procure vendor rates and purchases, and grant the acquired elements to community programs.

²⁴⁰ **SECTION 245. AMENDMENT.** Subsection 1 of section 23-38.1-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The state department of health and human services shall establish a cardiac ready community grant program advisory committee with members appointed by the ~~state health officer~~executive director of the department of health and human services or designee. The advisory committee shall advise the department of health and human services in the development of the cardiac ready community grant program and the membership must include a representative of the department of health and human services, one cardiac ready community member, one representative of the emergency medical services association, one representative of the American heart association, one representative of the cardiac task force, one representative of the stroke task force, one representative of the emergency services advisory committee,

²⁴⁰ Section 23-38.1-02 was also amended by section 246 of House Bill No. 1247, chapter 352.

one survivor advocate, and the state department of health and human services emergency medical services and trauma medical director.

²⁴¹ **SECTION 246. AMENDMENT.** Subsection 3 of section 23-38.1-02 of the North Dakota Century Code is amended and reenacted as follows:

3. The state department of health and human services, with the advisory committee's involvement, shall provide assistance to:
 - a. Evaluate programs;
 - b. Promote public awareness of core program elements;
 - c. Facilitate the coordination of program components with the local level;
 - d. Involve state agencies, law enforcement, and local government in the administration and management of the program; and
 - e. Assist the department in screening and implementing the grants.

SECTION 247. AMENDMENT. Section 23-38.1-03 of the North Dakota Century Code is amended and reenacted as follows:

23-38.1-03. Gifts, grants, and donations - Continuing appropriation.

The state department of health and human services may accept any gifts, grants, or donations, whether conditional or unconditional. The department or local grantees may contract public or private entities and may expend any available moneys to obtain matching funds for the purposes of this chapter. All moneys received by the state department of health and human services as gifts, grants, or donations under this section are appropriated on a continuing basis to the department's operations fund for the purpose of funding the grant program.

SECTION 248. AMENDMENT. Subsection 1 of section 23-39-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the state department of health and human services.

SECTION 249. AMENDMENT. Section 23-39-06 of the North Dakota Century Code is amended and reenacted as follows:

23-39-06. Injury reports.

If a customer of a tanning facility reports a sunburn injury to that facility resulting from the use of its tanning device, the owner shall provide the customer with written information on how to report the alleged injury to the state department of health and human services. If a health care provider treats a patient for a sunburn injury and determines, in the exercise of professional judgment, that the injury occurred as a result of using a tanning device at a tanning facility, the health care provider shall report the circumstances of the injury to the state department of health and human services. A health care provider making or not making a report in good faith pursuant to this section is immune from liability for making or not making a report.

²⁴¹ Section 23-38.1-02 was also amended by section 245 of House Bill No. 1247, chapter 352.

SECTION 250. AMENDMENT. Section 23-39-07 of the North Dakota Century Code is amended and reenacted as follows:

23-39-07. Enforcement - Rules - Penalty.

The department shall enforce this chapter. ~~The state health council~~ and shall adopt rules necessary to implement this chapter. The department may deny issuance of a permit to an applicant or suspend or revoke any permit issued under this chapter if the applicant or permitholder, or an employee of the applicant or permitholder, violates this chapter or any rule adopted to implement this chapter. Violation of this chapter or any rule adopted to implement this chapter is a class B misdemeanor.

SECTION 251. AMENDMENT. Section 23-41-01 of the North Dakota Century Code is amended and reenacted as follows:

23-41-01. Definitions.

In this chapter unless the context or subject matter otherwise requires:

1. "Department" means the ~~state~~ department of health and human services.
2. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department of human services.
3. "Human services" means:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
 - b. A service or assistance provided, administered, or supervised by the department ~~of human services~~ in accordance with chapter 50-06.
 - c. Licensing duties as administered or supervised by the department ~~of human services~~ or delegated by the department of human services to a human service zone.

SECTION 252. AMENDMENT. Subsection 1 of section 23-41-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Cooperate with the department in administering this chapter in its human service zone, subject to rules adopted by the ~~state health council~~ department.

SECTION 253. AMENDMENT. Section 23-43-02 of the North Dakota Century Code is amended and reenacted as follows:

23-43-02. Designation of comprehensive stroke center, primary stroke centers, and acute stroke-ready hospitals.

1. The ~~state~~ department of health and human services shall identify hospitals that meet the criteria as a comprehensive stroke center, primary stroke center, or acute stroke-ready hospital. In order to receive a designation under this section, a hospital shall apply to the ~~state~~ department of health and human

services and shall demonstrate to the satisfaction of the department the hospital meets the applicable criteria.

2. In order to qualify for designation as a comprehensive stroke center, an accredited acute care hospital must be certified as a comprehensive stroke center by a department-approved, nationally recognized guidelines-based organization, which provides comprehensive stroke center hospital certification for stroke care. As a condition of retaining designation as a comprehensive stroke center, an acute care hospital shall maintain its certification.
3. In order to qualify for designation as a primary stroke center, an accredited acute care hospital must be certified as a primary stroke center by a department-approved, nationally recognized guidelines-based organization, which provides primary stroke center certification for stroke care. As a condition of retaining designation as a primary stroke center, an acute care hospital shall maintain its certification.
4. In order to qualify for designation as an acute stroke-ready hospital, an accredited acute care hospital must be certified as an acute stroke-ready hospital by department-approved, nationally recognized guidelines-based criteria. As a condition of retaining designation as an acute stroke-ready hospital, an acute care hospital shall maintain its certification.
5. Through agreement, a comprehensive stroke center and primary stroke center may coordinate with an acute stroke-ready hospital to provide appropriate access to care for acute stroke patients. The coordinating stroke care agreement must be in writing and include, at a minimum:
 - a. The transfer agreement for the transport and acceptance of a stroke patient seen by the acute stroke-ready hospital for stroke treatment therapies the stroke center or primary care center is not capable of providing; and
 - b. Communication criteria and protocol with the acute stroke-ready hospital.
6. If the department determines the hospital is not in compliance with the requirements set for designation level, after notice and a hearing, the state department of health and human services may suspend or revoke a hospital's state designation as a comprehensive stroke center, primary stroke center, or acute stroke-ready hospital.
7. Any facility that is not designated, must have a predetermined plan for the triage of acute stroke patients. The plan must be filed annually with the state department of health and human services, division of emergency medical services and trauma.

SECTION 254. AMENDMENT. Section 23-43-03 of the North Dakota Century Code is amended and reenacted as follows:

23-43-03. Emergency medical services operations - Assessment and transportation of stroke patients to a comprehensive stroke center, primary stroke center, or acute stroke-ready hospital.

1. Before June first of each year the state department of health and human services shall send the list of comprehensive stroke centers, primary stroke

centers, and acute stroke-ready hospitals to the medical director of each licensed emergency medical services operation in this state. The state department of health and human services shall maintain a copy of the list and shall post a list of comprehensive stroke centers, primary stroke centers, and acute stroke-ready hospitals to the state department of health's and human services' website.

2. The state department of health and human services shall adopt and distribute a nationally recognized, standardized stroke triage assessment tool. The department shall post this stroke triage assessment tool on the department's website and provide a copy of the assessment tool to each licensed emergency medical services operation. Each licensed emergency medical services operation shall use a stroke triage assessment tool that is substantially similar to the sample stroke triage assessment tool provided by the state department of health and human services.
3. Each emergency medical services operation in the state shall establish prehospital care protocols related to the assessment, treatment, and transport of a stroke patient by a licensed emergency medical services operation. Such protocols must include plans for the triage and transport of an acute stroke patient to the closest comprehensive or primary stroke center or when appropriate to an acute stroke-ready hospital, within a specified time frame of onset of symptoms.
4. As part of current training requirements, each emergency medical services operation in the state shall establish protocols to assure licensed emergency medical services providers and 911 dispatch personnel receive regular training on the assessment and treatment of stroke patients.
5. An emergency medical services operation shall comply with this chapter.
6. All data reported under this chapter must be made available to the state department of health and human services and to all other government agencies, or contractors of government agencies, which have responsibility for the management and administration of emergency medical services throughout the state.
7. This chapter may not be construed to require disclosure of any confidential information or other data in violation of the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.].

SECTION 255. AMENDMENT. Section 23-43-04 of the North Dakota Century Code is amended and reenacted as follows:

23-43-04. Continuous improvement of quality of care for individuals with stroke - Recommendations - Report to legislative management.

1. The state department of health and human services shall establish and implement a plan for achieving continuous quality improvement in the quality of care provided under the state comprehensive stroke system for stroke response and treatment. In implementing this plan, the state department of health and human services shall:
 - a. Maintain a statewide stroke database that compiles information and statistics on stroke care which align with nationally recognized stroke

consensus metrics. The state department of health and human services shall utilize a nationally recognized data set platform with confidentiality standards no less secure than the stroke registry data platform. The state department of health and human services shall coordinate with national voluntary health organizations involved in stroke quality improvement to avoid duplication and redundancy.

- b. Require comprehensive stroke centers and primary stroke centers and encourage acute stroke-ready hospitals and emergency medical services operations to report data consistent with nationally recognized guidelines on the treatment of individuals with confirmed stroke within the state.
 - c. Encourage sharing of information and data among health care providers on ways to improve the quality of care of stroke patients in this state.
 - d. Facilitate the communication and analysis of health information and data among the health care professionals providing care for individuals with stroke.
 - e. Require the application of evidence-based treatment guidelines regarding the transitioning of patients to community-based followup care in hospital outpatient, physician office, and ambulatory clinic settings for ongoing care after hospital discharge following acute treatment for stroke.
2. The state department of health and human services shall establish a data oversight process and implement a plan for achieving continuous quality improvement in the quality of care provided under the state comprehensive stroke system for stroke response and treatment which must:
 - a. Analyze data generated by the stroke registry on stroke response and treatment;
 - b. Identify potential interventions to improve stroke care in geographic areas or regions of the state; and
 - c. Provide recommendations to the state department of health and human services, emergency medical services advisory council, and legislative assembly for the improvement of stroke care and delivery in the state.
 3. Data reported under this section must be made available to the state department of health and human services and to other government agencies, or contractors of government agencies, which have responsibility for the management and administration of emergency medical services throughout the state.
 4. Before June first of each even-numbered year, the state department of health and human services shall provide a report to the legislative management regarding progress made toward the recommendations provided in this chapter and any recommendations for future legislation.

SECTION 256. AMENDMENT. Section 23-43-05 of the North Dakota Century Code is amended and reenacted as follows:

23-43-05. Stroke system of care task force.

1. The state department of health and human services shall establish a stroke system of care task force to address matters of triage, treatment, and transport of possible acute stroke patients. The stroke system of care task force must include representation from the state department of health and human services, the emergency medical services advisory council, the university of North Dakota's center for rural health, the American stroke association or similar entity, comprehensive stroke centers, primary stroke centers, rural hospitals, physicians, and emergency medical services operations.
2. The task force shall implement the regulations necessary to establish an effective stroke system of care in the state, with a focus on serving rural areas. The regulations must include protocols for the assessment, stabilization, and appropriate routing of stroke patients by emergency medical services operations, and for coordination and communication between hospitals, comprehensive stroke centers, primary stroke centers, and other support services necessary to assure all residents have access to effective and efficient stroke care.
3. The stroke system of care task force shall make recommendations to the state department of health and human services and health council. Upon receiving such recommendations, the department of health council and human services may adopt rules implementing the recommendations.
4. As used in this subsection, "telemedicine services" means the use of interactive audio, video, and other electronic media used for the purpose of diagnosis, consultation, or treatment of acute stroke. The stroke system of care task force shall recommend eligible essential health care services for acute stroke care provided through telemedicine services.

SECTION 257. AMENDMENT. Section 23-43-06 of the North Dakota Century Code is amended and reenacted as follows:

23-43-06. General provisions.

1. This chapter is not a medical practice guideline and may not be used to restrict the authority of a hospital to provide services for which the hospital received a license under state law. Patients must be treated individually based on the needs and circumstances of each patient.
2. A person may not advertise to the public, by way of any medium, that a hospital is a comprehensive stroke center, primary stroke center, or acute stroke ready hospital unless the hospital is designated as such by the state department of health and human services.
3. The department of health council and human services may adopt rules to implement this chapter.

SECTION 258. AMENDMENT. Subsection 2 of section 23-44-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the state department of health and human services.

SECTION 259. AMENDMENT. Subsection 2 of section 23-44-02 of the North Dakota Century Code is amended and reenacted as follows:

2. The ~~health council~~department shall adopt rules to regulate and register an individual who receives compensation for engaging in the provision of nursing or nursing-related services to an individual in a health care facility or other setting. The rules do not apply to a licensed health care professional practicing within the scope of that profession, an unlicensed assistive person under chapter 43-12.1, or a volunteer in the course of providing services without pay. In developing the rules, the ~~health council~~department shall consult with the state board of nursing and other key stakeholders.

SECTION 260. AMENDMENT. Subsection 2 of section 23-45-01 of the North Dakota Century Code is amended and reenacted as follows:

2. The method a health care professional uses to provide the information under subsection 1 may include verbally or in writing or by providing the patient with a publication prepared by the state department of health and human services under section 23-45-02.

SECTION 261. AMENDMENT. Subsection 1 of section 23-45-02 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~By January 1, 2012, the state~~The department of health and human services shall prepare a pamphlet that includes information regarding the following:
 - a. The medical processes involved in the collection of umbilical cord blood.
 - b. The medical risks of umbilical cord blood collection to the mother and her newborn child.
 - c. The current and potential future medical uses, risks, and benefits of umbilical cord blood collection to a mother, her newborn child, and the mother's biological family.
 - d. The current and potential future medical uses, risks, and benefits of umbilical cord blood collection to individuals who are not biologically related to a mother or her newborn child.
 - e. Any costs that may be incurred by a patient who chooses to make an umbilical cord blood donation.
 - f. Options for ownership and future use of the donated material.
 - g. The average cost of public and private umbilical cord blood banking.

SECTION 262. AMENDMENT. Section 23-46-02 of the North Dakota Century Code is amended and reenacted as follows:

23-46-02. Emergency medical services advisory council.

The state department of health and human services shall establish an emergency medical services advisory council. The council must include at least three representatives appointed by an emergency medical services organization, one individual to represent basic life support and one individual to represent advanced life support, both appointed by the ~~state health officer~~executive director of the department of health and human services or designee, and other members designated by the ~~state health officer~~executive director of the department of health and human services or designee, not to exceed a total of fourteen members. The department of health and

human services and state health officer shall consider the recommendations of the council on the plan for integrated emergency medical services in the state, development of emergency medical services funding areas, development of the emergency medical services funding areas application process and budget criteria, and other issues relating to emergency medical services as determined by the executive director of the department of health and human services or state health officer. Council members are entitled to reimbursement for expenses in the manner provided in section 44-08-04. The department of health and human services shall establish by policy the length of terms and the method for rotation of membership.

SECTION 263. AMENDMENT. Section 23-46-03 of the North Dakota Century Code is amended and reenacted as follows:

23-46-03. Emergency medical services funding areas.

The state department of health and human services shall establish and update biennially a plan for integrated emergency medical services in this state. The plan must identify ambulance operations areas, emergency medical services funding areas that require state financial assistance to operate a minimally reasonable level of emergency medical services, and a minimum reasonable cost for an emergency medical services operation. The department shall designate emergency medical services funding areas based on criteria adopted by rule of the department of health council and published in the North Dakota Administrative Code and human services.

SECTION 264. AMENDMENT. Section 23-46-04 of the North Dakota Century Code is amended and reenacted as follows:

23-46-04. State financial assistance for emergency medical services - Confidential information - Annual allocation.

Emergency medical services operations that request financial assistance from the state must provide requested fiscal information to the state department of health and human services for use in financial assistance determinations. All information provided to the department under this section is confidential. The state department of health and human services shall determine annually the allocation amount of state financial assistance for each emergency medical services funding area based on the department's determination of the minimum annual funding necessary to operate the emergency medical services operation or service designated to operate in the ambulance funding area, based on the financial needs unique to each emergency medical services funding area.

SECTION 265. AMENDMENT. Subsection 1 of section 23-47-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the state department of health and human services.

SECTION 266. AMENDMENT. Section 23-47-02 of the North Dakota Century Code is amended and reenacted as follows:

23-47-02. Acute cardiovascular emergency medical system - Duties of state department of health.

1. Following consultation with and receipt of a recommendation of the acute cardiovascular emergency medical system of care advisory committee, the department shall establish and maintain a comprehensive emergency cardiovascular medical system for the state. The system must include standards for the following components:

- a. A system plan.
- b. Prehospital emergency medical services.
- c. Hospitals, for which the standards must include:
 - (1) Standards for designation, redesignation, and dedesignation of receiving and referring centers.
 - (2) Standards for evaluation and quality improvement programs for designated centers.
 - (3) Recognition of a hospital as a STEMI receiving center or as a STEMI referring center. In making such recognition, the standards must include consideration of whether the hospital is:
 - (a) Accredited as a mission: lifeline STEMI receiving center or mission: lifeline STEMI referring center by the society of cardiovascular patient care and the American heart association accreditation process; or
 - (b) Accredited by a department-approved, nationally recognized organization that provides mission: lifeline STEMI receiving center and mission: lifeline STEMI referring center accreditation or a substantive equivalent.
- d. System registries, for which the components must include a plan for achieving continuous quality improvement in the quality of care provided under the statewide system, including for STEMI response and treatment.
 - (1) In implementing this plan, the department shall maintain a statewide STEMI heart attack database that aggregates information and statistics on heart attack care. The department shall utilize the ACTION registry-get with the guidelines data platform, or other equivalent platform.
 - (2) To the extent possible, the department shall coordinate with national voluntary health organizations involved in STEMI heart attack quality improvement to avoid duplication and redundancy.
 - (3) Designated receiving centers shall participate in the registry.
2. The proceedings and records of the program are not subject to subpoena, discovery, or introduction into evidence in any civil action arising out of any matter that is the subject of consideration by the program.

SECTION 267. AMENDMENT. Subsection 1 of section 23-47-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The state health officer, executive director of the department of health and human services or designee shall appoint the members of the acute cardiovascular emergency medical system of care advisory committee. The state health officer, or the officer's designee, is an ex officio member of the advisory committee. The state health officer, executive director of the department of health and human services or designee shall appoint to the committee members who represent referring and receiving hospitals,

physicians who treat patients, and members who represent emergency medical services operations that provide services in rural and urban areas of the state. Members of the acute cardiovascular emergency medical system of care advisory committee serve at the pleasure of the state health officer~~executive director of the department of health and human services~~.

SECTION 268. AMENDMENT. Section 23-50-01 of the North Dakota Century Code is amended and reenacted as follows:

23-50-01. Drug fatalities review panel.

1. The forensic pathology department of the university of North Dakota school of medicine and health sciences shall appoint individuals to serve as members on the drug fatalities review panel. To encompass disciplines needed for evaluation and balance of members' viewpoints, panel membership must include representation from multiple disciplines and services. Membership may include a forensic pathologist, a pharmacist with knowledge in pharmacogenomics, representatives of rural and urban healthcare facilities, a licensed addiction counselor, a physician, and representatives of nonregulatory divisions of the state department of health and ~~department of human services~~.
2. The state department of health and human services and the university of North Dakota school of medicine and health sciences shall provide for or arrange for administrative services to assist the panel in performing official duties, including collection and management of case review files, the maintenance of records, data collection and analysis, and the issuance of a state report on drug-related fatalities. The department and the university of North Dakota school of medicine and health sciences are responsible for the confidentiality and security of data on the sharing site on which the documents are stored.

SECTION 269. AMENDMENT. Subsection 4 of section 23.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

4. Maintain, in conjunction with the state department of health and human services, a laboratory to carry out the necessary tests and examinations for purposes of this title, and establish a fee schedule for the tests and examinations;

SECTION 270. AMENDMENT. Subsection 7 of section 25-01-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Supervising officer" means the executive director of the department of health and human services or the superintendent of public instruction, as the case may be.

SECTION 271. AMENDMENT. Section 25-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-01-01.1. State council on developmental disabilities.

1. There must be maintained in the department of health and human services a state council on developmental disabilities consisting of ~~one~~;

- a. One representative of each of the following departments, divisions, institutions, and organizations designated by the head of such agency or organization:
 1. (1) Office of superintendent of public instruction.
 2. North Dakota department of human services.
 3. State department of health.
 4. Life skills and transition center.
 5. (2) Job service North Dakota.
 - b. Three representatives of the department of health and human services to include at least:
 - (1) One representative from the life skills and transition center designated by its superintendent; and
 - (2) One representative from the department's health division.
2. The council shall, at a minimum, include representation that conforms to federal law requirements regarding state councils on developmental disabilities. All members of the council must be appointed by the governor. The council shall select its own officers who shall serve for a term of two years commencing on October first of each year. Meetings must be held at least twice a year or at the call of the chairman or upon notice in writing signed by not less than three members of the council. A simple majority of the council constitutes a quorum and may act upon any matter coming before the council. Members of the council are entitled to reimbursement in the same manner and at the same rate provided by law for other state officials.
 3. The council shall assist in the development of the state plan for developmental disabilities, monitor and evaluate the implementation of such state plan, and review and comment on all state plans in the state which relate to programs affecting individuals with developmental disabilities. The council may take any action reasonably necessary to secure and administer any money made available to state councils on developmental disabilities through the Developmentally Disabled and Bill of Rights Act [Pub. L. 95-602; 92 Stat. 2955; 42 U.S.C. 6000 et seq.]. The council, if approved by the governor, shall appoint a full-time director who shall assist the council. The director must be classified under the state personnel merit system. The council shall also perform studies and surveys of the needs of individuals with developmental disabilities in North Dakota and shall facilitate coordination of the activities of all state departments, divisions, agencies, and institutions having responsibilities in the field of developmental disabilities.

SECTION 272. AMENDMENT. Subsection 2 of section 25-01.2-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

SECTION 273. AMENDMENT. Section 25-01.2-18 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-18. Authority to adopt rules.

The ~~director of the state~~ department of health and human services may adopt, in accordance with chapter 28-32, any rules necessary to implement this chapter. The superintendent of public instruction may adopt rules to implement this chapter in schools. The rules adopted may not restrict or limit the rights guaranteed by this chapter.

SECTION 274. AMENDMENT. Section 25-02-01 of the North Dakota Century Code is amended and reenacted as follows:

25-02-01. State hospital for the mentally ill - Location - Title - Administration and control.

An institution for the care of the mentally ill must be maintained at the city of Jamestown and must be known as the state hospital. The department of health and human services shall administer and control the state hospital.

SECTION 275. AMENDMENT. Section 25-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-02-01.1. Maintenance of state hospital accreditation - Governing body membership - Rulemaking authority.

1. The department of health and human services shall seek appropriations and resources sufficient to ensure maintenance of the state hospital's accreditation by the joint commission and certification by the centers for Medicare and Medicaid services or by similar accrediting and certifying organizations and agencies possessing hospital standards recognized by the health care industry and accepted by the department.
2. The department, in consultation with the state hospital, shall create a state hospital governing body and shall by rules describe the powers and duties of the governing body. The department shall compensate members not employed by the department in the amount of one hundred dollars per day and reimburse members for expenses incurred in attending meetings in the amounts provided by sections 44-08-04 and 54-06-09.
3. The governing body must be composed of the executive director of the department of health and human services; the director of the division of behavioral health of the department, who shall serve as chairman of the governing body; the state hospital superintendent; the state hospital medical director; a representative of the department's fiscal administration division; a behavioral health consumer selected by the mental health association; and a legislator selected by the legislative management. The governing body may include other persons as appointed by the governing body.

SECTION 276. AMENDMENT. Section 25-02-03 of the North Dakota Century Code is amended and reenacted as follows:

25-02-03. Object of state hospital.

The state hospital is an institution for mental diseases serving specialized populations of the mentally ill, including persons suffering from drug addiction or alcoholism. The state hospital is one component of the North Dakota mental health delivery system and serves as a resource to community-based treatment programs. The state hospital shall, pursuant to rules adopted by the department of health and

human services, receive and care for all mentally ill persons, including persons suffering from drug addiction or alcoholism, residing within this state in accordance with this title, and shall furnish to those mentally ill persons all needed food, shelter, treatment, and support that may tend to restore their mental health or to alleviate their illness or suffering.

SECTION 277. AMENDMENT. Subsection 5 of section 25-03.1-02 of the North Dakota Century Code is amended and reenacted as follows:

5. "Department" means the department of health and human services.

SECTION 278. AMENDMENT. Section 25-03.1-34.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-34.1. Exchange of individuals with a substance use disorder.

The director of the department of health and human services, a county, a city, or a local law enforcement agency may enter into reciprocal agreements with the appropriate authorities of any other state regarding the mutual exchange, return, and transportation of individuals with a mental illness or substance use disorder who are treated or confined in hospitals of one state for treatment of a substance use disorder or mental illness but who have legal residence in another state.

SECTION 279. AMENDMENT. Subsection 3 of section 25-03.2-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 280. AMENDMENT. Subsection 2 of section 25-03.3-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Executive director" means the executive director of the department of health and human services or the executive director's designee.

SECTION 281. AMENDMENT. Section 25-03.3-07 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-07. Appointment of guardian ad litem.

At any stage of a proceeding under this chapter, on application of any individual or on its own motion, the court may appoint a guardian ad litem for a minor or an individual with an intellectual disability who is a respondent or witness or otherwise involved in the proceeding, if the minor or an individual with an intellectual disability has no parent, guardian, or custodian appearing on behalf of the minor or the individual with an intellectual disability or the interests of those persons conflict with those of the minor or an individual with an intellectual disability. The department of health and human services shall pay the expense of the guardian ad litem fee as established by the court.

SECTION 282. AMENDMENT. Section 25-03.3-08 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-08. Sexually dangerous individual - Procedure on petition - Detention.

1. Upon the filing of a petition pursuant to this chapter, the court shall determine whether to issue an order for detention of the respondent named in the

petition. The petition may be heard ex parte. The court shall issue an order for detention if there is cause to believe that the respondent is a sexually dangerous individual. If the court issues an order for detention, the order must direct that the respondent be taken into custody and transferred to an appropriate treatment facility or local correctional facility to be held for subsequent hearing pursuant to this chapter. Under this section, the department of health and human services shall pay for any expense incurred in the detention or evaluation of the respondent.

2. If the state's attorney knows or believes the respondent named in the petition is an individual with an intellectual disability, the state's attorney shall notify the court in the petition and shall advise the court of the name of the legal guardian of the respondent or, if none is known, the court may appoint a guardian ad litem for the respondent. Before service of the notice required in section 25-03.3-10, the court shall appoint an attorney for the respondent. An individual with an intellectual disability may be detained in a correctional facility before the probable cause hearing only when no other secure facility is accessible, and then only under close supervision.

SECTION 283. AMENDMENT. Section 25-03.3-12 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-12. Sexually dangerous individual - Evaluation.

The evaluation must be conducted by one or more experts chosen by the executive director. Whenever a respondent is subject to an evaluation pursuant to this chapter, the respondent may retain an expert to perform an evaluation or testify on the respondent's behalf. When the respondent is an adult with an intellectual disability and a guardian or guardian ad litem has not been appointed for the respondent, the court shall appoint an expert to perform an evaluation on behalf of the respondent. In the case of a respondent who is indigent, the court shall appoint a qualified expert to perform an examination or participate in the commitment proceeding on the respondent's behalf. The department of health and human services shall compensate any qualified expert appointed by the court on behalf of an indigent respondent in a reasonable amount based on time and expenses. An expert retained on behalf of the respondent must have reasonable access to the respondent for the purpose of the examination and to all relevant medical, psychological, and court records and reports.

SECTION 284. AMENDMENT. Section 25-03.3-17 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-17. Postcommitment proceeding, discharge, and further disposition.

1. A committed individual must remain in the care, custody, and control of the executive director until, in the opinion of the executive director, the individual is safe to be at large.
2. Each committed individual must have an examination of that individual's mental condition at least once a year. A report regarding the examination must be provided to the court that committed the individual. At the time of the annual examination, the committed individual has the right to have an expert examine the individual, and, upon the request of an indigent committed individual, the court shall appoint a qualified expert to examine the committed individual and report to the court. The department of health and human services shall compensate a qualified expert appointed by the court in a reasonable amount based on time and expenses. That expert must have

reasonable access to the committed individual and to all records relating to the committed individual, including confidential records.

3. If a committed individual has been committed to an out-of-state facility by the executive director for purposes of treatment, an expert from that state may be appointed by the court as a qualified expert for an indigent committed individual for any postcommitment proceeding.
4. After any report pursuant to this section is provided to the court, the court may order further examination and investigation of the committed individual as the court considers necessary. The court may set the matter for a hearing. At the hearing, the committed individual is entitled to be present and to the benefit of the protections afforded at the commitment proceeding. The state's attorney shall represent the state at the hearing. After the hearing, the court shall determine whether the committed individual is to be discharged or to be retained as a sexually dangerous individual in the care, custody, and control of the executive director.
5. The executive director may only discharge a sexually dangerous individual from commitment pursuant to a court order. The executive director may petition the committing court at any time for the discharge of the committed individual. The executive director shall give the state's attorney notice of any petition for discharge the executive director files with the court. Before the petition is granted, the state's attorney has the right to be heard by the court on the petition. The state's attorney may waive this right.
6. If the executive director moves a committed individual from a placement in the community to a placement in a secure treatment facility that is more restrictive, the committed individual may challenge the move at a hearing to be held within thirty days after the move in accordance with procedures established by the department of health and human services.

SECTION 285. AMENDMENT. Subsection 3 of section 25-03.3-18 of the North Dakota Century Code is amended and reenacted as follows:

3. At the hearing on the petition for discharge, the committed individual is entitled to be present and to the benefit of the protections afforded at the commitment proceeding. The state's attorney shall represent the state and may have the committed individual evaluated by experts chosen by the state. The committed individual is entitled to have an expert of the committed individual's choice conduct an evaluation. The court shall appoint a qualified expert if the committed individual is indigent and requests an appointment. The department of health and human services shall compensate a qualified expert appointed by the court in a reasonable amount based on time and expenses. That expert must have reasonable access to the committed individual and to all records relating to the committed individual, including confidential records.

SECTION 286. AMENDMENT. Section 25-03.3-21 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-21. Recovery of expense.

The department of health and human services, to the extent it has expended sums or provided services pursuant to this title, may seek civil recovery from the property of the respondent or committed individual. The department of health and human services must commence the action within six years after the department paid

the sums or provided the services to the respondent or committed individual. After notice and hearing, the court may order an individual to reimburse the department of health and human services for all or part of the expenditures made for that individual pursuant to this chapter. In establishing the amount of reimbursement ordered under this section, the court shall consider the ability of the respondent or committed individual to pay.

SECTION 287. AMENDMENT. Section 25-03.3-22 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-22. Rules.

The department of health and human services may adopt rules under chapter 28-32 to implement this chapter, but the rules may not restrict or limit the rights guaranteed by this chapter.

SECTION 288. AMENDMENT. Section 25-04-01 of the North Dakota Century Code is amended and reenacted as follows:

25-04-01. Life skills and transition center - Name - Administration and control.

A facility for individuals with developmental disabilities must be maintained at or near the city of Grafton in Walsh County. The facility must also be available for an individual who is determined to be an individual who may benefit from the facility's services. The facility must be known and designated as the life skills and transition center. The department of health and human services has administrative authority and control of the life skills and transition center.

SECTION 289. AMENDMENT. Section 25-04-02 of the North Dakota Century Code is amended and reenacted as follows:

25-04-02. Purpose of life skills and transition center.

1. The life skills and transition center must be maintained for the relief, instruction, care, and custody of individuals with developmental disabilities or other individuals who may benefit from the services offered at the center. For this purpose the department of health and human services may introduce and establish such trades and manual industries as in its judgment will best prepare the residents for future self-support.
2. The department may provide onsite and offsite additional services and effectuate its powers and duties to best serve individuals with developmental disabilities and other individuals who may benefit from those activities. The services provided and the duties effectuated need not be accredited by the accreditation council on services for people with developmental disabilities or certified by the health care financing administration, or any other similar accrediting or certifying organization, if the service or duty is not provided to individuals with developmental disabilities or if such accrediting or certifying organization does not accredit or certify the service or duty.

SECTION 290. AMENDMENT. Section 25-04-02.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-02.1. Accreditation of life skills and transition center.

The department of health and human services shall request appropriations and resources sufficient to ensure maintenance of the life skills and transition center's accreditation by the accreditation council on services for people with developmental disabilities and certification by the health care financing administration and, if deemed necessary, by similar accrediting and certifying organizations and agencies possessing standards applicable to an individual with a developmental disability and disciplines needed to provide quality services to individuals served.

SECTION 291. AMENDMENT. Section 25-04-04 of the North Dakota Century Code is amended and reenacted as follows:

25-04-04. Who may receive benefits of life skills and transition center.

Subject to this chapter and to any rules adopted by the department of health and human services, the benefits of the life skills and transition center may be received by:

1. Individuals with developmental disabilities and other individuals who may benefit from services provided at the life skills and transition center who, in the opinion of the superintendent of the life skills and transition center are of suitable age and capacity to receive instruction in the center and whose deficiencies prevent them from receiving proper training and instruction in the public schools;
2. Individuals with developmental disabilities and other individuals who may benefit from services provided at the life skills and transition center who cannot be properly cared for in their homes or other available facilities; or
3. Individuals with developmental disabilities and other individuals who may benefit from onsite and offsite services provided or duties effectuated by the life skills and transition center.

Residents and nonresidents of this state may receive the benefits of the life skills and transition center. Priority, however, must be given to residents of this state and first priority must be given to individuals with developmental disabilities.

SECTION 292. AMENDMENT. Section 25-04-05 of the North Dakota Century Code is amended and reenacted as follows:

25-04-05. Qualifications for admission to state facility - Screening required prior to admission or readmission - Educational or related services without charge for persons twenty-one years of age and under.

1. The superintendent may admit a person to the life skills and transition center when all of the following conditions have been met:
 - a. Application for admission has been made on behalf of the person by a parent or guardian or the person or agency having legal custody, or by the person seeking admission, in accordance with procedures established by the department of health and human services.
 - b. A comprehensive evaluation of the person has been made within three months of the date of application, a report of which has been filed with the superintendent and which, together with such other information or reviews as the department of health and human services may require, indicates to the superintendent's satisfaction that the person is eligible for admission to the life skills and transition center.

- c. The person may be admitted without exceeding the resident capacity of the facility as specified in the professional standards adopted by the department of health and human services.
2. No person may be admitted or readmitted to the life skills and transition center unless that person has undergone a screening process at the life skills and transition center to determine whether the admission or readmission is appropriate. Length of stay criteria may be established under rules as the department of health and human services may adopt. Any person who is suspected of being able to benefit from the services offered at the center may be screened to ascertain whether or not that person is actually a proper case for care, treatment, and training at the life skills and transition center. If in the opinion of the superintendent the person screened under this subsection is a proper subject for institutional care, treatment, and training at the life skills and transition center, that person may remain as a voluntary resident at the center at the discretion of the superintendent if all other conditions for admission required by this section are met.
3. Notwithstanding any other provision of this chapter, no handicapped patient, twenty-one years of age or under, or the estate or the parent of such patient, may be charged for educational or related services provided at the life skills and transition center. Except as provided in subsection 4, the department of health and human services has prior claim on all benefits accruing to such patients for medical and medically related services under entitlement from the federal government, medical or hospital insurance contracts, workforce safety and insurance, or medical care and disability programs. For purposes of this subsection, "related services" means transportation and such developmental, corrective, and other supportive services, as determined by the department of public instruction, as are required to assist a handicapped patient to benefit from special education. The cost of related services other than medical and medically related services must be paid by the life skills and transition center, the school district of residence of the handicapped child, and other appropriate state agencies and political subdivisions of this state. The department of public instruction, the department of health and human services, the school district of residence, and other appropriate state agencies and political subdivisions, as determined by the department of public instruction, shall determine and agree to that portion of related services, other than medical and medically related services, for which each agency and political subdivision is liable. The department of public instruction may adopt rules necessary to implement this section.
4. Parents of an individual with a developmental disability, who is twenty-one years of age or under, are not required to file, assist in filing, agree to filing, or assign an insurance claim when filing the claim would pose a realistic threat that the parents would suffer a financial loss not incurred by similarly situated parents of children with disabilities. Financial losses do not include incidental costs such as the time needed to file or assist in filing an insurance claim or the postage needed to mail the claim. Financial losses include:
 - a. A decrease in available lifetime coverage or any other benefit under an insurance policy.
 - b. An increase in premiums or the discontinuation of a policy.

- c. An out-of-pocket expense such as the payment of a deductible amount incurred in filing a claim unless the life skills and transition center pays or waives the out-of-pocket expense.

SECTION 293. AMENDMENT. Subsection 1 of section 25-04-05.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The superintendent shall have the right of temporary transfer of any resident of the life skills and transition center to an appropriate hospital or other specialized facility when in the superintendent's opinion the immediate health and safety of the resident requires the transfer. The superintendent shall also have the right and responsibility of indefinite transfer of a resident from one state facility for individuals with developmental disabilities to another when the best interest of the resident will be served thereby, or when the transfer is required in conformity with the policies of the department of health and human services; provided, however, that no transfer may be effected until all reasonable efforts have been made to consult with the resident's parent or guardian of the person.

SECTION 294. AMENDMENT. Subsection 3 of section 25-04-08 of the North Dakota Century Code is amended and reenacted as follows:

3. The person is admitted on indefinite transfer to a hospital, school, or other facility, or a protective service under the jurisdiction of another state, or another agency or department of this state; provided, however, that if such admission be by contractual arrangement made by the department of health and human services, the person must be placed on nonresident release status, but not discharged.

SECTION 295. AMENDMENT. Section 25-04-08.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-08.1. Notification before discharge.

Before discharge the superintendent shall consult with the parent or guardian of the person to be discharged, or with the court that ordered the commitment, and shall notify the director of the county social service board or human service zone of the county in which it is proposed that such person will assume residence and also shall notify the executive director of the department of health and human services.

SECTION 296. AMENDMENT. Section 25-04-11 of the North Dakota Century Code is amended and reenacted as follows:

25-04-11. Disposition of person who is not a legal resident.

If a person who has no legal residence in this state is subject to admission to the life skills and transition center or other appropriate state facility, by order of a court of competent jurisdiction, such person must be sent, at the expense of the county or human service zone, to the life skills and transition center in the same manner as a resident of this state who is found to be in need of services offered at the life skills and transition center, and the superintendent of the life skills and transition center shall then arrange for the transportation of such person to the place where the person belongs. The department of health and human services shall ascertain the place where such person belongs when the same conveniently can be done.

SECTION 297. AMENDMENT. Section 25-04-14 of the North Dakota Century Code is amended and reenacted as follows:

25-04-14. Expenses chargeable against patient or patient's estate - Filing claims.

Expenses for care and treatment of each patient at the life skills and transition center must, if practicable, be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health and charges may be adjusted in accordance with the patient's ability to pay which must include an estimate of potential future receipts, including amounts from estates. The supervising department shall recover from the patient or from a discharged patient expenses chargeable for care and treatment. If any patient is receiving social security benefits or is a veteran or a dependent of a veteran who has received, is receiving, or is entitled to receive compensation or pension from the veterans' administration, the expenses are a current claim against the patient and may be recovered monthly by the supervising department except that any amount required by the payer of the benefits to be paid directly to the patient must, upon approval of the department of health and human services, be credited to the patient's personal account from any money thus received.

SECTION 298. AMENDMENT. Subsection 2 of section 25-04-15 of the North Dakota Century Code is amended and reenacted as follows:

2. No real property belonging to the estate may be sold during the lifetime of the patient except for the maintenance and support of the patient's dependents, unless it is shown that the sale of the property will not result in undue hardship to those dependents, and it may be sold only upon the order of the district court having jurisdiction of the estate, with the consent of the department of health and human services.

SECTION 299. AMENDMENT. Subsection 5 of section 25-04-16 of the North Dakota Century Code is amended and reenacted as follows:

5. As used in this chapter, "supervising department" means the department of health and human services.

SECTION 300. AMENDMENT. Section 25-11-02 of the North Dakota Century Code is amended and reenacted as follows:

25-11-02. Compact administrator - Powers.

Pursuant to said compact, the executive director of the department of health and human services must be the compact administrator and who, acting jointly with like officers of other party states, may adopt rules to carry out more effectively the terms of the compact. The compact administrator shall cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or any supplementary agreement or agreements entered into by this state thereunder.

SECTION 301. AMENDMENT. Section 25-14-02 of the North Dakota Century Code is amended and reenacted as follows:

25-14-02. State Department of health officer and human services shall administer compact.

The ~~stated department of health officer~~ is hereby authorized to and human services ~~may~~ negotiate and enter into contracts on behalf of the state pursuant to article III of the compact and may perform such contracts; provided that no funds, personnel,

facilities, equipment, supplies, or materials shall be pledged, committed, or used on account of any such contract unless legally available therefor.

SECTION 302. AMENDMENT. Subsection 1 of section 25-16-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 303. AMENDMENT. Section 25-16-07 of the North Dakota Century Code is amended and reenacted as follows:

25-16-07. Records of treatment or care center confidential.

Except as otherwise authorized by law, an agent of the department of ~~human services~~ or the superintendent of the life skills and transition center or the licensee or their agents or employees may not disclose the contents of the individual records of a treatment or care center for individuals with a developmental disability, nor of the reports received from those records, except:

1. In a judicial proceeding when ordered by the presiding judge;
2. To a law enforcement official for a law enforcement purpose or any other legally constituted boards or agencies serving the interests of the residents for treatment, payment, or health care operations, to arrange, facilitate, or coordinate service to any such person;
3. To the parents or legal guardians of the resident;
4. To a physician to aid in the treatment of an individual within the fourth degree of consanguinity of a deceased resident, if the disclosure is limited to genetic health information that has a direct bearing on the health of the relative, the relative's child, or the relative's decision to have a child; or
5. To an individual who is within the fourth degree of consanguinity of a deceased resident, if the disclosure is limited to information about a resident needed to establish a family's genealogy.

SECTION 304. AMENDMENT. Section 25-16-12 of the North Dakota Century Code is amended and reenacted as follows:

25-16-12. Efforts to obtain private and governmental grants.

The department of ~~human services~~ and the duly licensed treatment or care centers for individuals with a developmental disability may exert all possible efforts to obtain grants, both private and governmental, for the care, custody, treatment, training, and education of individuals with a developmental disability.

SECTION 305. AMENDMENT. Subsection 1 of section 25-16.1-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 306. AMENDMENT. Section 25-16.2-01 of the North Dakota Century Code is amended and reenacted as follows:

25-16.2-01. Work activity center - Definition.

As used in this chapter "work activity center" means a facility, licensed by the department of health and human services, which is located in the state and operated by a nonprofit corporation organized for the primary purpose of employing and providing rehabilitative activities for individuals with physical disabilities, developmental disabilities, or chronic mental illnesses.

SECTION 307. AMENDMENT. Section 25-17-00.1 of the North Dakota Century Code is amended and reenacted as follows:

25-17-00.1. Definitions.

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

1. "Confirmatory-diagnostic testing" means testing to prove or disprove the presence of a specific metabolic disease or genetic disease.
2. "Confirmatory-diagnostic testing laboratory" means a laboratory performing confirmatory-diagnostic testing.
3. "Department" means the state department of health and human services.
4. "Licensed clinician" means a currently licensed physician, physician assistant, or advanced practice registered nurse.
5. "Low-protein modified food product" means a food product that is specially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a licensed clinician for the dietary treatment of a metabolic disease. The term does not include a natural food that is naturally low in protein.
6. "Medical food" means a food that is intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation and is formulated to be consumed or administered under the direction of a licensed clinician.
7. "Metabolic disease" and "genetic disease" mean a disease as designated by rule of the ~~state health council~~department for which early identification and timely intervention will lead to a significant reduction in mortality, morbidity, and associated disabilities.
8. "Newborn screening program" means a program facilitating access to appropriate testing, followup, diagnosis, intervention, management, evaluation, and education regarding metabolic diseases and genetic diseases identified in newborns.
9. "Out-of-range screening result" means a screening result that is outside of the expected range of testing results established for a particular disease.
10. "Responsible clinician" means the licensed clinician, midwife, naturopath, or birth attendant attending a newborn.
11. "Screening" means initial testing of a newborn for the possible presence of metabolic disease or genetic disease.
12. "Screening laboratory" means the laboratory the department selects to perform screening.

SECTION 308. AMENDMENT. Section 25-17-01 of the North Dakota Century Code is amended and reenacted as follows:

25-17-01. Newborn screening education programs and tests.

The state department of health shall:

1. Develop and implement a metabolic disease and genetic disease educational program among licensed clinicians, hospital staffs, public health nurses, and the citizens of this state. This educational program must include information about the nature of the diseases and about screening for the early detection of these diseases so that proper measures may be taken to reduce mortality, morbidity, and associated disabilities.
2. Provide, on a statewide basis, a newborn screening program.
3. Coordinate with or refer individuals to public and private health care service providers for long-term followup services for metabolic diseases and genetic diseases.
4. Select a screening laboratory.
5. Store, maintain, and dispose of blood spots used for screening.

SECTION 309. AMENDMENT. Section 25-17-02 of the North Dakota Century Code is amended and reenacted as follows:

25-17-02. Rulemaking requirement.

The ~~state health council~~department shall adopt rules necessary to implement this chapter.

SECTION 310. AMENDMENT. Section 25-17-03 of the North Dakota Century Code is amended and reenacted as follows:

25-17-03. Treatment for positive diagnosis - Registry of cases.

The state department of health shall:

1. Notify responsible clinicians regarding cases with out-of-range screening results or positive confirmatory-diagnostic testing results in order to facilitate access to appropriate treatment. If the responsible clinician is not a licensed clinician, the responsible clinician shall refer the patient to a licensed clinician for appropriate followup care.
2. Refer every diagnosed case of a metabolic disease or genetic disease to a licensed clinician for necessary treatment.
3. Maintain a registry of cases of metabolic diseases and genetic diseases.
4. Provide medical food at no cost to males under age twenty-six and females under age forty-five who are diagnosed with phenylketonuria or maple syrup urine disease, regardless of income. If treatment services under this subsection are provided to an individual by the department, the department may seek reimbursement from any government program that provides coverage to that individual for the treatment services provided by the department.

5. Offer for sale at cost medical food to females age forty-five and over and to males age twenty-six and over who are diagnosed with phenylketonuria or maple syrup urine disease, regardless of income. These individuals are responsible for payment to the department for the cost of medical food.
6. Provide low-protein modified food products, if medically necessary as determined by a qualified health care provider, to females under age forty-five and males under age twenty-six who are receiving medical assistance and are diagnosed with phenylketonuria or maple syrup urine disease.

SECTION 311. AMENDMENT. Section 25-17-06 of the North Dakota Century Code is amended and reenacted as follows:

25-17-06. Pulse oximetry screening for critical congenital heart defects - Exception.

Before discharge of a newborn child born in a hospital with a birthing center, the newborn child must receive a pulse oximetry screening for critical congenital heart defects. The screening requirement of this section does not apply if the parents or guardians of a newborn child object to the screening. The state department of health shall provide medical staff and facilities that provide birthing services with notice regarding this screening requirement. For purposes of this chapter, pulse oximetry screening is not a test under section 25-17-05 and a congenital heart defect detected by screening under this section is not a metabolic disease or genetic disease as those terms are used under this chapter.

SECTION 312. AMENDMENT. Subsection 1 of section 25-18-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 313. AMENDMENT. Subdivision b of subsection 1 of section 26.1-02-28 of the North Dakota Century Code is amended and reenacted as follows:

- b. "Department" means the department of health and human services and any designee of the department.

SECTION 314. AMENDMENT. Subdivision b of subsection 9 of section 26.1-26.4-02 of the North Dakota Century Code is amended and reenacted as follows:

- b. An agent acting on behalf of the federal government or the department of health and human services, but only to the extent that the agent is providing services to the federal government or the department of health and human services.

SECTION 315. AMENDMENT. Subsection 2 of section 26.1-36-09 of the North Dakota Century Code is amended and reenacted as follows:

2. a. The benefits must be provided for each of the following services: inpatient treatment, treatment by partial hospitalization, residential treatment, and outpatient treatment.
- b. In the case of benefits provided for inpatient treatment, the benefits must be provided for a minimum of forty-five days of services covered under this section and section 26.1-36-08 in any calendar year if provided by a hospital as defined under section 52-01-01 and rules of the ~~state~~

department of health and human services pursuant thereto offering treatment for the prevention or cure of mental disorder or other related illness. An insurance provider may require an individualized treatment plan from the inpatient treatment service provider which indicates that the course of treatment is the most appropriate and least restrictive form of treatment available in the community.

- c. In the case of benefits provided for partial hospitalization, the benefits must be provided for a minimum of one hundred twenty days of services covered under this section and section 26.1-36-08 in any calendar year. Partial hospitalization must be provided by a hospital as defined under section 52-01-01 and rules of the state department of health and human services pursuant thereto or by a regional human service center licensed under section 50-06-05.2, offering treatment for the prevention or cure of mental disorder or other related illness. For services provided in regional human service centers, charges must be reasonably similar to the charges for care provided by hospitals as defined in this subsection.
- d. In the case of benefits provided for residential treatment, the benefits must be provided for a minimum of one hundred twenty days of services covered under this section in any calendar year. Residential treatment services must be provided by a hospital as defined under section 52-01-01 and rules of the state department of health and human services; by a regional human service center licensed under section 50-06-05.2 offering treatment for the prevention or cure of mental disorder or other related illness; or by a residential treatment program. For services provided in a regional human service center, charges must be reasonably similar to the charges for care provided by a hospital as defined in this subsection.
- e. Any individual receiving residential treatment services who requires residential treatment service beyond the minimum of one hundred twenty days may trade unused inpatient treatment benefits provided for under subdivision b. For the purpose of computing the period for which benefits are payable, each day of inpatient treatment is equivalent to two days of treatment by a residential treatment program; provided, however, that no more than twenty-three days of the inpatient treatment benefits required by this section may be traded for residential treatment services.
- f.
 - (1) In the case of benefits provided for outpatient treatment, the benefits must be provided for a minimum of thirty hours for services covered under this section in any calendar year if the treatment services are provided within the scope of licensure by a nurse who holds advanced licensure with a scope of practice within mental health or if the diagnosis, evaluation, and treatment services are provided within the scope of licensure by a licensed physician, a licensed psychologist who is eligible for listing on the national register of health service providers in psychology, a licensed professional clinical counselor who is qualified in the clinical mental health counseling specialty in this state, or a licensed independent clinical social worker.
 - (2) A person who is qualified for third-party payment by the board of social work examiners on August 1, 1997, is exempt from paragraph 1.
 - (3) Upon the request of an insurance company, a nonprofit health service corporation, or a health maintenance organization, the North Dakota

board of social work examiners shall provide to the requesting entity information to certify that a licensed certified social worker meets the qualifications required under this section.

- (4) The insurance company, nonprofit health service corporation, or health maintenance organization may not establish a deductible or a copayment for the first five hours in any calendar year, and may not establish a copayment greater than twenty percent for the remaining hours. The deductible limitation of this paragraph does not apply to a high-deductible health plan used to establish a health savings account pursuant to and as defined in section 223 of the Internal Revenue Code [26 U.S.C. 223].
- (5) If the services are provided by a provider outside a preferred provider network without a referral from within the network, the insurance company, nonprofit health service corporation, or health maintenance organization may establish a copayment greater than twenty percent for only those hours after the first five hours in any calendar year.
- g. "Partial hospitalization" means continuous treatment for at least three hours, but not more than twelve hours, in any twenty-four-hour period and includes the medically necessary treatment services provided by licensed professionals under the supervision of a licensed physician.
- h. "Residential treatment" has the same meaning as provided in section 25-03.2-01, but only applies to individuals under twenty-one years of age.

SECTION 316. AMENDMENT. Subsection 4 of section 26.1-36-09.7 of the North Dakota Century Code is amended and reenacted as follows:

4. This section does not require medical benefits coverage for low-protein modified food products or medical food for an individual to the extent those benefits are available to that individual under a ~~state~~ department of health ~~or~~ department of and human services program.

SECTION 317. AMENDMENT. Subdivision b of subsection 1 of section 26.1-36-09.10 of the North Dakota Century Code is amended and reenacted as follows:

- b. "Prehospital emergency medical services" means a service or its personnel either licensed under chapter 23-27 or certified by the ~~state~~ department of health and human services.

SECTION 318. AMENDMENT. Subsection 1 of section 26.1-36-12 of the North Dakota Century Code is amended and reenacted as follows:

1. Any provision in any individual or group accident and health insurance policy, employee welfare benefit plan, or nonprofit health service contract issued by any insurance company, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat. 281; 29 U.S.C. 1167(1)], or nonprofit health service corporation denying or prohibiting the insured, participant, beneficiary, or subscriber from assigning to the department of health and human services any rights to medical benefits coverage to which the insured, participant, beneficiary, or subscriber is entitled under the policy, plan, or contract is void. An individual or group insurance company or nonprofit health service corporation shall recognize the

assignment of medical benefits coverage completed by the insured, participant, beneficiary, or subscriber, notwithstanding any provision contained in the policy or contract to the contrary.

SECTION 319. AMENDMENT. Subsection 2 of section 26.1-36-12.2 of the North Dakota Century Code is amended and reenacted as follows:

2. Notwithstanding the provisions of subsection 1, the department of health and human services may exclude, from participation in the medical assistance program administered under chapter 50-24.1 and title XIX of the Social Security Act [Pub. L. 89-97; 79 Stat. 343; 42 U.S.C. 1396 et seq.], as amended, any provider of pharmacy services who does not agree to comply with state and federal requirements governing the program, or who, after so agreeing, fails to comply with those requirements.

SECTION 320. AMENDMENT. Section 26.1-36-30 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36-30. Individual or group accident and health insurer or nonprofit health service corporation responsibility - Release of information to department of health and human services.

1. Any individual or group accident and health insurer or nonprofit health service corporation, upon request of the department of health and human services, shall provide any information contained in its records pertaining to an individual who is an applicant for or recipient of medical assistance under chapter 50-24.1, and who is covered under an accident and health insurance policy or a health service contract issued by the insurer or nonprofit health service corporation or the medical benefits paid by or claims paid to the insured or subscriber under a policy or contract. The insurer or nonprofit health service corporation shall make the requested records or information available upon receipt of a certification by the department of health and human services that the individual is an applicant for or recipient of medical assistance under chapter 50-24.1, or is a person who is legally responsible for the applicant or recipient.
2. The information required to be made available pursuant to this section is limited to information necessary to determine whether benefits under the policy or contract have been or should have been claimed and paid pursuant to an accident and health insurance policy or health service contract with respect to items of medical care and services received by a particular individual for which medical assistance coverage would otherwise be available.
3. The department of health and human services shall, in consultation with the commissioner, establish guidelines:
 - a. For the method of requesting and furnishing appropriate information, the time in which the information is to be provided, and method of reimbursing insurance companies and nonprofit health service corporations for necessary costs incurred in furnishing the requested information.
 - b. To assure that information relating to an individual certified to be an applicant for or recipient of medical assistance under chapter 50-24.1, furnished to an insurer or subscriber pursuant to this section, is used only

for the purpose of identifying the records or information requested in such manner so as not to violate section 50-06-15.

SECTION 321. AMENDMENT. Subsection 1 of section 26.1-36-45 of the North Dakota Century Code is amended and reenacted as follows:

1. Regardless of whether a resident of this state has or is eligible for health insurance coverage under a health insurance policy, health service contract, or evidence of coverage by or through an employer or under a plan sponsored by the state or federal government, the resident is not required to obtain or maintain a policy of individual health coverage except as may be required by a court or by the department of health and human services through a court or administrative proceeding.

SECTION 322. AMENDMENT. Subsection 2 of section 26.1-36.5-03 of the North Dakota Century Code is amended and reenacted as follows:

2. If a parent fails to provide health coverage for any child, enroll the child under family coverage upon application by the child's other parent or by the department of health and human services;

SECTION 323. AMENDMENT. Subsection 2 of section 26.1-36.5-04 of the North Dakota Century Code is amended and reenacted as follows:

2. Permit the custodial parent, the provider of health care, with the custodial parent's approval, or the department of health and human services, as the custodial parent's assignee, to submit claims for covered services without the approval of the noncustodial parent; and

SECTION 324. AMENDMENT. Section 26.1-45-13 of the North Dakota Century Code is amended and reenacted as follows:

26.1-45-13. Qualified service providers.

Any insurance company providing long-term care coverage for home and community-based services shall pay a provider meeting qualified service provider standards a daily payment allowance as defined in the policy or certificate. "Qualified service provider" means a human service zone or independent contractor that agrees to meet standards for personal attendant care service as established by the department of health and human services.

²⁴² **SECTION 325. AMENDMENT.** Section 26.1-47-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-47-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Air ambulance" means a specially equipped aircraft licensed by the ~~state~~ department of health and human services for transporting patients.
2. "Air ambulance provider" means a publicly or privately owned organization that is licensed or applies for licensure by the ~~state~~ department of health and

²⁴² Section 26.1-47-01 was also amended by section 2 of House Bill No. 1493, chapter 243.

human services to provide transportation and care of patients by air ambulance.

3. "Commissioner" means the insurance commissioner of the state of North Dakota.
4. "Covered person" means any person on whose behalf the health care insurer is obligated to pay for or provide health care services.
5. "Health benefit plan" means the health insurance policy or subscriber agreement between the covered person or the policyholder and the health care insurer which defines the services covered.
6. "Health care insurer" includes an insurance company as defined in section 26.1-02-01, a health service corporation as defined in section 26.1-17-01, a health maintenance organization as defined in section 26.1-18.1-01, and a fraternal benefit society as defined in section 26.1-15.1-02.
7. "Health care provider" means licensed providers of health care services in this state.
8. "Health care services" means services rendered or products sold by a health care provider within the scope of the provider's license. The term includes hospital, medical, surgical, dental, vision, chiropractic, and pharmaceutical services or products.
9. "In-network payment" means a full and final payment for air ambulance services pursuant to a network plan.
10. "Network" means a group of preferred providers providing services under a network plan.
11. "Network plan" means a health benefit plan that requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use health care providers managed by, owned by, under contract with, or employed by the health care insurer.
12. "Out-of-network" means a provider that is not providing the service under a network plan.
13. "Preferred provider" means a duly licensed health care provider or group of providers who have contracted with the health care insurer, under this chapter, to provide health care services to covered persons under a health benefit plan.
14. "Preferred provider arrangement" means a contract between the health care insurer and one or more health care providers which complies with all the requirements of this chapter.

Definitions. (Contingent effective date - See note) As used in this chapter, unless the context indicates otherwise:

1. "Air ambulance" means a specially equipped aircraft licensed by the ~~state~~ department of health and human services for transporting patients.

2. "Air ambulance provider" means a publicly or privately owned organization that is licensed or applies for licensure by the state department of health and human services to provide transportation and care of patients by air ambulance.
3. "Authorized representative" means:
 - a. A person to which a covered person has given express written consent to represent the covered person;
 - b. A person authorized by law to provide substituted consent for a covered person; or
 - c. If a covered person is unable to provide consent, the covered person's treating health care professional or a family member of the covered person.
4. "Balance billing" means the practice of an air ambulance provider billing for the difference between the air ambulance provider's charge and the health care insurer's allowed amount.
5. "Commissioner" means the insurance commissioner of the state of North Dakota.
6. "Covered person" means an individual on whose behalf the health care insurer is obligated to pay for or provide health care services.
7. "Facility" means an institution or other immobile health care setting providing physical, mental, or behavioral health care services.
8. "Health benefit plan" means the health insurance policy or subscriber agreement between the covered person or the policyholder and the health care insurer which defines the services covered.
9. "Health care insurer" includes an insurance company as defined in section 26.1-02-01, a health service corporation as defined in section 26.1-17-01, a health maintenance organization as defined in section 26.1-18.1-01, and a fraternal benefit society as defined in section 26.1-15.1-02.
10. "Health care provider" means licensed providers of health care services in this state.
11. "Health care services" means services rendered or products sold by a health care provider within the scope of the provider's license. The term includes hospital, medical, surgical, dental, vision, chiropractic, and pharmaceutical services or products.
12. "Network" means a group of preferred providers providing services under a network plan.
13. "Network plan" means a health benefit plan that requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use health care providers managed by, owned by, under contract with, or employed by the health care insurer.

14. "Out-of-network" means a provider that is not providing the service under a network plan.
15. "Preferred provider" means a duly licensed health care provider or group of providers who have contracted with the health care insurer, under this chapter, to provide health care services to covered persons under a health benefit plan.
16. "Preferred provider arrangement" means a contract between the health care insurer and one or more health care providers which complies with all the requirements of this chapter.
17. "Prior authorization" means confirmation by the covered person's health care insurer that the air ambulance services sought to be provided by the air ambulance provider meet the criteria for coverage under the covered person's health benefit plan as defined by the provisions of the covered person's health benefit plan.

²⁴³ **SECTION 326. AMENDMENT.** Section 26.1-47-10 of the North Dakota Century Code is amended and reenacted as follows:

26.1-47-10. Preferred provider arrangements - Requirements for accessing air ambulance providers. (Contingent effective date - [See note](#))

1. In addition to the other preferred provider arrangement requirements under this chapter, a preferred provider arrangement must require the health care insurer and health care provider comply with this section.
2. Except as otherwise provided under this section, before a health care provider arranges for air ambulance services for an individual the health care provider knows to be a covered person, the health care provider shall request a prior authorization from the covered person's health care insurer for the air ambulance services to be provided to the covered person. If the health care provider is unable to request or obtain prior authorization from the covered person's health care insurer:
 - a. The health care provider shall provide the covered person or the covered person's authorized representative an out-of-network services written disclosure stating the following:
 - (1) Certain air ambulance providers may be called upon to render care to the covered person during the course of treatment;
 - (2) These air ambulance providers might not have contracts with the covered person's health care insurer and are, therefore, considered to be out of network;
 - (3) If these air ambulance providers do not have contracts with the covered person's health care insurer, the air ambulance services will be provided on an out-of-network basis;
 - (4) A description of the range of the charges for the out-of-network air ambulance services for which the covered person may be responsible;

²⁴³ Section 26.1-47-10 was also amended by section 1 of House Bill No. 1493, chapter 243.

- (5) A notification the covered person or the covered person's authorized representative may agree to accept and pay the charges for the out-of-network air ambulance services, contact the covered person's health care insurer for additional assistance, or rely on other rights and remedies that may be available under state or federal law; and
 - (6) A statement indicating the covered person or the covered person's authorized representative may obtain a list of air ambulance providers from the covered person's health care insurer which are preferred providers and the covered person or the covered person's representative may request those participating air ambulance providers be accessed by the health care provider.
 - b. Before air ambulance services are accessed for the covered person, the health care provider shall provide the covered person or the covered person's authorized representative the written disclosure, as outlined by subdivision a and obtain the covered person's or the covered person's authorized representative's signature on the disclosure document acknowledging the covered person or the covered person's authorized representative received the disclosure document before the air ambulance services were accessed. If the health care provider is unable to provide the written disclosure or obtain the signature required under this subdivision, the health care provider shall document the reason, which may include the health and safety of the patient. The health care provider documentation satisfies the requirement under this subdivision.
3. This section does not:
- a. Preclude a covered person from agreeing to accept and pay the charges for the out-of-network services and not access the covered person's health care insurer's out-of-network air ambulance billing process described under this section.
 - b. Preclude a covered person from agreeing to accept and pay the bill received from the out-of-network air ambulance provider or from not accessing the air ambulance provider mediation process described under this section.
 - c. Regulate an out-of-network air ambulance provider's ability to charge certain fees for services or to charge any amount of fee for services provided to a covered person by the out-of-network air ambulance provider.
4. A health care insurer shall develop a program for payment of out-of-network air ambulance bills submitted under this section. A health benefit plan may not be issued in this state without the terms of the health benefit plan including the provisions of the health care insurer's program for payment of out-of-network air ambulance bills.
- a. A health care insurer may elect to pay out-of-network air ambulance provider bills as submitted, or the health care insurer may elect to use the out-of-network air ambulance provider mediation process described in subsection 5.

- b. This section does not preclude a health care insurer and an out-of-network facility air ambulance provider from agreeing to a separate payment arrangement.
5. A health care insurer shall establish an air ambulance provider mediation process for payment of out-of-network air ambulance provider bills. A health benefit plan may not be issued in this state if the terms of the health benefit plan do not include the provisions of the health care insurer's air ambulance provider mediation process for payment of out-of-network air ambulance provider bills.
- a. A health care insurer's air ambulance provider mediation process must be established in accordance with mediation standards recognized by the department by rule.
 - b. If the health care insurer and the out-of-network air ambulance provider agree to a separate payment arrangement or if the covered person agrees to accept and pay the out-of-network air ambulance provider's charges for the out-of-network services, compliance with the air ambulance provider mediation process is not required.
 - c. A health care insurer shall maintain records on all requests for mediation and completed mediation under this subsection for one year and, upon request of the commissioner, submit a report to the commissioner in the format specified by the commissioner.
6. The rights and remedies provided under this section to covered persons are in addition to and may not preempt any other rights and remedies available to covered persons under state or federal law.
7. The department shall enforce this section and shall report a violation of this section by a facility to the state department of health and human services.
8. This section does not apply to a policy or certificate of insurance, whether written on a group or individual basis, which provides coverage limited to:
- a. A specified disease, a specified accident, or accident-only coverage;
 - b. Credit;
 - c. Dental;
 - d. Disability;
 - e. Hospital;
 - f. Long-term care insurance as defined by chapter 26.1-45;
 - g. Vision care or any other limited supplemental benefit;
 - h. A Medicare supplement policy of insurance, as defined by the commissioner by rule or coverage under a plan through Medicare;
 - i. Medicaid;

- j. The federal employees health benefits program and any coverage issued as a supplement to that coverage;
 - k. Coverage issued as supplemental to liability insurance, workers' compensation, or similar insurance; or
 - l. Automobile medical payment insurance.
9. The commissioner may adopt rules to implement this section.

SECTION 327. AMENDMENT. Section 26.1-54-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-54-01. American health benefit exchange.

To ensure that an American health benefit exchange is created in the state, the commissioner and the department of health and human services shall:

1. Plan for the implementation of an American health benefit exchange for the state that facilitates the purchase of qualified health benefit plans; provides for the establishment of a small business health options program that is designed to assist qualified small employers in facilitating the enrollment of their employees in qualified health benefit plans offered in the small group market; implements eligibility determination and enrollment of individuals in the state's medical assistance program and the state's children's health insurance program; provides simplification; provides coordination among medical assistance, the children's health insurance program, and the state health insurance exchange; and meets the requirements of the Patient Protection and Affordable Care Act of 2010 [Pub. L. 111-148] as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152]. The legislative assembly may consider establishing one exchange that will provide services to both qualified individuals and qualified small employers;
2. Subject to section 3 of chapter 225 of the 2011 Session Laws, take all actions necessary to ensure that the exchange is determined, not later than January 1, 2013, by the federal government to be ready to operate not later than January 1, 2014, and that the exchange is operating on or after January 1, 2014;
3. Subject to section 3 of chapter 225 of the 2011 Session Laws, consider whether to seek federal grant funds for the planning and implementation of the exchange and administer all funds appropriated or made available for the purpose of carrying out the provisions of this chapter;
4. Subject to section 3 of chapter 225 of the 2011 Session Laws, contract with outside entities as necessary to provide services necessary to implement the exchange; and
5. Collaborate with the information technology department as necessary and appropriate in completing the responsibilities set forth in this section.

SECTION 328. AMENDMENT. Section 26.1-54-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-54-02. Rules.

The commissioner and the department of health and human services may adopt rules necessary or desirable to carry out the provisions of this chapter.

SECTION 329. AMENDMENT. Section 26.1-54-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-54-03. Cooperation of state agencies.

State agencies shall cooperate with the commissioner and the department of health and human services to ensure the success of the exchange.

SECTION 330. AMENDMENT. Section 26.1-54-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-54-04. Records.

Notwithstanding any provision of this code making records confidential, the commissioner or the commissioner's designee and the department of health and human services may receive from and provide to federal and state agencies information gathered in the administration of the exchange, including social security numbers, if the disclosure is necessary for the commissioner, the department of health and human services, or the receiving entity to perform its duties and responsibilities.

SECTION 331. AMENDMENT. Section 27-20-11 of the North Dakota Century Code is amended and reenacted as follows:

27-20-11. Venue.

A proceeding under this chapter may be commenced in the county in which the child resides. A proceeding under section 27-20-30.1 must be commenced in the county within the administrative human service zone, as determined by the department of health and human services. If delinquent or unruly conduct is alleged, the proceeding may be commenced in the county in which the acts constituting the alleged delinquent or unruly conduct occurred. If deprivation is alleged, the proceeding may be brought in the county in which the child is present when it is commenced, the county in which the child has resided the majority of the thirty days prior to the date of the alleged deprivation, or the county where the alleged deprivation has occurred. The court shall determine the appropriate venue for a deprivation action based upon the best interests of the child.

SECTION 332. AMENDMENT. Subdivision c of subsection 7 of section 27-20-20.1 of the North Dakota Century Code is amended and reenacted as follows:

- c. "Department" means the department of health and human services or its designee, including any county social service board.

SECTION 333. AMENDMENT. Section 27-20-30.1 of the North Dakota Century Code is amended and reenacted as follows:

27-20-30.1. Disposition of child needing continued foster care services.

1. For purposes of this section, "child" means an individual between the ages of eighteen and twenty-one years who is in need of continued foster care services.
2. A petition to commence an action under this section must contain information as required by supreme court rule along with an affidavit either prepared by

the administrative human service zone, as determined by the department of health and human services, or prepared by an agency or tribal council of a recognized Indian reservation in North Dakota.

3. The court shall issue a summons in accordance with section 27-20-22 upon the filing of a petition and affidavit.
4. If a child is in need of continued foster care services as determined by the human service zone and the department of health and human services and as set forth in a continued foster care agreement, the court shall make the following judicial determination:
 - a. That the child is not deprived, delinquent, or unruly but is in need of continued foster care services;
 - b. That the child will remain in or will return to foster care pursuant to the child's continued foster care agreement;
 - c. That the child's continued foster care agreement has been willfully entered between:
 - (1) The human service zone and the department of health and human services or its agent, the child, and the foster care provider; or
 - (2) An agency or tribal council of a recognized Indian reservation in North Dakota if the child is not subject to the jurisdiction of the state of North Dakota, the child, and the foster care provider;
 - d. That it is in the best interest of the child to remain in or return to foster care;
 - e. That reasonable efforts were made in accordance with subsection 7 of section 27-20-32.2;
 - f. That the child has attained the age of eighteen or older but does not exceed the age of twenty-one years;
 - g. That the child has satisfied the education, employment, or disability requirements under the Fostering Connections to Success and Increasing Adoptions Act of 2008 [Pub. L. 110-351] and as set forth by the department of health and human services;
 - h. That the administrative human service zone, as determined by the department, or that an agency or tribal council of a recognized Indian reservation in North Dakota, shall continue foster care case management, unless otherwise agreed to or required by the department;
 - i. That the administrative human service zone or an agency or tribal council of a recognized Indian reservation in North Dakota must have care and placement responsibility of the child;
 - j. That permanency hearing must be as set forth in section 27-20-36; and
 - k. That there are no grounds to file a petition to terminate parental rights under chapter 27-20.

5. Pursuant to rule 16 of the North Dakota Rules of Juvenile Procedure, a court may modify or vacate the judicial determination made under subsection 4.

SECTION 334. AMENDMENT. Subsection 7 of section 27-20-45 of the North Dakota Century Code is amended and reenacted as follows:

7. At least ten days before the petition is heard, the clerk of district court or juvenile court shall provide a copy of the petition and summons, if any, to the human service zone and the department of health and human services.

²⁴⁴ **SECTION 335. AMENDMENT.** Subsection 1 of section 27-20-51 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in this section, all files and records of the juvenile court, whether in the office of the clerk of district court or juvenile court, of a proceeding under this chapter are closed to the public. Juvenile court files and records are open to inspection only by:
 - a. The judge and staff of the juvenile court.
 - b. The parties to the proceeding or their counsel or the guardian ad litem of any party.
 - c. A public or private agency or institution providing supervision or having custody of the child under order of the juvenile court, which must be given a copy of the findings and order of disposition when it receives custody of the child.
 - d. Any court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who, prior to the criminal case, had been a party to the proceeding in juvenile court.
 - e. The professional staff of the uniform crime victims compensation program when necessary for the discharge of their duties pursuant to chapter 54-23.4.
 - f. A staff member of the division of children and family services of the department of health and human services or a law enforcement officer when necessary for the performance of that person's duties under section 50-11.1-06.2 or the National Child Protection Act of 1993 [Pub. L. 103-209; 107 Stat. 2490; 42 U.S.C. 5119 et seq.].
 - g. An employee or agent of the department of health and human services when necessary for performance of that individual's duty under chapter 50-11 or 50-11.1 to investigate the background of an individual living or working in the facility, home, or residence for which licensure is sought.
 - h. A criminal justice agency if the juvenile is required to register under section 12.1-32-15.

²⁴⁴ Section 27-20-51 was also amended by section 1 of House Bill No. 1047, chapter 247.

- i. The staff of a children's advocacy center if the juvenile or a victim of the juvenile has been referred for or has received services at the children's advocacy center.
- j. A victim of the delinquent child or the victim's guardian. All records including medical, educational, and school information must be redacted before inspection. For purposes of this subdivision, only records pertaining to the specific offense between the victim and the delinquent child may be inspected.

SECTION 336. AMENDMENT. Subsection 2 of section 27-20-54 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon the final destruction of a file or record, the proceeding must be treated as if it never occurred. The juvenile court shall notify each agency named in the file or record of the destruction. All index references, except those which may be made by the attorney general and the directors of the department of transportation, the department of health and human services, the department of corrections and rehabilitation, the commission on legal counsel for indigents and its public defender offices, law enforcement agencies, and human service zones, must be deleted. Each agency, except the attorney general and the directors of the department of transportation, the department of health and human services, the department of corrections and rehabilitation, the commission on legal counsel for indigents and its public defender offices, law enforcement agencies, and human service zones, upon notification of the destruction of a file or record, shall destroy all files, records, and references to the child's apprehension, detention, and referral to the juvenile court and any record of disposition made by the juvenile court. The attorney general, the department of health and human services, the department of corrections and rehabilitation, the commission on legal counsel for indigents and its public defender offices, law enforcement agencies, and human service zones may not keep a juvenile file or record longer than is required by the records retention policy of that official, department, or agency. Upon inquiry in any matter the child, the court, and representatives of agencies, except the attorney general and the directors of the department of transportation, the department of health and human services, the department of corrections and rehabilitation, law enforcement agencies, and human service zones, shall properly reply that no record exists with respect to the child.

²⁴⁵ **SECTION 337. AMENDMENT.** Section 27-21-09 of the North Dakota Century Code is amended and reenacted as follows:

27-21-09. Cooperation with other agencies and departments of the state - Right to inspect facilities of state institutions - Right to examine children.

The division of juvenile services shall cooperate with and receive the cooperation of the department of health and human services, the department of public instruction, the department of career and technical education, the juvenile courts, ~~the state department of health,~~ and such other agencies and departments of the state as may be necessary to carry out the objectives of this chapter. The division of juvenile services may inspect at all reasonable times the facilities of those institutions within the state it is authorized to utilize under this chapter, and may examine any child it has placed in the care of such institution, and may contract with public and private

²⁴⁵ Section 27-21-09 was also amended by section 29 of House Bill No. 1035, chapter 245.

agencies to provide services for them or to retain from them required services to meet the purpose and objective of this chapter.

246 SECTION 338. AMENDMENT. Subdivision d of subsection 2 of section 27-21-12 of the North Dakota Century Code is amended and reenacted as follows:

- d. The department of health and human services or a human service zone.

SECTION 339. AMENDMENT. Section 28-21-05.2 of the North Dakota Century Code is amended and reenacted as follows:

28-21-05.2. Department of health and human services may issue executions for child support arrearages.

1. Notwithstanding section 28-21-05, if the judgment debtor is listed on the arrears registry as defined in section 14-09-09.10, or if the judgment debtor meets criteria established by the secretary of the United States department of health and human services that apply when a financial institution is doing business in two or more states, the department of health and human services may issue an execution, against the property of the judgment debtor, to the sheriff of any county in which the property may be found.
2. A writ of execution issued by the department of health and human services must be issued as provided in section 28-21-06, except the past-due support need not be docketed and the writ may be issued in a form prescribed by the department of health and human services. A writ issued under this section must be accompanied by a copy of the payment records maintained under section 50-09-02.1 which has been certified under section 14-08.1-08.
3. A writ issued by the department of health and human services is returnable to the department.

SECTION 340. AMENDMENT. Section 30-16-04 of the North Dakota Century Code is amended and reenacted as follows:

30-16-04. Descent and distribution of real property subject to homestead estate.

The real property subjected to the homestead estate descends, subject to the full satisfaction of that estate, exempt from decedent's debts except claims in favor of the county for county general assistance, the department of health and human services for general assistance, and also for claims of the state of North Dakota for repayment of old-age assistance and aid to the permanently and totally disabled and as otherwise provided in section 47-18-04, and must be distributed in the manner in which real property not subjected to a homestead estate is distributed or as directed in the decedent's will. The real property constituting the homestead of a decedent, or any part thereof, may not descend or be distributed to any person other than the surviving spouse and decedent's heirs in the direct descending line as prescribed in title 30.1 until all the decedent's debts are fully paid.

SECTION 341. AMENDMENT. Section 32-03-48 of the North Dakota Century Code is amended and reenacted as follows:

32-03-48. Definitions.

²⁴⁶ Section 27-21-12 was also amended by section 30 of House Bill No. 1035, chapter 245.

As used in sections 32-03-48 through 32-03-50, unless the context otherwise requires:

1. "Critical incident" means any event encountered by emergency service personnel within the scope of their employment which causes them to experience unusually strong emotional reactions that have the potential to interfere with their ability to perform their jobs or that may interfere with their personal lives.
2. "Critical incident stress debriefing" means the process of resolving the effects of critical incidents on emergency service personnel through a structured meeting with both psychological and educational components according to the model approved by the state department of health and human services.
3. "Critical incident stress management team" means those volunteers who are recognized by the state department of health and human services as members of an organized group that provides critical incident stress debriefing services on behalf of the state.
4. "Emergency service personnel" means individuals who provide emergency services to persons requiring medical aid, firefighting services, law enforcement assistance, or other emergency assistance. The term includes law enforcement officers, firefighters, rescue personnel, ambulance personnel, quick response personnel, emergency service dispatchers, nurses, physicians, and other emergency care providers.
5. "Peer support personnel" means those members of a critical incident stress management team who are emergency service personnel and who have completed appropriate training approved by the state department of health and human services.

SECTION 342. AMENDMENT. Section 32-37-05 of the North Dakota Century Code is amended and reenacted as follows:

32-37-05. Fees paid by petitioner - Filing copy of judgment.

The petitioner, upon the filing of the petition, must pay to the clerk of the district court a filing fee as prescribed in subsection 1 of section 27-05.2-03. The cost of the publication of the notice required by this chapter shall be paid by the petitioner. In the event that said judgment shall establish the date and place of birth of the petitioner, the clerk of the court shall certify a copy of such judgment and file the same with the division of vital statistics, state department of health and human services, Bismarck, North Dakota.

SECTION 343. AMENDMENT. Paragraph 3 of subdivision b of subsection 4 of section 34-13-01 of the North Dakota Century Code is amended and reenacted as follows:

- (3) An individual, firm, corporation, limited liability company, or association licensed or certified by the department of health and human services to provide employment related services, to the extent the employment-related services are being provided for the clientele identified by the department in the issuance of the license or certificate.

SECTION 344. AMENDMENT. Subsection 2 of section 34-15-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

SECTION 345. AMENDMENT. Subsection 2 of section 36-01-12.2 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon request by the person confiscating the animal, the board, the ~~state~~ department of health and human services, the game and fish department, any county sheriff's office, city police department, or other peace officer may provide assistance in any action to seize, impound, confiscate, or quarantine any animal suspected of being held or possessed in violation of this title.

SECTION 346. AMENDMENT. Section 37-17.4-01 of the North Dakota Century Code is amended and reenacted as follows:

37-17.4-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Disaster relief organization" means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and which:
 - a. Is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the federal government, the ~~state~~ department of health and human services, or the state board of animal health; or
 - b. Regularly plans and conducts its activities in coordination with an agency of the federal government, the ~~state~~ department of health and human services, or the state board of animal health.
2. "Emergency" means an event or condition that is a disaster or an emergency as defined under chapter 37-17.1 and any event, condition, or incident for which the deployment of volunteer health practitioners is determined to be necessary by the state health officer, a local board of health, or the state veterinarian.
3. "Emergency declaration" means a declaration or proclamation of disaster or emergency issued by the governor.
4. "Emergency management assistance compact" means the interstate compact approved by Congress by Public Law No. 104-321 [110 Stat. 3877].
5. "Entity" means a person other than an individual.
6. "Health facility" means an entity licensed under the laws of this or another state to provide health or veterinary services.
7. "Health practitioner" means an individual licensed under the laws of this or another state to provide health or veterinary services and any other individual performing nonmedical support disaster or emergency responsibilities or duties at any place in this state subject to the order or control of, or pursuant to a request of, the ~~state~~ department of health and human services or a local

public health unit and deployed through the emergency system for advance registration of volunteer health professionals.

8. "Health services" means the provision of treatment, care, advice or guidance, or other services, or supplies related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:
 - a. The following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:
 - (1) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; and
 - (2) Counseling, assessment, procedures, or other services;
 - b. Sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and
 - c. Funeral, cremation, cemetery, or other mortuary services.
9. "Host entity" means an entity operating in this state which uses volunteer health practitioners to respond to an emergency.
10. "License" means authorization by a state to engage in health or veterinary services that are unlawful without the authorization. The term includes authorization under the laws of this state to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity.
11. "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority.
12. "Veterinary services" means the provision of treatment, care, advice or guidance, or other services, or supplies related to the health or death of an animal or animal populations, to the extent necessary to respond to an emergency, including:
 - a. Diagnosing, treating, or preventing an animal disease, injury, or other physical or mental condition by prescribing, administering, or dispensing vaccine, medicine, surgery, or therapy;
 - b. Using a procedure for reproductive management; and
 - c. Monitoring and treating animal populations for diseases that have spread or demonstrate the potential to spread to humans.
13. "Volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services. The term does not include a practitioner who receives compensation pursuant to a pre-existing employment relationship with a host entity or affiliate which requires the practitioner to provide health services in this state, unless the practitioner is not a resident of this state and is employed

by a disaster relief organization providing services in this state during an emergency.

SECTION 347. AMENDMENT. Section 37-17.4-03 of the North Dakota Century Code is amended and reenacted as follows:

37-17.4-03. Regulation of services during emergencies.

1. During an emergency, the state department of health and human services or the state board of animal health may limit, restrict, or otherwise regulate:
 - a. The duration of practice by volunteer health practitioners;
 - b. The geographical areas in which volunteer health practitioners may practice;
 - c. The types of volunteer health practitioners who may practice; and
 - d. Any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.
2. An order issued under subsection 1 may take effect immediately, without prior notice or comment, and is not a rule within the meaning of chapter 28-32.
3. A host entity that uses volunteer health practitioners to provide health or veterinary services in this state shall:
 - a. Consult and coordinate its activities with the state department of health and human services or the state board of animal health to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and
 - b. Comply with any laws other than this chapter relating to the management of emergency health or veterinary services, including chapters 23-27 and 43-29.

SECTION 348. AMENDMENT. Section 37-17.4-04 of the North Dakota Century Code is amended and reenacted as follows:

37-17.4-04. Volunteer health practitioner registration systems.

1. In the case of a volunteer health practitioner whose principal practice is located in this state and who is licensed by a North Dakota professional board or agency, the volunteer health practitioner registration system is the emergency system for advance registration of volunteer health professionals and is maintained by the state department of health and human services and is known as the public health emergency volunteer medical reserve corps.
2. In the case of a volunteer health practitioner who is not covered under subsection 1, the volunteer health practitioner registration system is the system established under subsection 1 or a system that qualifies under this subsection. To qualify as a volunteer health practitioner registration system under this subsection, a system must:
 - a. Accept applications for the registration of volunteer health practitioners before or during an emergency;

- b. Include information about the licensure and good standing of health practitioners which is accessible by authorized persons;
- c. Be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under this chapter; and
- d. Meet one of the following conditions:
 - (1) Be an emergency system for advance registration of volunteer health-care practitioners established by a state and funded through the United States department of health and human services under section 319I of the Public Health Services Act [42 U.S.C. 247d-7b];
 - (2) Be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed pursuant to section 2801 of the Public Health Services Act [42 U.S.C. 300hh]; or
 - (3) Be operated by a:
 - (a) Disaster relief organization;
 - (b) Licensing board;
 - (c) National or regional association of licensing boards or health practitioners;
 - (d) Health facility that provides comprehensive inpatient and outpatient health care services, including a tertiary care and teaching hospital; or
 - (e) Governmental entity.
- 3. During an emergency, the state department of health and human services, a person authorized to act on behalf of the state department of health and human services, or a host entity may confirm whether volunteer health practitioners utilized in this state are registered with a registration system that complies with subsection 1 or 2. Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.
- 4. Upon request of a person in this state authorized under subsection 3, or a similarly authorized person in another state, a registration system located in this state shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.
- 5. A host entity is not required to use the services of a volunteer health practitioner even if the practitioner is registered with a registration system that indicates that the practitioner is licensed and in good standing.

SECTION 349. AMENDMENT. Subsection 3 of section 37-17.4-07 of the North Dakota Century Code is amended and reenacted as follows:

- 3. The state department of health and human services or the state board of animal health may modify or restrict the health or veterinary services that volunteer health practitioners may provide pursuant to this chapter. An order

under this subsection may take effect immediately, without prior notice or comment, and is not a rule within the meaning of chapter 28-32.

SECTION 350. AMENDMENT. Section 37-17.4-09 of the North Dakota Century Code is amended and reenacted as follows:

37-17.4-09. Regulatory authority.

The ~~department of health council and human services~~ may adopt rules to implement this chapter. In doing so, the ~~health council~~department shall consult with and consider rules adopted by similarly empowered agencies in other states to promote uniformity of application of this chapter and make the emergency response systems in the various states reasonably compatible.

²⁴⁷ **SECTION 351. AMENDMENT.** Section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

39-01-01. Definitions.

In this title, unless the context or subject matter otherwise requires:

1. "Appropriate licensed addiction treatment program" means an addiction treatment program conducted by an addiction facility licensed by the department of health and human services or conducted by a licensed individual specifically trained in addiction treatment.
2. "Authorized emergency vehicles":
 - a. "Class A" authorized emergency vehicles means:
 - (1) Vehicles of a governmentally owned fire department.
 - (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles.
 - (3) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation.
 - (4) Ambulances and other vehicles authorized by licensure granted under chapter 23-27.
 - (5) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the game and fish department.

²⁴⁷ Section 39-01-01 was also amended by section 1 of House Bill No. 1148, chapter 278, section 1 of Senate Bill No. 2097, chapter 280, and section 1 of Senate Bill No. 2329, chapter 279.

- (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
 - (7) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency.
 - (8) Vehicles operated by or under the control of the director of the parks and recreation department.
 - (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.
 - (10) Vehicles operated by or under the control of the state forester.
 - (11) Vehicles operated by or under the control of the bureau of criminal investigation and used for law enforcement purposes.
 - (12) Vehicles operated by or under the state department of health and human services in cases of emergencies.
- b. "Class B" authorized emergency vehicles means wreckers and such other emergency vehicles as are authorized by the local authorities.
- c. "Class C" authorized emergency vehicles means:
- (1) Vehicles used by the state division of homeland security or local division of emergency management organizations.
 - (2) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
 - (3) Vehicles, other than ambulances, used by emergency medical services personnel.
3. "Bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches [50.8 centimeters] in diameter.
4. "Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. Provided, every motor vehicle designed for carrying not more than fifteen persons and used for a ridesharing arrangement, as defined in section 8-02-07, is not a "bus".
5. "Business district" means the territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet [91.44 meters] or more is occupied by buildings in use for business.
6. "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

7. "Cancellation" means a license is annulled and terminated because of an error or defect or because the licensee is no longer entitled to the operator's license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after the cancellation.
8. "Child restraint system" means a specifically designed device, built-in seating system, or belt-positioning booster that meets the federal motor vehicle safety standards and is permanently affixed to a motor vehicle, is affixed to the vehicle by a safety belt or universal attachment system, or is combined with a federally compliant safety belt system.
9. "Commercial freighting" means the carriage of things other than passengers, for hire, except that such term does not include:
 - a. The carriage of things other than passengers within the limits of the same city;
 - b. Carriage by local dray lines of baggage or goods to or from a railroad station from or to places in such city or in the immediate vicinity thereof, in this state, and not to exceed two miles [3.22 kilometers] from the corporate or recognized limits of said city; or
 - c. Hauling done by farmers for their neighbors in transporting agricultural products to or from market.
10. "Commercial passenger transportation" means the carriage of passengers for hire, except that the term does not include:
 - a. The carriage of passengers within the limits of a city.
 - b. The carriage by local buslines of passengers to or from a railroad station from or to places within any city or within two miles [3.22 kilometers] of the limits of the city.
 - c. The carriage of passengers under a ridesharing arrangement, as defined in section 8-02-07.
11. "Commissioner" means the director of the department of transportation of this state, acting directly or through authorized agents as provided by section 24-02-01.3.
12. "Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.
13. "Conviction" means a final order or judgment or conviction by the North Dakota supreme court, any lower court having jurisdiction, a tribal court, or a court in another state if an appeal is not pending and the time for filing a notice of appeal has elapsed. Subject to the filing of an appeal, the term includes:
 - a. An imposed and suspended sentence;

- b. A deferred imposition of sentence under subsection 4 of section 12.1-32-02; or
 - c. A forfeiture of bail or collateral deposited to secure a defendant's appearance in court and the forfeiture has not been vacated.
- 14. "Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
 - 15. "Dealer" means every person, partnership, corporation, or limited liability company engaged in the business of buying, selling, or exchanging motor vehicles, or who advertises, or holds out to the public as engaged in the buying, selling, or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, limited liability company, or association doing business in several cities or in several locations within a city must be considered a separate dealer in each such location.
 - 16. "Department" means the department of transportation of this state as provided by section 24-02-01.1.
 - 17. "Director" means the director of the department of transportation of this state as provided by section 24-02-01.3.
 - 18. "Driver" means every person who drives or is in actual physical control of a vehicle.
 - 19. "Electronic communication device" means an electronic device, including a wireless telephone, personal digital assistant, a portable or mobile computer or other device, and video display equipment. The term does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.
 - 20. "Essential parts" means all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation and includes all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.
 - 21. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or by destroying life or limb.

22. "Farm tractor" includes every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines, and other implements of husbandry.
23. "Farm trailer" includes those trailers and semitrailers towed by a bona fide resident farmer hauling the farmer's own agricultural, horticultural, dairy, and other farm products if the gross weight, not including the towing vehicle, does not exceed twenty-four thousand pounds [10886.22 kilograms].
24. "Fifth-wheel travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.
25. "Flammable liquid" means any liquid which has a flash point of seventy degrees Fahrenheit [21.11 degrees Celsius], or less, as determined by a tagiabue or equivalent closed-cup test device.
26. "Foreign vehicle" means every motor vehicle which is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.
27. "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.
28. "Guest" means and includes a person who accepts a ride in any vehicle without giving compensation therefor.
29. "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and of every way privately maintained within a mobile home park, trailer park, or campground containing five or more lots for occupancy by mobile homes, travel trailers, or tents when any part thereof is open for purposes of vehicular travel.
30. "House car" or "motor home" means a motor vehicle which has been reconstructed or manufactured primarily for private use as a temporary or recreational dwelling and having at least four of the following permanently installed systems:
 - a. Cooking facilities.
 - b. Icebox or mechanical refrigerator.
 - c. Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.
 - d. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.
 - e. Heating or air-conditioning system, or both, separate from the vehicle engine or the vehicle engine electrical system.

- f. A 110-115 volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply.
31. "Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highway.
32. "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two roadways thirty feet [9.14 meters] or more apart, then every crossing of each roadway of such divided highway by an intersecting highway must be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet [9.14 meters] or more apart, then every crossing of two roadways of such highways must be regarded as a separate intersection.
33. "Intoxicating liquor" means and includes any beverage containing alcohol.
34. "Judgment" means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a claim for relief arising out of ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a claim for relief on an agreement of settlement for such damages.
35. "Legal owner" means a person who holds the legal title to a vehicle.
36. "Licensed health care provider" means doctor of medicine, doctor of osteopathy, doctor of chiropractic, optometrist, psychologist, advanced practice registered nurse, or physician assistant who is licensed, certified, or registered in accordance with laws and regulations in this or another state.
37. "Lienholder" means a person holding a security interest in a vehicle.
38. "Local authorities" includes every county, municipal, and other local board or body having authority to adopt local police regulations under the constitution and laws of this state.
39. "Mail" means to deposit mail properly addressed and with postage prepaid with the United States postal service.
40. "Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable person, with due consideration of the totality of circumstances.

41. "Manufactured home" means a structure, transportable in one or more sections, that, in the traveling mode, is eight body feet [2.44 meters] or more in width or forty body feet [12.19 meters] or more in length, or, when erected onsite, is three hundred twenty square feet [29.73 square meters] or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to whether the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under title 42 of the United States Code.
42. "Manufacturer" means any person who manufactures, assembles, or imports and sells new motor vehicles to new motor vehicle dealers for resale in the state; but such term does not include a person who assembles or specially builds interior equipment on a completed vehicle supplied by another manufacturer, distributor, or supplier.
43. "Metal tires" includes all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material except that this provision does not apply to pneumatic tires.
44. "Mobile home" means a structure, either single or multisectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet [8.23 meters] or more in length.
45. "Modular unit" includes every factory fabricated transportable building unit designed to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational, or industrial purposes.
46. "Motor vehicle" includes every vehicle that is self-propelled, every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and, for purposes of motor vehicle registration, title registration, and operator's licenses, motorized bicycles. The term does not include a snowmobile as defined in section 39-24-01.
47. "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding implements of husbandry.
48. "Motorized bicycle" means a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion or footrests for use by the operator, a power source providing up to a maximum of two brake horsepower having a maximum piston or rotor displacement of 3.05 cubic inches [49.98 milliliters] if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed thirty miles [48.28 kilometers] per hour on a level road surface, and a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged, and the vehicle may not have a width greater than thirty-two inches [81.28 centimeters].

49. "Motor-powered recreational vehicle" means a motorcycle, unconventional vehicle, or off-highway vehicle as defined in section 39-29-01, or a snowmobile as defined in section 39-24-01.
50. "Nonresident" means any person who is not a resident of this state.
51. "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state.
52. "Official traffic-control devices" means all signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.
53. "Operator" means every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.
54. "Operator's license", "driver's license", or "license to operate a motor vehicle" means any operator's or driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:
 - a. Any temporary license or instruction permit;
 - b. The privilege of any person to drive a motor vehicle whether such person holds a valid license; or
 - c. Any nonresident's operating privilege as defined in this section.
55. "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.
56. "Park", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.
57. "Passenger motor vehicle" means every motor vehicle designed principally for the transportation of persons and includes vehicles which utilize a truck chassis, but have a seating capacity for four or more passengers.
58. "Pedestrian" means any person afoot.
59. "Person" includes every natural person, firm, copartnership, association, corporation, or limited liability company.
60. "Pneumatic tires" includes all tires inflated with compressed air.
61. "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and

ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

62. "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
63. "Primary source identity document" means documentary evidence of an individual's name, date of birth, and legal presence required in chapters 39-06 and 39-06.2 related to the issuance of permits, licenses, and nondriver photo identification cards, and retained in the driver record.
64. "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
65. "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring after the effective date of the proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to the limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.
66. "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.
67. "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.
68. "Reconstructed vehicle" means any vehicle, of a type required to be registered, materially altered from its original construction by the removal, addition, or substitution of new or used essential parts.
69. "Recreational vehicle" means any motorcycle not qualified for registration, off-highway vehicle, snowmobile, vessel, or personal watercraft.
70. "Residence district" means territory contiguous to a highway not comprising a business district, when the frontage on such highway for a distance of three hundred feet [91.44 meters] or more is occupied mainly by dwellings, or by dwellings and buildings in use for business.
71. "Revocation" means that the operator's license is terminated and may not be renewed or restored, except on application for a new license presented to and acted upon by the director after the expiration of the period of revocation.
72. "Right of way" means the privilege of the immediate use of a roadway.
73. "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

74. "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein refers to any such roadway separately but not to all such roadways collectively.
75. "Saddle mount" means placing the front wheels of the drawn vehicle upon the bed of the drawing vehicle.
76. "Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set aside as a safety zone.
77. "Salvage certificate of title" means a document issued by the department for purposes of proof of ownership of a salvage or destroyed vehicle and not acceptable for motor vehicle registration purposes.
78. "Schoolbus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-related events. For the purposes of chapter 39-21, "schoolbus" means any motor vehicle that is owned or leased by a public or governmental agency and used to transport primary or secondary school students to or from school or to or from school-related events, or is privately owned and operated for compensation to transport primary or secondary school students to or from school or to or from school-related events. Schoolbus does not include a bus used as a common carrier.
79. "Semitrailer" includes every vehicle of the trailer type so designed and used in conjunction with a truck or truck tractor that some part of its own weight and that of its own load rests upon or is carried by a truck or truck tractor, except that it does not include a "housetrailer" or "mobile home".
80. "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.
81. "Solid tire" includes every tire made of rubber or other resilient material other than a pneumatic tire.
82. "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway.
83. "Specially constructed vehicle" means any vehicle which was not constructed originally under the distinct name, make, model, or type by a generally recognized manufacturer of vehicles.
84. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.
85. "State" means a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada.

86. "Stop", when required, means complete cessation from movement.
87. "Stop" or "stopping", when prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.
88. "Street" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
89. "Superintendent" means the superintendent of the North Dakota state highway patrol, acting directly or through authorized employees of the superintendent.
90. "Suspension" means that the operator's license is temporarily withdrawn but only during the period of the suspension.
91. "Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right of way to vehicles on such through highway and in obedience to either a stop sign or yield sign, when such signs are erected by law.
92. "Trackless trolley coach" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.
93. "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purposes of travel.
94. "Traffic-control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.
95. "Trailer" includes every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, except that it does not include a "house trailer" or "mobile home", which terms mean a vehicle as defined in this subsection which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers.
96. "Travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require a special highway movement permit when towed by a motorized vehicle.
97. "Truck" includes every motor vehicle designed, used, or maintained primarily for transportation of property.
98. "Truck camper" means a portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use; consists of a roof, floor, and sides; and is designed to be loaded onto and unloaded from the bed of a pickup truck.

99. "Truck tractor" includes every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
100. "Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet [30.48 meters] for a distance of a quarter of a mile [402.34 meters] or more.
101. "Used vehicle" means a motor vehicle which has been sold, bargained, exchanged, given away, or the title to which has been transferred to another, by the person who first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer or importer.
102. "Vehicle" includes every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

SECTION 352. AMENDMENT. Subsection 5 of section 39-01-15 of the North Dakota Century Code is amended and reenacted as follows:

5. Except as provided in this subsection, two dollars of each fee for issuance of a certificate and one dollar of each fee for issuance of an additional certificate under this section must be deposited in the state highway department fund for purposes of defraying the cost of issuing the certificate. The rest of the fee, and the five dollar fee received for the issuance of an additional certificate under subsection 4, must be deposited in the state treasury and credited to the state rehabilitation council fund. The fees deposited in the fund are hereby appropriated on a continuing basis to the department of health and human services for use by the state rehabilitation council to accomplish the council's statutory duties provided under section 50-06.1-16. If a certificate is lost, mutilated, or destroyed, the individual to whom the certificate was issued is entitled to a replacement. The individual shall furnish proof satisfactory to the director that the certificate has been lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars.

SECTION 353. AMENDMENT. Section 39-01-19 of the North Dakota Century Code is amended and reenacted as follows:

39-01-19. Permits for vending machines at rest areas.

A vending machine that allows access to a tobacco product may not be placed or remain upon a rest area, and any other vending machine may not be placed or remain upon a rest area under the supervision of the director without a permit from the director. The director shall charge a fee for the issuance of a vending machine permit. The amount of the permit fee must relate to the department's actual cost of administration, annual review, and enforcement of the permit process, but may not exceed twenty-five dollars annually. The permit process may not be affected by the content of a publication. The director shall require permittees to comply with appropriate indemnification, insurance, and other risk management provisions of the permit. Vending machines must be secured in a manner that prevents tipping and moving, deters theft, and leaves state property undamaged. Plexiglass, safety glass, or other shatter-resistant materials must be employed in windows or displays. All vending machines must be sufficiently enclosed to prevent the distributed product from inadvertently being removed or blown from the machine or weathered by the elements. Stolen or damaged vending machines do not result in liability to the

department and must be repaired, restored, or replaced within thirty calendar days. All cashboxes and accesses to cashboxes must be metal and securely locked in place. All vending machines must be placed in a well-lighted area visible from the rest area roadway. All vending machines must be placed on a route allowing parallel access by motorized or standard wheelchairs, with at least sixty-six inches [1676.400 millimeters] of clear width. A vending machine may not have a component or function used by the public which requires more than five pounds [2.268 kilograms] of force to be applied. The height of controls, doors, or access points necessary for use by the public may not exceed sixty inches [1524 millimeters]. The director may determine the maximum number of vending machine placements at a given rest area. Priority must be given to vending machines placed pursuant to the Randolph Sheppard Act [Pub. L. 74-732; 49 Stat. 1559; 20 U.S.C. 107], as administered by the vocational rehabilitation division of the department of health and human services under section 50-06.1-13. When, after allowing for the placement of vending machines pursuant to the Randolph Sheppard Act [Pub. L. 74-732; 49 Stat. 1559; 20 U.S.C. 107], the director determines that the number of permit applications for a particular rest area would exceed the remaining available space or would prevent compliance with this section or other law, the director shall grant permits by means of a lottery, with permits allocated pro rata according to the number of applications for each type. The permittee is solely responsible to ensure that any trash, wrapping, boxes, or debris, generated when stocking or servicing vending machines is not left on or at the rest area. The permittee is solely responsible for all installation, maintenance, replacement, inspection, access area cleaning, and stocking of vending machines. Vandalism and graffiti on vending machines must be repaired or removed within fourteen days of written notice by the director. The permittee must inspect and stock vending machines as needed, but at least monthly, to provide adequate service to the public. Vending machines removed for repair or for other reasons must be restored or replaced by the permittee within thirty days. Vending machines in violation of this section or any other applicable law may be removed by the director fourteen days after notice of violation is provided and without liability to the director. Vending machines judged by the director to pose a risk to safety may be removed immediately without liability to the director and without prior notice to the permittee. The director shall retain any removed vending machines for thirty days to allow retrieval by the permittee, after compensation to the director for removal costs. The director may dispose of or sell machines not retrieved within thirty days of removal, but removal costs must be satisfied only to the extent of proceeds received by the director. The director has a cause of action to recover any deficiency, attorney's fees, and litigation expenses. The director, upon the determination that a rest area must be closed for a period of greater than thirty days, may order the permittee, at the permittee's expense, to remove all vending machines in a manner that does not damage state property, or remove all product and money and place upon the vending machine a prominent notice that all product and money have been removed. Should the director determine that removal of vending machines is necessary to conduct repairs, construction, surveys, or other duties of the department, the permittee, at the permittee's expense, shall remove all vending machines in a manner that does not damage state property, upon fourteen days' notice. The current address and telephone number where customer service or business is conducted by the permittee must be legibly and prominently posted upon the vending machine. The director shall cancel the permit should the permittee remove vending machines, except as provided in this section. The cost of any removal must be borne by the permittee. The permittee, at the permittee's own expense, must restore the site the machine formerly occupied to the satisfaction of the director. For purposes of this section, "vending machine" means any device that allows access to a newspaper, magazine, beverage, concession, or other item for public consumption or use. For purposes of this section, "permittee" means any person or organization, including any corporation, partnership,

firm, or any other legal entity capable of owning property and transacting business, which has applied for a permit under this chapter. For purposes of this section, "notice" consists of a written communication and must be deemed to have occurred within seventy-two hours of mailing, if mailed within North Dakota, or one hundred twenty hours of mailing, if mailed outside North Dakota. "Notice" to a vendor of the condition of a vending machine also occurs if a period of time greater than the required inspection interval for the vending machines has passed.

SECTION 354. AMENDMENT. Subdivision b of subsection 1 of section 39-04-10.16 of the North Dakota Century Code is amended and reenacted as follows:

- b. "Volunteer emergency responder" means an emergency medical services provider certified by the state department of health and human services and the individual's squad leader for a continuous period exceeding two years and who receives an annual compensation of less than ten thousand dollars.

SECTION 355. AMENDMENT. Subsection 1 of section 43-04-11 of the North Dakota Century Code is amended and reenacted as follows:

1. It may prescribe sanitary regulations for barbershops and barber schools. Such regulations shall be subject to the approval of the state department of health and human services. A copy of the rules and regulations adopted by the board and approved by the state department of health and human services shall be furnished by the board to the owner or manager of every barbershop and barber school and shall be posted by such owner or manager in a conspicuous place in such barbershop or barber school.

SECTION 356. AMENDMENT. Subsection 8 of section 43-10-12 of the North Dakota Century Code is amended and reenacted as follows:

8. Rules of the state department of health and human services and the board governing the practice of funeral service.

SECTION 357. AMENDMENT. Section 43-10-23 of the North Dakota Century Code is amended and reenacted as follows:

43-10-23. Inspections - Hearings - Revocations - Appeal.

The funeral establishment, or that part of a funeral establishment in which is conducted or intended to be conducted any funeral service business, must be open at all times for inspection by the board or the state department of health and human services. The board or agents employed by it and the state department of health and human services may make such inspections as are necessary of facilities and equipment of funeral establishments to ensure compliance with safety and sanitary rules adopted by the board or any other rules or federal regulations pertaining to funeral service whenever either deems the inspection advisable. The board may subpoena witnesses, administer oaths, and take testimony. All proceedings under this section must be conducted in accordance with chapter 28-32. The board may, after a hearing, revoke, suspend, or refuse to issue or renew a license upon good cause. A person aggrieved by the action of the board may appeal to the district court of the county in which the person resides or the district court of Burleigh County in accordance with chapter 28-32.

²⁴⁸ **SECTION 358. AMENDMENT.** Section 43-11-11 of the North Dakota Century Code is amended and reenacted as follows:

43-11-11. Sanitary rules - Practice outside salon.

The board with the approval of the state department of health and human services shall adopt sanitary rules necessary to prevent the creating and spreading of infectious and contagious diseases. A cosmetology salon must be at a fixed location and may not be used for living or sleeping quarters. A cosmetologist or esthetician may practice outside of the establishment under the direction and control of a master cosmetologist or master esthetician thereof under rules adopted by the board.

SECTION 359. AMENDMENT. Section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-04. Persons exempt from provisions of chapter.

This chapter does not apply to a person that is not licensed or registered under this chapter and is:

1. A person that performs nursing interventions in cases of emergency or disaster.
2. A student practicing nursing as a part of an in-state board-approved nursing education program.
3. A licensed nurse of another state who is in good standing and who is employed in this state by the United States government or any of its bureaus, divisions, or agencies.
4. A nurse licensed by another state or Canada, whose employment requires the nurse to accompany and care for a patient in transit for health care.
5. A nurse licensed by another state whose employment by a resident of that state requires the nurse to accompany and care for the resident in North Dakota.
6. An individual who performs nursing tasks for a family member.
7. A person that renders assistance pursuant to chapter 23-27.
8. A person licensed or registered under another chapter of this title and carrying out the therapy or practice for which the person is licensed or registered.
9. A person that provides medications, other than by the parenteral route:
 - a. Within a correctional facility, in compliance with section 12-44.1-29;
 - b. Within a psychiatric residential treatment facility for children licensed under chapter 25-03.2 and North Dakota Administrative Code chapter 75-03-17;
 - c. Within a treatment or care center for individuals with developmental disabilities licensed under chapter 25-16;

²⁴⁸ Section 43-11-11 was also amended by section 3 of Senate Bill No. 2092, chapter 309.

- d. Within a group home, a qualified residential treatment program, or an adult foster care facility licensed under section 50-11-01;
 - e. Within the life skills and transition center, to the extent the individual who provides medications is a direct training technician or a vocational training technician as approved by the department of health and human services;
 - f. Within a human service center licensed under chapter 50-06; or
 - g. Within a primary or secondary school under a program established under section 15.1-19-23 if the individual has received education and training in medication administration and has received written consent of the student's parent or guardian; or
 - h. Who is an employee of a qualified service provider agency who meets the criteria set forth in subsection 2 of section 50-24.1-18.
10. A nurse currently licensed to practice nursing by another jurisdiction:
- a. Whose practice in another state requires that nurse to attend orientation, meetings, or continuing education in North Dakota;
 - b. Who serves as a guest lecturer or short-term consultant; or
 - c. Who provides evaluation undertaken on behalf of an accrediting organization.
11. An individual, including a feeding assistant, performing nonhands-on tasks while employed in a Medicare-funded organization.
12. A student practicing nursing as part of an out-of-state board-recognized nursing education program, upon written notification to the board and contingent upon clinical site availability.
13. An individual who is registered on the state department of health and human services nurse aide registry, including a certified nurse aide, home health aide, nurse aide, and medication assistant.

²⁴⁹ **SECTION 360. AMENDMENT.** Subsection 14 of section 43-15-10 of the North Dakota Century Code is amended and reenacted as follows:

14. To adopt, amend, and repeal rules determined necessary by the board for the proper administration and enforcement of this chapter, chapter 19-02.1 as that chapter pertains to drugs, subject to approval of the director of the state-department of health and human services, and chapter 19-03.1.

²⁵⁰ **SECTION 361. AMENDMENT.** Subsection 4 of section 43-15-31.5 of the North Dakota Century Code is amended and reenacted as follows:

²⁴⁹ Section 43-15-10 was also amended by section 2 of Senate Bill No. 2221, chapter 312.

²⁵⁰ Section 43-15-31.5 was also amended by section 1 of Senate Bill No. 2279, chapter 313.

4. Requirements relating to the reporting of the administration to a patient's primary health care provider and to the state department of health and human services.

SECTION 362. AMENDMENT. Subsection 5 of section 43-28-02 of the North Dakota Century Code is amended and reenacted as follows:

5. To the practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States army, navy, air force, public health service, coast guard, veterans' bureau, or director of the dental division of the state department of health and human services.

SECTION 363. AMENDMENT. Section 43-29.1-02 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-02. Loan repayment program - Veterinarians - Powers of state health council.

The state health council may:

1. Determine the eligibility and qualifications of an applicant for loan repayment funds under this chapter;
2. Identify communities that are in need of a veterinarian and establish a priority ranking for participation in the program by the selected communities;
3. Create and distribute a loan repayment application;
4. Determine the amount of the loan repayment funds for which an applicant may be eligible under this chapter and, in making this determination, examine any outstanding education loans incurred by the applicant;
5. Establish conditions regarding the use of the loan repayment funds;
6. Enter a nonrenewable contract with the selected applicant and the selected community to provide to the applicant funds for the repayment of education loans in exchange for the applicant agreeing to actively practice in the selected community;
7. Receive and use funds appropriated for the program;
8. Enforce any contract under the program;
9. Cancel a contract for reasonable cause;
10. Participate in federal programs that support the repayment of education loans incurred by veterinarians and agree to the conditions of the federal programs;
11. Accept property from an entity; and
12. Cooperate with the state department of health and human services to effectuate this chapter.

SECTION 364. AMENDMENT. Subsection 2 of section 43-34-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Nursing home" means any institution or facility defined as such for licensing purposes under North Dakota state law or pursuant to the rules and regulations for nursing homes by the state department of health and human services, whether proprietary or nonprofit, including nursing homes owned or administered by the state government or an agency or political subdivision thereof.

SECTION 365. AMENDMENT. Subsection 1 of section 43-34-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Two members of the board must be the state health officer and the executive director of the department of health and human services or the members' designees.

SECTION 366. AMENDMENT. Section 43-38-03 of the North Dakota Century Code is amended and reenacted as follows:

43-38-03. Rulemaking authority of statedepartment of health counciland human services.

The statedepartment of health counciland human services shall establish standards, rules, and regulations ~~which that~~ are found necessary for the maintenance of public health, including sanitation and disease control. The ~~councildepartment of health and human services~~ has the following powers:

1. To establish minimum age levels.
2. To establish education and training levels for electrologists and electronic hair removal technicians.
3. To issue, deny, suspend, or revoke licenses.
4. To develop application and licensure forms.
5. To delegate the administration of the program to the state health officer, subject to such provisions as the council may make for appeal to it.
6. To promulgate such requirements as may be found necessary to carry out the intent of this chapter.

All electrologists and electronic hair removal technicians practicing in North Dakota prior to July 1, 1979, may, without examination, be issued a license by the councildepartment of health and human services upon proof, satisfactory to the councildepartment, of having met the qualifications.

SECTION 367. AMENDMENT. Subsection 2 of section 43-41-04.2 of the North Dakota Century Code is amended and reenacted as follows:

2. The board shall require from each applicant for licensure and may require from any licensee written consent to a child abuse information index check and authorization for the department of health and human services or its designee to release to the board reports of decisions that services are required for child abuse or neglect filed pursuant to section 50-25.1-05.2. All information obtained from the department or its designee is confidential and closed to the public except that it may be disclosed for use in an adjudicative

or judicial proceeding. All costs associated with obtaining the reports are the responsibility of the applicant or licensee.

SECTION 368. AMENDMENT. Section 43-43-03 of the North Dakota Century Code is amended and reenacted as follows:

43-43-03. Advisory board duties and compensation.

The advisory board shall meet at the request of the state health officer to assist in implementation of duties as defined in section 43-43-04. The advisory board must be reimbursed for any necessary expenses, but shall serve without further compensation except as may be authorized and fixed by the ~~state health officer~~department of health and human services by rule.

SECTION 369. AMENDMENT. Section 43-43-04 of the North Dakota Century Code is amended and reenacted as follows:

43-43-04. Powers and duties of ~~state~~department of health officerand human services.

The ~~state health officer~~department of health and human services shall adopt rules consistent with and necessary for the implementation and enforcement of this chapter, including rules concerning the:

1. Qualifications and requirements for licensure under this chapter.
2. Application for licensure and renewal of license.
3. Licensure.
4. Fees that may not exceed fifty dollars for licensure fees.
5. Scope of practice.
6. Ethical standards of conduct.
7. Continuing competency and education requirements.
8. Grievances and complaints.
9. Reimbursement of advisory board expenses.
10. Emergency exemptions as to requirements for licensure under this chapter.
11. Qualifications and requirements for specialty licenses or credentials within the scope of practice of an environmental health practitioner, including specialty licenses or credentials for limited practice areas.

SECTION 370. AMENDMENT. Section 43-43-06 of the North Dakota Century Code is amended and reenacted as follows:

43-43-06. Environmental health practitioner licensure fee administration fund.

There must be maintained in the state treasury a special fund to be known as the environmental health practitioner licensure fee administrative fund. All money deposited or paid into this fund must be continuously available to the ~~state health~~

~~officer~~department of health and human services for reimbursement to the advisory board, and may not lapse at any time or be transferred to any other fund. The fund must consist of any money collected by the ~~state health officer~~department of health and human services in accordance with section 43-43-04.

SECTION 371. AMENDMENT. Section 43-43-07 of the North Dakota Century Code is amended and reenacted as follows:

43-43-07. Denial, suspension, revocation of license.

The ~~state health officer~~department of health and human services may refuse to issue or renew a license or may suspend or revoke a license when the licensee or applicant for license has engaged in unprofessional conduct. Unprofessional conduct includes:

1. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.
2. Engaging in unprofessional conduct, as defined by the rules adopted by the ~~state health officer~~department of health and human services, or violating the code of ethics adopted by the ~~state health officer~~department of health and human services.
3. Conviction of an offense, as defined by section 12.1-01-04, determined by the ~~state health officer~~department of health and human services to have a direct bearing on the person's ability to serve the public in the capacity of a licensed environmental health practitioner; or the ~~state health officer~~department of health and human services determines that such applicant or licensee, following conviction of any offense, is not sufficiently rehabilitated under section 12.1-33-02.1.
4. Violation of any order or rule adopted by the ~~state health officer~~department of health and human services.
5. Violation of this chapter.

The person may apply to the ~~state health officer~~department of health and human services for reinstatement after one year from the date of revocation of a license. The ~~state health officer~~department of health and human services may accept or reject an application for reinstatement, or may require conditions and an examination for reinstatement.

SECTION 372. AMENDMENT. Subsection 11 of section 43-48-03 of the North Dakota Century Code is amended and reenacted as follows:

11. Personnel of the division of laboratory services of the ~~state~~ department of health and human services or department of environmental quality who are participating in the centers for disease control and prevention's chemical terrorism toxic metals determination program.

SECTION 373. AMENDMENT. Subdivision e of subsection 3 of section 43-60-02 of the North Dakota Century Code is amended and reenacted as follows:

- e. An employee of the ~~state~~ department of health and human services in the provision of education regarding single gene conditions, including sickle cell, cystic fibrosis, and hemoglobinopathies; and

SECTION 374. AMENDMENT. Subsection 3 of section 44-04-18.4 of the North Dakota Century Code is amended and reenacted as follows:

3. This section does not limit or otherwise affect a record pertaining to any rule of the state department of health and human services or department of environmental quality or to any record pertaining to the application for a permit or license necessary to do business or to expand business operations within this state, except as otherwise provided by law.

SECTION 375. AMENDMENT. Subdivision b of subsection 1 of section 44-04-18.30 of the North Dakota Century Code is amended and reenacted as follows:

- b. "Public social services agency" means a state, county, or local public agency that provides human services, and includes regional human service centers, county social services boards, multicounty social services districts, and the department of health and human services.

SECTION 376. AMENDMENT. Subsection 2 of section 50-01-01 of the North Dakota Century Code is amended and reenacted as follows:

2. Shall comply with the written eligibility standards for general assistance established by the human service zone director or department of health and human services. A copy of the written standards must be available upon request. Pursuant to this requirement, the ownership of property by an applicant for general assistance, or by the spouse of the applicant, either individually or jointly, or of insurance on the life of the applicant does not preclude the granting of assistance if the applicant is without funds for the applicant's support.

SECTION 377. AMENDMENT. Section 50-01-13 of the North Dakota Century Code is amended and reenacted as follows:

50-01-13. Medical attention and hospitalization furnished poor.

Within the limits of the human service zone appropriation, the human service zone promptly shall provide necessary medical services, covered in the written eligibility standards for general assistance, for any poor person in the human service zone who is not provided for in a public institution. The human service zone shall cause to be furnished to the person the necessary covered medicines prescribed by a physician. Necessary covered hospitalization must be furnished by the human service zone upon approval or subsequent ratification by the human service zone director or the director's designee. If the poor person is a nonresident of the state, the human service zone furnishing the medical services must be reimbursed within the limits of funds appropriated for that purpose by the legislative assembly for eighty percent of the expenses incurred in carrying out this section. The reimbursement must be made upon vouchers having the approval of the department of health and human services.

SECTION 378. AMENDMENT. Section 50-01-17.2 of the North Dakota Century Code is amended and reenacted as follows:

50-01-17.2. Community work experience programs - Development.

The department of health and human services may develop community work experience programs through agreements with any public entity, nonprofit agency or organization, or in conjunction with, or through utilization of, applicable federal programs. The number of hours to be worked may be determined by dividing the amount of the assistance payment by the prevailing minimum wage.

²⁵¹ **SECTION 379. AMENDMENT.** Subsection 1 of section 50-01.1-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 380. AMENDMENT. Subsection 1 of section 50-01.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 381. AMENDMENT. Subsection 3 of section 50-06-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 382. AMENDMENT. Section 50-06-01.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.1. Department of health and human services to be substituted for public welfare board of North Dakota and social service board of North Dakota, members of board, and executive director, and department of human services.

When the terms "public welfare board of North Dakota", "social service board of North Dakota", "executive director of the public welfare board", "executive director of the social service board", "department of human services", or "executive director of the department of human services", "member of the public welfare board", or "member of the social service board", or any derivative of those terms which, when used in context indicates an intention to refer to those persons or that board, appear in the North Dakota Century Code, the term "department of health and human services", or the term "executive director of the department of health and human services", as the case may be, must be substituted therefor. It is the intent of the legislative assembly that the department of health and human services must be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the public welfare board of North Dakota or, by the social service board of North Dakota, by the department of human services, or by the state department of health. The legislative council may replace references to the "department of human services" or "executive director of the department of human services" or any derivatives of those terms with "department of health and human services" or "executive director of the department of health and human services" in any measure enacted by the sixty-seventh legislative assembly.

²⁵² **SECTION 383. AMENDMENT.** Section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.4. Structure of the department.

1. The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, health division, and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory

²⁵¹ Section 50-01.1-01 was also amended by section 8 of Senate Bill No. 2086, chapter 353.

²⁵² Section 50-06-01.4 was also amended by section 1 of House Bill No. 1091, chapter 355.

duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:

- a. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, child protection services, children's trust fund, licensure of early childhood programs, refugee services, in-home community-based services, quality control, and administration of the interstate compacts on the placement of children and juveniles.
 - b. Administration of programs for individuals with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.
 - c. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult foster care homes, and the committee on aging.
 - d. Administration of behavioral health programs, including:
 - (1) A policy division responsible for reviewing and identifying service needs and activities in the state's behavioral health system in an effort to ensure health and safety, access to services, and quality of services; establishing quality assurance standards for the licensure of substance use disorder program services and facilities; and providing policy leadership in partnership with public and private entities; and
 - (2) A service delivery division responsible for providing chronic disease management, regional intervention services, and twenty-four-hour crisis services for individuals with behavioral health disorders.
 - e. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, home energy assistance, child care assistance, refugee assistance, work experience, work incentive, and quality control.
 - f. Administration of medical service programs, including medical assistance for children's health insurance program, Medicaid waivers, early and periodic screening, diagnosis and treatment, utilization control, autism services, and claims processing.
 - g. Administration of general assistance.
 - h. Administration of child support.
 - i. Administration of program, services, and licensing outlined in title 23 and other previous duties of the state department of health.
2. The executive director shall consult with and maintain a close working relationship ~~with the state department of health;~~ with the department of

corrections and rehabilitation and the superintendents of the school for the deaf and the North Dakota vision services - school for the blind to develop programs for individuals with developmental disabilities; and with the superintendent of public instruction to maximize the use of resource persons in regional human service centers in the provision of special education services. The executive director shall also maintain a close liaison with human service zones.

3. By August 1, 2019, the department shall establish a template for the development of human service zone plans, including process and content requirements, access point expectations, client grievances procedures, human resources, and locally funded programs or services and how those services will be addressed.
4. The department shall develop, with assistance from the North Dakota association of counties, a process for consultation and technical assistance for human service zone working groups by August 1, 2019.

SECTION 384. AMENDMENT. Subsection 1 of section 50-06-01.7 of the North Dakota Century Code is amended and reenacted as follows:

1. The department of ~~human services~~ shall administratively restructure the behavioral health division to require the division to develop and revise, when necessary, the state mental health plan and provide the behavioral health division the authority to implement and supervise a unified mental health delivery system and to assure the mental health services provided by the human service centers, the state hospital, and contracted services are in accordance with the state plan.

SECTION 385. AMENDMENT. Section 50-06-06.3 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.3. Facility staff training.

It is the intent of the legislative assembly that the department of ~~human services~~ design and implement a facility staff training system in cooperation with the board of higher education to assure adequate and appropriate staff development and training for the providers of community-based care on behalf of individuals with developmental disabilities.

SECTION 386. AMENDMENT. Section 50-06-06.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.4. Comprehensive community residential program.

It is the intent of the legislative assembly that the department of ~~human services~~ implement a comprehensive community residential program for children with developmental disabilities, including the use of intermediate care facilities and other such foster home and group home resources as deemed appropriate.

SECTION 387. AMENDMENT. Section 50-06-06.6 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.6. Department of ~~human services~~ may lease real and personal property.

The executive director of the department of ~~human services~~ may lease surplus farm and pastureland at the state hospital and the life skills and transition center. The executive director also may enter into further leases of real or personal property at the life skills and transition center or the state hospital upon a specific finding that the granting of each such leasehold interest will result in a net economic gain for the department, taking into account all identifiable costs. Any lease of space for the purpose of providing child care services must meet requirements as determined by the department. The executive director may prescribe the terms and conditions of any leases entered into pursuant to this section and may renew existing leases. Any lease entered into must be subject to renewal or cancelable each biennium.

SECTION 388. AMENDMENT. Section 50-06-06.10 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.10. Family life education program.

The department of ~~human services~~ shall enter into an agreement with the North Dakota state university extension service for the design of a program to educate and support individuals at all points within the family life cycle. The program must provide support for families and youth with research-based information relating to personal, family, and community concerns and must contain a research component aimed at evaluation of planned methods or programs for prevention of family and social problems. The program must address the following inter-related topics:

1. Child and youth development.
2. Parent education with an emphasis on parents as educators.
3. Human development.
4. Interpersonal relationships.
5. Family interaction and family systems.
6. Family economics.
7. Intergenerational issues.
8. Impact of societal changes on the family.
9. Coping skills.
10. Community networks and supports for families.

SECTION 389. AMENDMENT. Section 50-06-06.11 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.11. Child care provider payments.

Within the limits of federal regulations, the department of ~~human services~~, at the election of the early childhood facility, shall directly pay early childhood facilities monthly under child care assistance programs administered by the department.

SECTION 390. AMENDMENT. Section 50-06-14.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-14.1. Limitation on state reimbursement for rental expenses of long-term care facilities.

The department of ~~human services~~ shall limit the reimbursement for rental expense paid by a provider of services when a provider sells its skilled nursing facility, intermediate care facility, basic care facility, or other facility furnishing care to its residents, when a care rate is based, in part, upon property costs unique to that facility, to a third party who leases the facility back to the provider. The department's reimbursement for rental expense may not exceed the lesser of the rental expense paid by the provider or the cost of ownership of the facility. The cost of ownership includes depreciation, interest, real estate taxes, and other expenses properly related to the facility. The department of ~~human services~~ shall apply this limit to rates set for each facility's first fiscal year beginning on or after July 1, 1985, but shall consider, in setting such rates, all sales occurring on or after July 18, 1984.

SECTION 391. AMENDMENT. Section 50-06-21 of the North Dakota Century Code is amended and reenacted as follows:

50-06-21. Gambling disorder prevention, awareness, crisis intervention, rehabilitation, and treatment services.

The department of ~~human services~~ shall contract with qualified treatment service providers for the development and implementation of a program for gambling prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services. The program may provide outpatient services, partial care services, aftercare services, intervention services, financial counseling services, consultation services, or other forms of preventive, rehabilitative, or treatment services for individuals with a gambling disorder. An individual who provides treatment services must be a licensed professional operating within the individual's scope of practice. An individual who provides financial counseling services must be a certified consumer credit counselor with an accredited financial counseling agency. The department of ~~human services~~ may establish a sliding payment scale for services under the program. The department of ~~human services~~ may establish a centrally located repository of educational materials on identifying and treating gambling disorders. Any service fee collected by qualified treatment service providers for services provided under the contract must be applied toward the program's gambling disorder services. The term "qualified treatment service provider" means an entity based in North Dakota which is experienced in and capable of delivering gambling disorder education, prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services as defined by the department of ~~health and~~ human services. The term "gambling disorder" means a chronic, progressive disease that is characterized by a preoccupation with gambling, loss of control over gambling behaviors, and oftentimes disregard for the negative consequences as a result of gambling. Gambling disorder includes gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits.

SECTION 392. AMENDMENT. Section 50-06-24 of the North Dakota Century Code is amended and reenacted as follows:

50-06-24. Guardianship services.

The department of ~~human services~~ may create and coordinate a unified system for the provision of guardianship services to vulnerable adults who are ineligible for developmental disabilities program management services. The system must include a base unit funding level at the same level as developmental disability corporate guardianship rates, provider standards, staff competency requirements, and

guidelines and training for guardians. The department shall adopt rules for guardianship services to vulnerable adults which are consistent with chapters 30.1-26, 30.1-28, and 30.1-29.

SECTION 393. AMENDMENT. Section 50-06-26 of the North Dakota Century Code is amended and reenacted as follows:

50-06-26. Alternatives-to-abortion services program.

The department of ~~human services~~ shall disburse funds available through title IV-A of the Social Security Act [42 U.S.C. 601 et seq.] to nongovernmental entities that provide alternatives-to-abortion services and expend funds to inform the public about this program. The services must be outcome-based with positive outcome-based results. The department, in consultation with a nongovernmental entity that provides alternatives-to-abortion services, shall contract to inform the public about this program. For purposes of this section, "alternatives-to-abortion services" are those services that promote childbirth instead of abortion by providing information, counseling, and support services that assist pregnant women or women who believe they may be pregnant to choose childbirth and to make informed decisions regarding the choice of adoption or parenting with respect to their children.

SECTION 394. AMENDMENT. Section 50-06-29 of the North Dakota Century Code is amended and reenacted as follows:

50-06-29. Application for aging and disability resource center funding.

The department of ~~human services~~ shall operate an aging and disability resource center for the state. The resource center will be a single point of information program at the community level which will help people make informed decisions about the full range of long-term care service and support options, including both institutional and home and community-based care, and which will provide unbiased information and assistance to individuals needing either public or private resources, to professionals seeking assistance on behalf of their clients, and to individuals planning for their future long-term care needs. The resource center must be free from a conflict of interest which would inappropriately influence or bias the actions of a contractor, staff member, board member, or volunteer of the resource center to limit the information given to a consumer to steer the consumer to services that may also be provided by the resource center.

SECTION 395. AMENDMENT. Section 50-06-30 of the North Dakota Century Code is amended and reenacted as follows:

50-06-30. Interagency agreement between the department of health and human services and the department of corrections and rehabilitation.

The executive director of the department of ~~human services~~ and the director of the department of corrections and rehabilitation may amend the interagency agreement entered under this section which became effective August 1, 2007. The amended agreement must provide that the department of corrections and rehabilitation shall train, consult, and assist the department of health and human services with the provision and enforcement of safety and security procedures at the state hospital for all patients at the state hospital, including those committed to the state hospital under chapter 25-03.1 or placed at the state hospital for evaluation or civil commitment and treatment under chapter 25-03.3 and for all staff, visitors, and volunteers at the state hospital. The amended interagency agreement must provide that the executive director of the department of ~~human services~~ shall continue to be responsible for the custody and care of patients at the state hospital, including those

committed to the state hospital under chapter 25-03.1 or placed at the state hospital for evaluation or civil commitment and treatment under chapter 25-03.3, including responsibility for all assessments, evaluations, and treatment required under chapter 25-03.3, the provision of all necessary staffing, including maintenance staff, and the provision of all daily care and health care.

SECTION 396. AMENDMENT. Section 50-06-31 of the North Dakota Century Code is amended and reenacted as follows:

50-06-31. Report to legislative council - Individuals committed to state hospital.

Before March first of each even-numbered year, the department of ~~human services~~ shall report to the legislative council on services provided by the department of corrections and rehabilitation relating to individuals at the state hospital who have been committed to the care and custody of the executive director of the department of human services.

SECTION 397. AMENDMENT. Section 50-06-32 of the North Dakota Century Code is amended and reenacted as follows:

50-06-32. Autism spectrum disorder task force - Appointment - Duties - Annual reports.

1. The autism spectrum disorder task force consists of:
 - a. (1) The state health officer, or the officer's designee;
 - (2) The director of the department of ~~human services~~, or the director's designee;
 - (3) The superintendent of public instruction, or the superintendent's designee; and
 - (4) The executive director of the protection and advocacy project, or the director's designee; and
 - b. The following members appointed by the governor:
 - (1) A pediatrician with expertise in the area of autism spectrum disorder;
 - (2) A psychologist with expertise in the area of autism spectrum disorder;
 - (3) A college of education faculty member with expertise in the area of autism spectrum disorder;
 - (4) A behavioral specialist;
 - (5) A licensed teacher with expertise in the area of autism spectrum disorder;
 - (6) An occupational therapist;
 - (7) A representative of a health insurance company doing business in this state;

- (8) A representative of a licensed residential care facility that provides care and services to individuals with autism spectrum disorder;
 - (9) A representative who is an enrolled member of a federally recognized Indian tribe;
 - (10) An adult self advocate with autism spectrum disorder;
 - (11) A parent of a child with autism spectrum disorder;
 - (12) A family member of an adult with autism spectrum disorder; and
 - (13) A member of the legislative assembly.
- 2. The director of the department of human services, or the director's designee, shall serve as the chairman. The task force shall meet at the call of the chairman, at least quarterly.
 - 3. The task force shall examine early intervention services, family support services that would enable an individual with autism spectrum disorder to remain in the least restrictive home-based or community setting, programs transitioning an individual with autism spectrum disorder from a school-based setting to adult day programs and workforce development programs, the cost of providing services, and the nature and extent of federal resources that can be directed to the provision of services for individuals with autism spectrum disorder.
 - 4. The task force shall develop a state autism spectrum disorder plan and present the plan to the governor and the legislative council before July 1, 2010. Thereafter, the task force shall continue to review and periodically update or otherwise amend the state plan so that it best serves the needs of individuals with autism spectrum disorder. The task force shall provide an annual report to the governor and the legislative council regarding the status of the state autism spectrum disorder plan.

SECTION 398. AMENDMENT. Section 50-06-32.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-32.1. Autism spectrum disorder voucher program pilot project - Legislative management report - Appeal.

- 1. The department of human services shall establish a voucher program pilot project beginning July 1, 2014, to assist in funding equipment and general educational needs related to autism spectrum disorder for individuals below two hundred percent of the federal poverty level from age three to under age eighteen who have been diagnosed with autism spectrum disorder. The program may include funding for assistive technology; video modeling videos or equipment; language-generating devices; training and educational material for parents; parenting education; sensory equipment; tutors; safety equipment; travel tools; self-care equipment; timers; visual representation systems; respite care; specialized day care; language comprehension equipment; and registration and related expenses for workshops and training to improve independent living skills, employment opportunities, and other executive or social skills.

2. The department shall adopt rules addressing management of this voucher program pilot project and establishing the eligibility requirements and exclusions for this voucher program pilot project. The program may not provide a voucher for early intensive behavioral intervention, including applied behavioral analysis, intensive early interventional behavioral therapy, intensive behavioral intervention, the Lovaas method, the Denver model, LEAP (learning experiences - an alternative program for preschoolers and parents), TEACCH (treatment and education of autistic and related communication handicapped children), pivotal response training, or discrete trial training.
3. A decision on a voucher application which is issued by the department under this section may be appealed as provided under chapter 28-32.
4. The department of human services shall report to the legislative management regarding the autism spectrum disorder program pilot project.

SECTION 399. AMENDMENT. Section 50-06-35 of the North Dakota Century Code is amended and reenacted as follows:

50-06-35. Department of human services food assistance contracts.

The department of human services shall contract with a statewide charitable food recovery and distribution organization to develop and implement new methods of delivering charitable food assistance services in underserved counties, to include a mobile food pantry program and prepacked food basket program; expand the recovery of surplus food from the retail and wholesale food industry for distribution to charitable feeding programs; provide training, technical assistance, and equipment grants to community food pantries and emergency meal programs; and develop a cross-referral system between charitable feeding programs and government assistance programs that help clients achieve self-sufficiency.

SECTION 400. AMENDMENT. Section 50-06-37 of the North Dakota Century Code is amended and reenacted as follows:

50-06-37. Developmental disabilities system reimbursement project.

The department of human services, in conjunction with developmental disabilities community providers, shall maintain a prospective payment system based on a state-approved assessment.

1. The department shall maintain a steering committee consisting of no more than eighteen representatives from all interested providers which must include no more than two clients, no more than one family member of a client, a representative of the department, and a representative of the North Dakota protection and advocacy project.
2. The department may contract with a consultant to continuously improve, in collaboration with the steering committee, the payment system and the resource allocation model tying funding to the state-approved assessment.
3. The department shall conduct the standardized assessment of eligible individuals residing at the life skills and transition center.
4. Data must be analyzed by the steering committee, and the steering committee shall recommend to the department any rate adjustments, resource allocation

modifications, or process assumptions, including the state-approved assessment.

5. The department and the steering committee shall report development activities and status information to an interim legislative committee.

SECTION 401. AMENDMENT. Section 50-06-38 of the North Dakota Century Code is amended and reenacted as follows:

50-06-38. Review and limitation.

Intermediate care facility providers shall submit all facility construction or remodeling proposals to the department of ~~human services~~ prior to enactment of a contract for the completion of the project. The department of ~~human services~~ shall review all intermediate care facility construction or remodeling proposals and may limit allowable construction and remodeling costs to ensure the costs are reasonable and appropriate.

SECTION 402. AMENDMENT. Section 50-06-41 of the North Dakota Century Code is amended and reenacted as follows:

50-06-41. Behavioral health services quarterly report.

The department of ~~human services~~ shall publish a quarterly report of all behavioral health services provided by or supported by the department. The report must include each type of behavioral health service, the number of clients served for each service, and the amount of state and federal funds budgeted and spent for each service. Data must be identified for behavioral health services by human service region and by mental health services provided to children, mental health services provided to adults, and substance abuse services.

SECTION 403. AMENDMENT. Section 50-06-41.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-41.2. Community behavioral health program.

1. The department of health and ~~human services~~ shall establish and implement a community behavioral health program to provide comprehensive community-based services for individuals who have serious behavioral health conditions.
2. In developing the program, the department shall:
 - a. Establish a referral and evaluation process for access to the program.
 - b. Establish eligibility criteria that includes consideration of behavioral health condition severity.
 - c. Establish discharge criteria and processes.
 - d. Develop program oversight and evaluation processes that include outcome and provider reporting metrics.
 - e. Establish a system through which the department:

(1) Contracts with and pays behavioral health service providers.

- (2) Supervises, supports, and monitors referral caseloads and the provision of services by contract behavioral health service providers.
- (3) Requires contract behavioral health service providers to accept eligible referrals and to provide individualized care delivered through integrated multidisciplinary care teams.
- (4) Provides payments to contract behavioral health service providers on a per-month per-referral basis based on a pay-for-performance model that includes consideration of identified outcomes and the level of services required.

²⁵³ **SECTION 404. AMENDMENT.** Section 50-06-43.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-43.1. Children's cabinet - Membership - Duties. (Effective through July 31, 2025)

1. The children's cabinet is created to assess, guide, and coordinate the care for children across the state's branches of government and the tribal nations.
2. The children's cabinet consists of the following members:
 - a. The governor, or the governor's designee;
 - b. The chief justice of the supreme court, or the chief justice's designee;
 - c. The speaker of the house of representatives, or the speaker's designee;
 - d. The president pro tempore of the senate, or the president pro tempore's designee;
 - e. The superintendent of public instruction, or the superintendent's designee;
 - f. The director of the committee on protection and advocacy, or the director's designee;
 - g. A representative of the tribal nations in the state, who is appointed by the governor; and
 - h. Four individuals representing parents, private service providers, or other community interests, who are appointed by the governor to serve a term of two years, at the pleasure of the governor, and who are entitled to reimbursement from the department of ~~human services~~ for travel and lodging at the same rate as provided for state officers and employees.
3. The chairman of legislative management, shall serve as the presiding officer of the cabinet. The cabinet shall meet at least quarterly. Additional meetings may be held at the discretion of the presiding officer.
4. The children's cabinet shall:

²⁵³ Section 50-06-43.1 was also amended by section 1 of House Bill No. 1076, chapter 362.

- a. Coordinate broad-based leadership across programs, agencies, branches of government, and tribal nations to meet the needs of children;
 - b. Develop strategies to address gaps or needs regarding early care and education, medical and behavioral health, community, child welfare, and juvenile justice;
 - c. Develop strategies to provide for the full continuum of care in the delivery of services, including promotion, prevention, early identification and intervention, service delivery, and recovery;
 - d. Seek to engage cooperation across public and private service providers;
 - e. Provide a comprehensive vision for how and where children are best served, attending to children in a respectful and relevant manner;
 - f. Seek strategies to provide services to children without consideration of prior engagement with juvenile services;
 - g. Provide for the active participation of consumers and providers statewide on advisory committees; and
 - h. Receive information and recommendations from the department of health and human services, department of corrections and rehabilitation, and other state agencies.
5. The department of ~~human services~~ shall provide the children's cabinet with staffing and administrative services.

²⁵⁴ **SECTION 405. AMENDMENT.** Subdivision e of subsection 1 of section 50-06-43.2 of the North Dakota Century Code is amended and reenacted as follows:

- e. The executive director of the department of ~~human services~~, or the executive director's designee;

SECTION 406. AMENDMENT. Subsection 1 of section 50-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the ~~North Dakota~~ department of health and human services.

SECTION 407. AMENDMENT. Section 50-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

50-06.1-15. Cooperation between agencies.

The office of vocational rehabilitation and other divisions of the department of ~~human services~~ shall work cooperatively to locate eligible clients and to identify and provide them with the services they require to lead a full and meaningful life.

SECTION 408. AMENDMENT. Section 50-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

²⁵⁴ Section 50-06-43.2 was also amended by section 37 of House Bill No. 1035, chapter 245, and section 1 of House Bill No. 1150, chapter 363, and was repealed by section 2 of House Bill No. 1150, chapter 363.

50-06.1-16. State rehabilitation council.

1. There is established a state rehabilitation council in accordance with section 105 of the Rehabilitation Act of 1973 [29 U.S.C. 725].
2. The state rehabilitation council:
 - a. Shall fulfill the duties outlined in section 105 of the Rehabilitation Act of 1973 [29 U.S.C. 725].
 - b. Shall collaborate, coordinate, and improve employment outcomes for working-age adults with disabilities, including:
 - (1) Reviewing and aligning policies, procedures, eligibility, and enrollment and planning for services for individuals, with the objective of increasing opportunities for community employment for North Dakotans with disabilities.
 - (2) Developing cross-agency tools to document eligibility, order of selection, assessment, and planning for services for individuals with disabilities.
 - (3) Identifying best practices, effective partnerships, sources of available federal funds, opportunities for shared services among existing providers, and means to expand model programs to increase community employment opportunities for individuals with disabilities.
 - (4) Identifying and addressing areas where sufficient support is not currently available or where additional options are needed to assist individuals with disabilities to work in competitive employment in integrated settings.
 - (5) Establishing interagency agreements to improve coordination of services and allow for data sharing as appropriate to assist individuals with disabilities.
 - (6) Setting benchmarks for improving community employment outcomes and services for individuals with disabilities.
3. The department of ~~human services~~ division of vocational rehabilitation shall provide the state rehabilitation council with administrative services.

SECTION 409. AMENDMENT. Subsection 8 of section 50-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

8. "State agency" means the department of health and human services.

SECTION 410. AMENDMENT. Subsection 2 of section 50-06.4-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

SECTION 411. AMENDMENT. Section 50-06.4-02 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-02. Department to be lead agency - Cooperation of other agencies - Joint meeting.

The department shall act as lead agency in the state for the purpose of coordinating services to individuals with brain injury. At least annually the department shall call a joint meeting of the adjutant general, ~~the state department of health~~, the department of veterans' affairs, and the superintendent of public instruction to discuss the provision of services to individuals with brain injury. State agencies and political subdivision agencies shall cooperate with the department to permit the department to efficiently coordinate services to individuals with brain injury while avoiding duplication of services. Neither this chapter, nor any activity undertaken by the department under this chapter, may be construed as creating a right to any benefit or service not specifically required to be granted as a condition of the receipt of grants of federal funds.

²⁵⁵ **SECTION 412. AMENDMENT.** Subsection 3 of section 50-06.4-10 of the North Dakota Century Code is amended and reenacted as follows:

3. Each of the following entities shall appoint a representative to serve as a nonvoting member of the council who serves at the pleasure of the appointing entity:
 - a. Protection and advocacy project, one representative;
 - b. ~~State department of health~~Department, one individual representing injury prevention and one representative representing emergency medical services and trauma;
 - e. ~~Department of human services~~, one individual representing behavioral health, one individual representing Medicaid, and one individual representing vocational rehabilitation; and
 - d-c. Department of public instruction, one representative.

SECTION 413. AMENDMENT. Subsection 4 of section 50-06.5-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Designated state entity" means the vocational rehabilitation division of the department of health and human services as defined in the state plan for independent living.

SECTION 414. AMENDMENT. Subsection 12 of section 50-09-01 of the North Dakota Century Code is amended and reenacted as follows:

12. "State agency" means the ~~North Dakota~~ department of health and human services.

SECTION 415. AMENDMENT. Subsection 2 of section 50-10.1-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

²⁵⁵ Section 50-06.4-10 was also amended by section 1 of Senate Bill No. 2039, chapter 364.

SECTION 416. AMENDMENT. Subsection 4 of section 50-10.2-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the department of health and human services.

²⁵⁶ **SECTION 417. AMENDMENT.** Subsection 4 of section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the department of health and human services.

SECTION 418. AMENDMENT. Section 50-11-01.5 of the North Dakota Century Code is amended and reenacted as follows:

50-11-01.5. Fire prevention training.

Before initial licensure and each renewal under this chapter, each foster parent shall complete a course of instruction related to fire prevention and safety. The state fire marshal shall design the course in cooperation with the department of health and human services. The course must be available on videotape or any equivalent medium as designed by the department. The department of health and human services shall offer the course throughout the state.

SECTION 419. AMENDMENT. Section 50-11-01.6 of the North Dakota Century Code is amended and reenacted as follows:

50-11-01.6. Self-declaration form.

The department of health and human services shall prescribe self-declaration forms to be completed and signed by each foster parent before initial licensure and each renewal under this chapter. The self-declaration forms must include references to smoke detectors, fire extinguishers, fire escape plans, and inspections of appliances, electrical systems, and heating systems.

SECTION 420. AMENDMENT. Section 50-11-03.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11-03.1. Reduction of number of children in foster care - Goals.

On or before October 1, 1982, and annually thereafter, the department of health and human services shall attempt to reduce the number of children receiving assistance under title IV-E of the Social Security Act, who have been in foster care for more than twenty-four months, by the following amounts:

1. For the year beginning October 1, 1982, one percent of the number of children, in foster care for more than twenty-four months, and receiving benefits under title IV-A of the Social Security Act from July 1, 1979, through June 30, 1980;
2. For the years beginning October 1, 1983, and ending September 30, 1990, one percent of the maximum number permitted in the previous year; and
3. For all subsequent years, one-half percent of the maximum number permitted in the previous year.

²⁵⁶ Section 50-11-00.1 was also amended by section 2 of House Bill No. 1091, chapter 355.

²⁵⁷ **SECTION 421. AMENDMENT.** Subsection 3 of section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

²⁵⁸ **SECTION 422. AMENDMENT.** Subsection 2 of section 50-11.1-07 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon request of the department or its authorized agent, ~~the state department of health or the state fire marshal, or the fire marshal's designee,~~ shall inspect the premises for which a license or self-declaration is applied or issued and shall report the findings to the department or the department's authorized agent.

SECTION 423. AMENDMENT. Subdivision a of subsection 3 of section 50-11.1-18 of the North Dakota Century Code is amended and reenacted as follows:

- a. The department of health and human services;

SECTION 424. AMENDMENT. Section 50-11.2-01 of the North Dakota Century Code is amended and reenacted as follows:

50-11.2-01. Foster care parent grievance.

A foster parent who is duly licensed to care for a foster child may object to any decision made by the department of health and human services or human service zone which substantially affects the foster parent or the needs of the foster child. An objection may be made in the form of a grievance, which must be filed in the county of the foster care parent's residence with the human service zone. The human service zone shall notify foster parents of the grievance procedure and provide them with grievance procedure forms.

SECTION 425. AMENDMENT. Section 50-11.2-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11.2-02. Grievance procedure.

The grievance procedure to be followed by the department of health and human services, human service zone, and foster parents is:

1. Any decision made by the department of health and human services or human service zone which substantially affects the licensed foster parent or the needs of a foster child must be sent in writing to the foster parents who have been given the responsibility of providing foster care for that child. Nothing herein may be construed to prohibit the department of health and human services or human service zone from immediately implementing a decision, when the best interests of the child require such immediate action, as long as notice is given to the foster parent as soon as possible.
2. A foster parent may object to any decision referred to in subsection 1. Upon the filing of a grievance by the foster care parents, the human service zone

²⁵⁷ Section 50-11.1-02 was also amended by section 4 of House Bill No. 1416, chapter 358, and section 1 of House Bill No. 1466, chapter 368.

²⁵⁸ Section 50-11.1-07 was also amended by section 5 of House Bill No. 1416, chapter 358.

shall schedule an informal meeting to be held within ten days of the filing of the grievance. The needs and responsibilities of all interested parties must be discussed at this meeting in an attempt to maintain a continuing relationship which will serve the best interests of the foster child. A written resolution relating to the grievance should be agreed to and signed by both parties.

3. If no written resolution between the parties relating to the grievance is made at the informal meeting, the foster parents may request a formal hearing to be held at a conflict-free human service zone office. This meeting must be held within ten working days of the informal meeting unless both parties agree to an extension. The human service zone director or the director's designee shall provide for a record of this hearing. The human service zone director or the director's designee shall review all prior contact between the foster care parents and the department of health and human services or human service zone relating to the grievance. The human service zone director or the director's designee shall then make a final determination relating to the grievance. The human service zone director's or the director's designee's findings and conclusions must be sent to the human service zone and the foster care parents.
4. All decisions relating to a grievance under this chapter are final.
5. The department of health and human services shall adopt rules to carry out the purpose and intent of this section and these rules must be given to the foster parent upon licensing.
6. Denial or revocation of a foster care license may be appealed as provided in chapter 28-32.
7. Nothing herein may be construed to require a grievance proceeding under this chapter, when the department of health and human services or human service zone is acting to implement a specific placement decision issued by a court with competent jurisdiction.

²⁵⁹ **SECTION 426. AMENDMENT.** Section 50-11.3-01 of the North Dakota Century Code is amended and reenacted as follows:

50-11.3-01. Criminal history record investigation required.

1. Before appointment as a legal guardian under chapter 27-20, the individual to be appointed legal guardian must be subject to an assessment that includes the result of a criminal history record investigation made under this section. In addition, any adult living in the household of the individual to be appointed legal guardian must be subject to a criminal history record investigation made under this section.
2. An individual to be appointed legal guardian or any adult living in that individual's household as described in subsection 1 shall secure, from a law enforcement agency or other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law. Upon a request made under this section, a law enforcement agency shall take fingerprints of any individual to be appointed legal guardian

²⁵⁹ Section 50-11.3-01 was also amended by section 38 of House Bill No. 1035, chapter 245.

- or any adult living in that individual's household as described in subsection 1 and may charge a reasonable fee to offset the cost of fingerprinting.
3. An individual to be appointed legal guardian or any adult living in that individual's household as described in subsection 1 shall assure that information obtained under subsection 2 is provided to the department of health and human services.
 4. Upon receipt of all fingerprints and necessary information relating to a criminal history record investigation, the department of health and human services shall submit those fingerprints and that information to the bureau of criminal investigation.
 5. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of a response, provide the response of the federal bureau of investigation to the department of health and human services. The bureau of criminal investigation shall also provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department of health and human services. The bureau of criminal investigation may charge a reasonable fee to offset the cost of providing any criminal history record information and may require payment of any charge imposed by the federal bureau of criminal investigation for a nationwide background check.
 6. The department of health and human services shall provide an individual to be appointed legal guardian or any adult living in that individual's household, who provided the department with information under subsection 2, with any information received under this section from the bureau of criminal investigation which the department of health and human services is not prevented by federal law from disclosing to the individual to be appointed legal guardian or any adult living in that individual's household.
 7. The department of health and human services may adopt emergency rules under this section without the finding otherwise required under section 28-32-02.
 8. A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-11-06.8 and 50-12-03.2.

SECTION 427. AMENDMENT. Section 50-12-02 of the North Dakota Century Code is amended and reenacted as follows:

50-12-02. Child-placing agency licensed - Rules.

Every child-placing agency shall secure a license from the department of health and human services. The department shall adopt rules establishing the requirements for licensure as a child-placing agency.

SECTION 428. AMENDMENT. Subsection 2 of section 50-12-02.1 of the North Dakota Century Code is amended and reenacted as follows:

2. A child-placing agency that does not maintain an office in this state shall name on its license application at least one resident child-placing agency. Resident child-placing agencies named on the application shall certify their willingness to:

- a. Receive service of process for papers to be served on the out-of-state child-placing agency;
- b. Assist when requested by the department of health and human services in the supervision and visitation of children placed in either temporary or permanent homes by the out-of-state child-placing agency; and
- c. Provide at the request of the department of health and human services all other facts, information, and reports to be made on behalf of the out-of-state child-placing agency.

SECTION 429. AMENDMENT. Section 50-12-03 of the North Dakota Century Code is amended and reenacted as follows:

50-12-03. Requirements for licensure and employment - Term - Moral or religious conviction not bar to licensure or employment.

The department of health and human services shall issue licenses for the conduct of child-placing agencies upon application. A child-placing agency shall require a criminal history record investigation on the owner and each employee of a child-placing agency who has direct contact with families, with children, or with both. The department of health and human services shall consider any criminal history record information available about the owner at the time a licensing decision is made and about an employee prior to the owner or the employee having direct contact with families, with children, or with both. Licenses must be granted for a period not exceeding two years. Licenses must be issued to reputable and responsible applicants upon a showing that they, and their agents, are equipped properly by training and experience to find and select suitable temporary or permanent homes for children and to supervise the homes when children are placed in them, to the end that the health, morality, and general well-being of children placed by them will be properly safeguarded. The department of health and human services may not deny a license because of the applicant's objection to performing, assisting, counseling, recommending, facilitating, referring, or participating in a placement that violates the applicant's written religious or moral convictions or policies.

SECTION 430. AMENDMENT. Section 50-12-03.1 of the North Dakota Century Code is amended and reenacted as follows:

50-12-03.1. Conviction not bar to licensure or employment - Exceptions.

Conviction of an offense does not disqualify a person from licensure or employment under this chapter unless the department of health and human services determines that the offense has a direct bearing upon a person's ability to serve the public as the owner or employee of a child-placing agency, or that, following the person's conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 431. AMENDMENT. Section 50-12-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-12-03.2. Criminal history record investigation required.

1. A child-placing agency shall include, in any adoptive home study report, the results of a criminal history record investigation made under this section. If the results reveal a conviction of a crime described in chapter 50-11.3 or determined by the department to have a direct bearing upon the person's ability to provide a suitable home for placement of any child, or the department

determines, following conviction of any other offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1, the home study report must include a determination that a home provided by the prospective adoptive parent is not a suitable home for the placement of any child and a recommendation that the petition for adoption be denied. A child-placing agency shall consider any criminal history record information available when making a recommendation in a home study report.

2. A child-placing agency shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from any prospective adoptive parent and any adult living in the prospective adoptive parent's household. Upon a request of a child-placing agency, a law enforcement agency shall take fingerprints of any prospective adoptive parent and any adult living in the prospective adoptive parent's household for purposes of this section. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the cost of fingerprinting.
3. The child-placing agency shall assure that information obtained under subsection 2 is provided to the department of health and human services and shall arrange payment to the bureau of criminal investigation sufficient to defray the cost of securing criminal history record information under this section.
4. Upon receipt of all fingerprints and necessary information relating to a criminal history record investigation, the department of health and human services shall submit those fingerprints and that information to the bureau of criminal investigation.
5. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of a response, provide the response of the federal bureau of investigation to the department of health and human services. The bureau of criminal investigation shall also provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department.
6. The department of health and human services shall provide the child-placing agency with any information, received under this section from the bureau of criminal investigation, that the department of health and human services is not prevented by federal law from disclosing to the child-placing agency.
7. The department of health and human services may adopt emergency rules under this section without the finding otherwise required under section 28-32-02.
8. A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-11-06.8 and 50-11.3-01.

SECTION 432. AMENDMENT. Section 50-12-05 of the North Dakota Century Code is amended and reenacted as follows:

50-12-05. Department may prescribe form of records - Make rules - Records open for inspection.

The department of health and human services may prescribe the forms for the registration and record of children placed by a child-placing agency. The department shall make such reasonable rules and regulations in connection with such placements as are necessary to carry out the purposes of this chapter. All records must be open to the inspection of the department.

SECTION 433. AMENDMENT. Subsection 2 of section 50-12-06 of the North Dakota Century Code is amended and reenacted as follows:

2. For the return of the child to the placing agency whenever in the opinion of the agency, or of the department of health and human services, the best interests of the child require the return.

SECTION 434. AMENDMENT. Subsection 2 of section 50-12-07 of the North Dakota Century Code is amended and reenacted as follows:

2. Report to the department of health and human services:
 - a. The name and address of each child to be placed in a foster or an adoptive home;
 - b. The name and address of the proposed foster or adoptive parents; and
 - c. Any other facts and information as requested by the department.

²⁶⁰ **SECTION 435. AMENDMENT.** Section 50-12-08 of the North Dakota Century Code is amended and reenacted as follows:

50-12-08. Child must be placed in suitable home - Department may remove child.

A child may not be placed in any foster or adoptive home until adequate investigation has been made as to the suitability of the proposed foster or adoptive parents and their home surroundings. When the department of health and human services is satisfied that a child has been placed in an unsuitable home, the department shall order the child-placing agency, in writing, to remove the child and place the child in a home that meets the approval of the department. If within a reasonable period of time it appears that suitable arrangements have not been made for the care of the child, the department shall refer the child to the county social service board of the county in which the child has legal settlement. The county social service board shall make immediate arrangements, subject to the approval of the department, for the care and support of the child. If the child has no legal settlement within the state, or in case of a dispute as to the determination of the child's legal settlement or responsibility for the child's support, the child must be brought before the juvenile court as a dependent child in the county in which the child is found, as provided by law.

SECTION 436. AMENDMENT. Section 50-12-10 of the North Dakota Century Code is amended and reenacted as follows:

50-12-10. Revocation of license - Grounds.

The department of health and human services may revoke the license of any child-placing agency upon a proper showing of any of the following:

²⁶⁰ Section 50-12-08 was also amended by section 15 of Senate Bill No. 2086, chapter 353.

1. The licensee has violated any requirements under this chapter.
2. The license was issued upon fraudulent or untrue representations.
3. The licensee has violated any of the rules and regulations of the department.
4. The licensee has been guilty of an offense determined by the department to have a direct bearing upon a person's ability to serve the public as a licensee, or the department determines, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 437. AMENDMENT. Section 50-12-11 of the North Dakota Century Code is amended and reenacted as follows:

50-12-11. Revocation of license - False reports.

If any child-placing agency licensed under the provisions of this chapter makes any false or misleading report to the department of health and human services, the license must be suspended immediately. Upon hearing before the department, if such false or misleading reports are found to have been made, the license forthwith must be revoked.

SECTION 438. AMENDMENT. Section 50-12-14.1 of the North Dakota Century Code is amended and reenacted as follows:

50-12-14.1. Conditions for placement of children in state - Consent of department required.

Any person undertaking to bring or to send a child into this state for placement in foster care, as a preliminary to a possible adoption, or for guardianship shall furnish the department of health and human services with written notice of the intention to send, bring, or place the child in the state and shall obtain prior written consent from the department for each child to be so placed. The notice must contain:

1. The name, date, and place of birth of the child;
2. The identity and address or addresses of the parent or legal guardian;
3. The name and address of the person, agency, or institution to or with which the child is proposed to be placed;
4. A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made; and
5. Any supporting or additional information as the department determines necessary under the circumstances.

This section does not apply to the sending or bringing of a child into this state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's guardian and leaving the child with any such relative or nonagency guardian in this state.

SECTION 439. AMENDMENT. Section 50-12-16 of the North Dakota Century Code is amended and reenacted as follows:

50-12-16. Taking children from state for placement in family homes - Consent of department - Report.

No person, partnership, voluntary association, corporation, or limited liability company may take or send any child out of the state for placement in a family home in another state without first securing the consent of the department of health and human services so to do and without first reporting to the department:

1. The name and address of the child to be taken or sent;
2. The name and address of the family which is to receive the child; and
3. Such other information concerning the family and the child as the department may require.

This section does not apply to a parent who personally removes the parent's child from the state.

SECTION 440. AMENDMENT. Section 50-12-17 of the North Dakota Century Code is amended and reenacted as follows:

50-12-17. Licensure requirement - Registration requirement - Penalty.

A person may not place or cause to be placed any child in a family home for adoption without a license to do so from the department of health and human services except that a parent, upon giving written notice to the department, may place the parent's child in the home of the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or guardian for adoption by the person receiving the child. The child must be considered abandoned if proceedings for the adoption or guardianship of the child are not initiated by such relative within one year following the date of notice of placement. A person who willfully violates this chapter is guilty of a class C felony. For purposes of this section, "to place or cause to be placed" means to place a child for adoption; arrange or provide for short-term foster care for a child pending an adoptive placement; facilitate placement of a child by maintaining a list in any form of birth parents or prospective adoptive parents; or advertise in any public medium that the person knows of a child who is available for adoption or is willing to accept a child for adoption or that the person knows of prospective adoptive parents of a child.

SECTION 441. AMENDMENT. Subsection 1 of section 50-19-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 442. AMENDMENT. Section 50-19-04 of the North Dakota Century Code is amended and reenacted as follows:

50-19-04. Inspection and report by ~~state~~the department of health and state fire marshal.

The department shall give notice to the ~~state department of health and state fire marshal~~ of each application for a license to operate a maternity home. ~~Upon receipt of the notice, the state~~The department of health and the state fire marshal shall inspect the facilities and premises of the applicant to determine compliance with health and fire safety standards, and ~~the state fire marshal~~ shall report ~~their~~the marshal's findings to the department.

SECTION 443. AMENDMENT. Section 50-19-10 of the North Dakota Century Code is amended and reenacted as follows:

50-19-10. Records of maternity home confidential.

Except as otherwise authorized by law, no agent of ~~the state department of health~~, the state fire marshal, or the department, or the licensee, under this chapter, may disclose the contents of the records of a maternity home nor of the reports received from them, except:

1. In a judicial or administrative proceeding in response to an order of a court or administrative tribunal; or
2. For a law enforcement purpose to a law enforcement official or a health oversight agency for oversight activities authorized by law.

SECTION 444. AMENDMENT. Section 50-19-14 of the North Dakota Century Code is amended and reenacted as follows:

50-19-14. Cooperation of interested persons and agencies.

The licensee of a maternity home, ~~the state department of health and its agents~~, the state fire marshal and the state fire marshal's designees, and the department and its agents shall cooperate in all measures and services for improving and safeguarding the health and social well-being of mothers and their infants who receive services in a maternity home.

SECTION 445. AMENDMENT. Section 50-21-02 of the North Dakota Century Code is amended and reenacted as follows:

50-21-02. Administration of revolving fund.

The revolving fund and loans made therefrom must be supervised and administered by the Bank of North Dakota. All applications for loans under the provisions of this chapter for the construction of nursing homes or combination nursing homes and basic care facilities must be made to the state department of health and human services, which department is authorized, subject to the approval of the North Dakota health council, to promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter. All applications for the construction of basic care facilities must be made to the state department of health and human services, which department shall promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter. Applications approved by the state department of health and human services and the North Dakota health council must be forwarded to the Bank of North Dakota. Upon approval of such application by the president of the Bank of North Dakota, loans must be granted by the Bank of North Dakota from the revolving fund in accordance with the provisions of this chapter.

SECTION 446. AMENDMENT. Section 50-21-03 of the North Dakota Century Code is amended and reenacted as follows:

50-21-03. Amount of loan - Terms and conditions.

Loans in an amount not exceeding one-half of the cost of construction or reconstruction including the cost or value of real estate upon which the facility is located and in no event exceeding one hundred fifty thousand dollars to any one applicant shall be made by the Bank of North Dakota to nonprofit corporations to be used in the construction or reconstruction in this state of nursing homes, basic care facilities, or combination nursing homes and basic care facilities. Such loans must bear interest at the rate of seven percent per annum and must be repayable in the

manner prescribed by the president of the Bank of North Dakota within a period of not more than twenty-five years. In addition, in consideration of the granting of the loans, each nonprofit corporation shall execute a contract with the state to operate such basic care facility for a period of not less than twenty years and to operate and maintain the basic care facility in accordance with the standards prescribed for the licensing of such basic care facility by the state department of health and human services. Such contract must also require the nonprofit corporation to maintain facilities for not less than five persons referred to such basic care facility by any county social service board. Such contract must also provide that if the use of such basic care facility is discontinued or if it is diverted to other purposes, the full amount of the loan provided under this chapter immediately becomes due and payable. Loans may be made only to an applicant who is not receiving other loans or grants of funds from this state for such construction or reconstruction. Payments of interest and principal upon such loans must be made to the Bank of North Dakota and credited to the revolving fund.

SECTION 447. AMENDMENT. Section 50-21-04 of the North Dakota Century Code is amended and reenacted as follows:

50-21-04. Standards - Administration procedure.

The state department of health, ~~subject to the approval of the state health council, and human services~~ shall establish standards of construction which must be followed by all applicants receiving loans of funds for the construction of nursing homes or combination nursing homes and basic care facilities. The state department of health and human services shall establish standards of construction which must be followed by all applicants for loans for the construction of basic care facilities. The health council, in the case of the construction of nursing homes or basic care facilities or combination nursing homes and basic care facilities, shall approve all building plans and specifications for any facilities to be constructed in whole or in part with loans of funds provided under the provisions of this chapter prior to the disbursement of any such funds. Administrative procedures established by the state department of health ~~with the approval of the health council and human services~~ must, except to construction standards, be in general in accordance with the procedures established for the administration of the federal grant-in-aid program for similar purposes under the Hill-Burton Act, or federal acts supplemental thereto.

SECTION 448. AMENDMENT. Subsection 1 of section 50-24.1-00.1 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 449. AMENDMENT. Section 50-24.1-01.3 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-01.3. Department to comply with federal requirements - Interagency cooperation - Civil money penalty fund.

1. The department shall take any action necessary to comply with the requirements of section 1919(h) of the federal Social Security Act [42 U.S.C. 1396r(h)], including establishing a process to enforce compliance by nursing facilities with requirements for participation in the medical assistance program that conforms to any federal regulations implementing that section.

2. ~~The state department of health and the department shall cooperate to achieve prompt and effective implementation of subsection 1.~~
3. The state treasurer shall establish a fund for the receipt of any civil money penalties imposed under subsection 1. Any civil money penalty paid to the department under subsection 1 must be deposited in that fund and, subject to the limits of legislative appropriation, may be expended for the purpose allowed by the federal government.
- 4.3. This section may not be construed to create any right or authorize any activity not provided for in section 1919(h) of the federal Social Security Act [42 U.S.C. 1396r(h)] or its implementing federal regulations.
- 5.4. Before the establishment and assessment of civil money penalties permitted by section 1919(h) of the federal Social Security Act [42 U.S.C. 1396r(h)], the department is encouraged to submit a plan of alternative remedies in accordance with section 1919(h)(2)(B)(ii) of that Act.

SECTION 450. AMENDMENT. Subdivision a of subsection 1 of section 50-24.1-29 of the North Dakota Century Code is amended and reenacted as follows:

- a. "Department" means the department of health and human services or its agent.

SECTION 451. AMENDMENT. Section 50-24.1-34 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-34. Processing of claims submitted on behalf of inmates.

The department of health and human services shall process claims submitted by enrolled medical providers on behalf of inmates at county jails. Each county shall pay the department for the paid amount for the claims processed and also a processing fee for each claim submission. The department may establish a processing fee that may not exceed fifty dollars and shall update the fee annually on July first. The processing fee must be based on the actual costs to the department of the claims processing operations divided by the annual volume of claims submitted. The department shall invoice each county for payment of the processing fee.

SECTION 452. AMENDMENT. Section 50-24.1-37 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-37. Medicaid expansion - Legislative management report. (Effective July 1, 2019, through December 31, 2019 - Contingent repeal - [See note](#))

1. ~~The department of human services shall expand medical assistance coverage as authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] to individuals under sixty-five years of age with income below one hundred thirty-eight percent of the federal poverty line published by the federal office of management and budget applicable to the household size.~~
2. ~~The department shall inform new enrollees in the medical assistance expansion program that benefits may be reduced or eliminated if federal participation decreases or is eliminated.~~

3. ~~The department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange.~~
4. ~~The contract between the department and the private carrier must:~~
 - a. ~~Provide a reimbursement methodology for all medications and dispensing fees which identifies the minimum amount paid to pharmacy providers for each medication. The reimbursement methodology, at a minimum, must:~~
 - (1) ~~Be available on the department's website; and~~
 - (2) ~~Encompass all types of pharmacy providers regardless of whether the pharmacy benefits are being paid through the private carrier or contractor or subcontractor of the private carrier under this section.~~
 - b. ~~Provide full transparency of all costs and all rebates in aggregate.~~
 - c. ~~Allow an individual to obtain medication from a pharmacy that provides mail order service; however, the contract may not require mail order to be the sole method of service and must allow for all contracted pharmacy providers to dispense any and all drugs included in the benefit plan and allowed under the pharmacy provider's license.~~
 - d. ~~Ensure that pharmacy services obtained in jurisdictions other than this state and its three contiguous states are subject to prior authorization and reporting to the department for eligibility verification.~~
 - e. ~~Ensure the payments to pharmacy providers do not include a required payback amount to the private carrier or one of the private carrier's contractors or subcontractors which is not representative of the amounts allowed under the reimbursement methodology provided in subdivision a.~~
5. ~~The contract between the department and the private carrier must provide the department with full access to provider reimbursement rates. The department shall consider provider reimbursement rate information in selecting a private carrier under this section. Before August first of each even-numbered year, the department shall submit a report to the legislative management regarding provider reimbursement rates under the medical assistance expansion program. This report may provide cumulative data and trend data but may not disclose identifiable provider reimbursement rates.~~
6. ~~Provider reimbursement rate information received by the department under this section and any information provided to the department of human services or any audit firm by a pharmacy benefit manager under this section is confidential, except the department may use the reimbursement rate information to prepare the report to the legislative management as required under this section.~~

Medicaid expansion – Legislative management report. (Effective January 1, 2020, through July 31, 2021 - Contingent repeal - [See note](#))

1. The department of health and human services shall expand medical assistance coverage as authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] to individuals under sixty-five years of age with income below one hundred thirty-eight percent of

the federal poverty line published by the federal office of management and budget applicable to the household size.

2. The department shall inform new enrollees in the medical assistance expansion program that benefits may be reduced or eliminated if federal participation decreases or is eliminated.
3. Except for pharmacy services, the department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange.
4. The contract between the department and the private carrier must provide the department with full access to provider reimbursement rates. The department shall consider provider reimbursement rate information in selecting a private carrier under this section. Before August first of each even-numbered year, the department shall submit a report to the legislative management regarding provider reimbursement rates under the medical assistance expansion program. This report may provide cumulative data and trend data but may not disclose identifiable provider reimbursement rates.
5. Provider reimbursement rate information received by the department under this section is confidential, except the department may use the reimbursement rate information to prepare the report to the legislative management as required under this section.

²⁶¹ **SECTION 453. AMENDMENT.** Section 50-24.1-38 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-38. Health-related services - Licensed community paramedics.

The department of ~~human services~~ shall adopt rules governing payments to licensed community paramedics, advanced emergency medical technicians, and emergency medical technicians for health-related services provided to recipients of medical assistance, subject to necessary limitations and exclusions. A physician or an advanced practice registered nurse must supervise any care provided by a licensed community paramedic, an advanced emergency medical technician, or emergency medical technician.

²⁶² **SECTION 454. AMENDMENT.** Subsection 2 of section 50-24.1-40 of the North Dakota Century Code is amended and reenacted as follows:

2. The department of ~~human services~~ shall facilitate care coordination agreements. Of any federal funding received in excess of the state's regular share of federal medical assistance funding which results from care coordination agreements, the department shall deposit sixty percent in the tribal health care coordination fund and forty percent in the general fund.

SECTION 455. AMENDMENT. Section 50-24.3-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.3-01. Targeted case management.

²⁶¹ Section 50-24.1-38 was also amended by section 5 of Senate Bill No. 2133, chapter 207.

²⁶² Section 50-24.1-40 was also amended by section 1 of House Bill No. 1407, chapter 372.

The department of health and human services shall establish a targeted case management service for disabled and elderly individuals eligible for benefits under chapter 50-24.1 who are at risk of requiring long-term care services to ensure that an individual is informed of alternatives available to address the individual's long-term care needs.

SECTION 456. AMENDMENT. Section 50-24.3-03 of the North Dakota Century Code is amended and reenacted as follows:

50-24.3-03. ~~Department of human services--~~ Targeted case management - Powers and duties.

The department of health and human services has the following powers and duties which it may delegate to any entity that provides targeted case management services approved by the department:

1. To seek cooperation from other public and private entities in the community that offer services to individuals with disabilities or the elderly.
2. To provide information and education to the general public regarding availability of targeted case management.
3. To accept referrals from an interested party including individuals, families, human services program professionals, nursing facility personnel, and acute care facility personnel.
4. To assess the health and social needs of, and provide targeted case management to, referred individuals who wish to receive this service.
5. To identify available noninstitutional services to meet the needs of referred individuals.
6. To prepare an individual care plan for each individual receiving targeted case management services.
7. To inform referred individuals of the extent to which long-term care services are available, including institutional and community-based services, and of the individual's opportunity to choose, in consultation with an attending physician, family members, and other interested parties, among the appropriate alternatives that may be available.
8. To monitor the results of targeted case management and report to each legislative assembly on these results and the cost-effectiveness of these services.

SECTION 457. AMENDMENT. Section 50-24.3-03.1 of the North Dakota Century Code is amended and reenacted as follows:

50-24.3-03.1. ~~Department of human services--~~ Assessment services - Powers and duties.

The department of health and human services has the following powers and duties which it may delegate to any entity that provides assessment services approved by the department:

1. To seek cooperation from other public and private agencies in the community which offer services to disabled and elderly persons.

2. To provide information and education to the general public regarding availability of the assessment program.
3. To accept referrals from individuals, families, human services program professionals, nursing facility personnel, and acute care facility personnel.
4. To assess the health and social needs of referred individuals.
5. To identify available noninstitutional services to meet the needs of referred individuals.
6. To prepare recommendations for individuals receiving assessment program services as to the need for skilled nursing care or other care available in the community.
7. To inform referred individuals of the extent to which home and community-based services are available and of their opportunity to choose, in consultation with an attending physician and family member, among the appropriate alternatives that may be available.

²⁶³ **SECTION 458. AMENDMENT.** Subsection 3 of section 50-24.4-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 459. AMENDMENT. Section 50-24.4-12 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-12. Avoiding detrimental effect on quality of care.

If the department learns that expenditures for direct resident care have been reduced in amounts large enough to indicate a possible detrimental effect on the quality of care, the ~~department shall notify the state department of health~~licensing division shall be notified.

²⁶⁴ **SECTION 460. AMENDMENT.** Subsection 1 of section 50-24.4-19 of the North Dakota Century Code is amended and reenacted as follows:

1. Charging private-paying residents rates for similar services which exceed those rates which are approved by the department for medical assistance recipients, as determined by the prospective desk audit rate, except under the following circumstances: the nursing home may charge private-paying residents a higher rate for a private room and charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the department of ~~human services~~. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be offered to all residents and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing home in order to comply with licensure or certification standards and that if not

²⁶³ Section 50-24.4-01 was also amended by section 1 of House Bill No. 1090, chapter 374.

²⁶⁴ Section 50-24.4-19 was also amended by section 5 of House Bill No. 1090, chapter 374.

provided would result in a deficiency or violation by the nursing home. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing home that charges a private-paying resident a rate in violation of this chapter is subject to an action by the state or any of its subdivisions or agencies for civil damages. A private-paying resident or the resident's legal representative has a cause of action for civil damages against a nursing home that charges the resident rates in violation of this chapter. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorney's fees or their equivalent.

SECTION 461. AMENDMENT. Subsection 4 of section 50-24.5-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the department of health and human services.

SECTION 462. AMENDMENT. Section 50-24.5-02.2 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-02.2. Basic care facility private room rates.

The department of ~~human services~~ shall allow a basic care facility to charge a higher rate for a private room used by a recipient of benefits under this chapter if the private room is not necessary to meet the resident's care needs; the resident, or a person acting on behalf of the resident, has requested the private room and the facility informs the person making the request, at the time of the request, of the amount of payment and that the payment must come from sources other than a resident's monthly income; and the payment does not exceed the amount charged to private pay residents.

SECTION 463. AMENDMENT. Section 50-24.5-10 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-10. Compensation for top management personnel - Department to adopt emergency rules.

Notwithstanding the requirements of subsection 2 of section 28-32-03, the department of ~~human services~~ has the authority to create emergency rules related to the compensation for top management personnel of a basic care facility combined with a hospital.

SECTION 464. AMENDMENT. Subsection 3 of section 50-24.6-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 465. AMENDMENT. Subsection 3 of section 50-24.7-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 466. AMENDMENT. Subsection 3 of section 50-24.8-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

²⁶⁵ **SECTION 467. AMENDMENT.** Subsection 9 of section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

9. "Department" means the department of health and human services or its designee.

²⁶⁶ **SECTION 468. AMENDMENT.** Subsection 17 of section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

17. "State child protection team" means a multidisciplinary team consisting of the designee of the department and, where possible, of a physician, a representative of a child-placing agency, ~~a representative of the state department of health,~~ a representative of the attorney general, a representative of the superintendent of public instruction, a representative of the department of corrections and rehabilitation, one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must be staff members of the public or private agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three persons.

²⁶⁷ **SECTION 469. AMENDMENT.** Section 50-25.1-04.2 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.2. Child fatality review panel.

The state child protection team shall serve as a child fatality review panel. The department shall appoint a peace officer licensed in the state, a mental health professional, and any other person as appropriate to assist the panel in the performance of its duties. The department, ~~in coordination with the state department of health,~~ shall adopt rules for the operation of the panel. Panel members are not entitled to compensation or reimbursement of expenses for service on the panel.

²⁶⁸ **SECTION 470. AMENDMENT.** Subsection 10 of section 50-25.1-15 of the North Dakota Century Code is amended and reenacted as follows:

10. ~~The state department of health, in coordination with the department of human services,~~ shall develop and implement a public awareness campaign to provide information, public service announcements, and educational materials regarding this section to the public, including medical providers, law enforcement, and social service agencies.

²⁶⁵ Section 50-25.1-02 was also amended by section 39 of House Bill No. 1035, chapter 245, section 468 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2083, chapter 377.

²⁶⁶ Section 50-25.1-02 was also amended by section 39 of House Bill No. 1035, chapter 245, section 467 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2083, chapter 377.

²⁶⁷ Section 50-25.1-04.2 was also amended by section 6 of Senate Bill No. 2083, chapter 377.

²⁶⁸ Section 50-25.1-15 was also amended by section 41 of House Bill No. 1035, chapter 245, and section 21 of Senate Bill No. 2083, chapter 377.

SECTION 471. AMENDMENT. Subsection 5 of section 50-25.2-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Department" means the department of health and human services.

SECTION 472. AMENDMENT. Section 50-27-01 of the North Dakota Century Code is amended and reenacted as follows:

50-27-01. Creation and administration of children's trust fund.

There is hereby created in the state treasury a special fund known as the children's trust fund. The children and family services division of the department of health and human services shall administer the fund. All moneys designated for the fund from whatever source derived must be deposited with the state treasurer in the children's trust fund. The state treasurer shall invest such funds in interest-bearing accounts as is designated by the children and family services division, and the interest earned must be deposited in the children's trust fund. The children and family services division shall designate the administrator of child protective services as executive secretary of the children's trust fund.

SECTION 473. AMENDMENT. Section 50-27-03 of the North Dakota Century Code is amended and reenacted as follows:

50-27-03. Authority of the children and family services division of the department of health and human services.

The children and family services division may:

1. Create such advisory committees as may be deemed necessary to assure public involvement in the planning, development, and administration of the children's trust fund.
2. Hire or arrange for appropriate staff, as deemed necessary, to administer and maintain properly the children's trust fund.
3. Develop, implement, and periodically review a written plan to be used in administering the funds expended from and retained in the children's trust fund. The written plan must include the types of activities to be funded, the nature of organizations preferred for funding, the criteria for eligible fund applicants, and the mechanisms for the monitoring and evaluating of funded activities.
4. Award grants from the children's trust fund in accordance with this chapter and any rules that have been adopted.

SECTION 474. AMENDMENT. Subsection 5 of section 50-28-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Department" means the department of health and human services.

SECTION 475. AMENDMENT. Subsection 3 of section 50-29-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 476. AMENDMENT. Subsection 2 of section 50-30-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

SECTION 477. AMENDMENT. Subsection 1 of section 50-31-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

²⁶⁹ **SECTION 478. AMENDMENT.** Subsection 2 of section 50-32-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

SECTION 479. AMENDMENT. Section 50-32-02.1 of the North Dakota Century Code is amended and reenacted as follows:

50-32-02.1. Continuation of existing licenses.

1. An assisted living facility that possessed a valid license issued by the department of ~~human services~~ before August 1, 2005, may not be subsequently denied a license by the department of ~~human services~~ merely due to failure to meet the requirements of sections 23-09-01, 50-32-01, and 50-32-02 provided that the assisted living facility meets all other licensing requirements.
2. If there is a change in ownership of an assisted living facility that possessed a valid license issued before August 1, 2005, the department of ~~human services~~ shall allow a continuance of the exception to the licensure requirements under subsection 1 for the new owner. The continuance provided under this subsection applies to the first change in ownership after July 31, 2005, and does not apply to any subsequent change in ownership.

²⁷⁰ **SECTION 480. AMENDMENT.** Subsection 7 of section 50-33-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Department" means the department of health and human services.

²⁷¹ **SECTION 481. AMENDMENT.** Subsection 1 of section 50-35-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 482. AMENDMENT. Subsection 3 of section 52-01-03 of the North Dakota Century Code is amended and reenacted as follows:

3. Job service North Dakota may provide workforce safety and insurance, the labor commissioner, the driver's license division of the department of transportation, the department of health and human services, the department of commerce, the state tax commissioner, and the information technology department for purposes of the statewide longitudinal data system with

²⁶⁹ Section 50-32-01 was also amended by section 3 of Senate Bill No. 2226, chapter 199.

²⁷⁰ Section 50-33-01 was also amended by section 16 of Senate Bill No. 2086, chapter 353.

²⁷¹ Section 50-35-01 was also amended by section 18 of Senate Bill No. 2086, chapter 353.

information obtained pursuant to the administration of the unemployment insurance program, and may enter into interagency agreements with those entities for the exchange of information that will enhance the administration of the unemployment insurance program. Any information furnished pursuant to this subsection or pursuant to interagency agreements authorized by this subsection is to be used only for governmental purposes.

²⁷² **SECTION 483. AMENDMENT.** Subsection 5 of section 53-12.1-12 of the North Dakota Century Code is amended and reenacted as follows:

5. If two or more claimant agencies have delinquent accounts for the same player, the director shall apportion the prize equally among them. However, a setoff to the department of health and human services for child support payments has priority over all other setoffs.

SECTION 484. AMENDMENT. Subsection 1 of section 54-06-04 of the North Dakota Century Code is amended and reenacted as follows:

1. The following executive and administrative officers and departments shall submit to the governor and the secretary of state reports covering their operations for the two preceding fiscal years, except as otherwise provided by law, not later than the first day of December each year after the regular session of the legislative assembly:
 - a. Secretary of state.
 - b. State auditor.
 - c. Insurance commissioner.
 - d. Attorney general.
 - e. Agriculture commissioner.
 - f. Superintendent of public instruction.
 - g. State tax commissioner.
 - h. Public service commission.
 - i. Department of corrections and rehabilitation.
 - j. Department of transportation.
 - k. ~~State department of health.~~
 - l. Department of health and human services.
 - ~~m. l.~~ Workforce safety and insurance.
 - ~~n. m.~~ Office of management and budget.
 - ~~o. n.~~ State treasurer.

²⁷² Section 53-12.1-12 was also amended by section 7 of Senate Bill No. 2283, chapter 175.

- p-o. Labor commissioner.
- q-p. Department of financial institutions.
- r-q. Game and fish department.
- s-r. Industrial commission.
- t-s. Job service North Dakota.
- u-t. Board of university and school lands.
- v-u. Department of environmental quality.

²⁷³ **SECTION 485. AMENDMENT.** Subsection 3 of section 54-12-08 of the North Dakota Century Code is amended and reenacted as follows:

3. The attorney general may require payment for legal services rendered by any assistant or special assistant attorney general to any state official, board, department, agency, or commission and those entities shall make the required payment to the attorney general. Moneys received by the attorney general in payment for legal services rendered must be deposited into the attorney general's operating fund. General fund moneys may not be utilized for the payment of legal services provided by the attorneys employed by the attorney general, except for those payments required of the department of health and human services, ~~state department of health~~, department of environmental quality, and the state hospital.

SECTION 486. AMENDMENT. Section 54-23.3-10 of the North Dakota Century Code is amended and reenacted as follows:

54-23.3-10. Community behavioral health program - Reports to legislative management and governor.

1. The department of corrections and rehabilitation shall establish and implement a community behavioral health program to provide comprehensive community-based services for individuals who have serious behavioral health conditions, as a term and condition of parole under chapter 12-59, and as a sentencing alternative under section 12.1-32-02.
2. In developing the program under this section, the department of corrections and rehabilitation shall collaborate with the department of health and human services to:
 - a. Establish a referral and evaluation process for access to the program.
 - b. Establish eligibility criteria that includes consideration of recidivism risk and behavioral health condition severity.
 - c. Establish discharge criteria and processes, with a goal of establishing a seamless transition to postprogram services to decrease recidivism.

²⁷³ Section 54-12-08 was also amended by section 18 of House Bill No. 1009, chapter 9.

- d. Develop program oversight, auditing, and evaluation processes that must include:
 - (1) Oversight of case management services through the department of health and human services;
 - (2) Outcome and provider reporting metrics; and
 - (3) Annual reports to the legislative management and the governor on the status of the program.
- e. Establish a system through which:
 - (1) The department of health and human services:
 - (a) Contracts with and pays behavioral health service providers; and
 - (b) Supervises, supports, and monitors referral caseloads and the provision of services by contract behavioral health service providers.
 - (2) Contract behavioral health service providers accept all eligible referrals, provide individualized care delivered through integrated multidisciplinary care teams, and continue services on an ongoing basis until discharge criteria are met.
 - (3) Contract behavioral health service providers receive payments on a per-month per-referral basis. The payment schedule must be based on a pay-for-performance model that includes consideration of identified outcomes and the level of services required.
 - (4) Contract behavioral health service providers bill third-parties for services and direct payment to the general fund.
- 3. The department of health and human services may adopt rules as necessary to implement this program.

SECTION 487. AMENDMENT. Subsection 1 of section 54-23.3-12 of the North Dakota Century Code is amended and reenacted as follows:

- 1. The department of corrections and rehabilitation, with contracts through the department of health and human services and through the implementation of the community behavioral health program, shall allow faith-based organizations to provide services to individuals who need addiction treatment services.

SECTION 488. AMENDMENT. Subsection 3 of section 54-38-01 of the North Dakota Century Code is amended and reenacted as follows:

- 3. "Department" means the department of health and human services.

SECTION 489. AMENDMENT. Paragraph 2 of subdivision b of subsection 1 of section 54-44.1-12 of the North Dakota Century Code is amended and reenacted as follows:

- (2) General fund appropriations to the department of health and human services for direct care programs.

SECTION 490. AMENDMENT. Section 54-44.3-30 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-30. Agencies subject to merit system.

All personnel employed by the department of health and human services, the regional offices of that department, job service North Dakota, North Dakota human resource management services, ~~the state department of health~~, department of environmental quality, and other agencies or political subdivisions as may by federal law or rule be required to be subject to a merit system in order to obtain federal grants-in-aid are covered by the merit system provided in this chapter. Merit system coverage must also be provided to personnel employed as purchasing agents or buyers in the purchasing division of the office of management and budget. Other agencies, departments, or divisions and positions must be placed under a merit system in the manner and to the extent required by law.

SECTION 491. AMENDMENT. Section 54-44.3-31 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-31. Political subdivision may request to be exempted from state merit system.

A political subdivision subject to the merit system under this chapter may file a request with the division and the executive director of the department of health and human services to be exempted from the merit system. The request must describe a plan and policy that assures the political subdivision has developed a merit system plan that meets federal standards for personnel administration. The division and the executive director of the department of health and human services shall authorize the political subdivision plan within sixty days of receiving a request under this section if the plan and policies meet federal requirements. If the division and the executive director of the department of health and human services determine that the proposed plan and policies fail to meet the federal requirements, the division and the executive director shall deny the request and notify the requester of the specific reasons for the denial.

SECTION 492. AMENDMENT. Section 54-44.3-32 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-32. Political subdivision merit system compliance.

The division and the department of health and human services shall develop oversight and audit procedures for political subdivision merit systems to assure compliance with federal merit system principles. If the division and the department of health and human services determine that a political subdivision has failed to maintain compliance with federal merit system principles, the division and the department shall notify the political subdivision of the noncompliance and order the political subdivision to take corrective action. If a political subdivision does not take the necessary corrective action to comply with federal merit system principles, the division and the department of health and human services shall revoke the political subdivision's exemption from the state merit system and return the political subdivision to the state merit system. The political subdivision is responsible for any penalty assessed by a federal authority for a noncompliant political subdivision merit system.

SECTION 493. AMENDMENT. Subsection 3 of section 54-44.8-03 of the North Dakota Century Code is amended and reenacted as follows:

3. The department of health and human services shall furnish specialized telecommunications equipment to meet the needs of individuals who are communications impaired and who might be otherwise disadvantaged in their ability to obtain such equipment. The department of health and human services shall determine eligibility and may provide the specialized telecommunications equipment to individuals determined eligible within the limits of funding made available to the department of health and human services through gifts and grants received under section 54-44.8-06 and from funding made available by the information technology department from the surcharge collected pursuant to section 54-44.8-08, which are appropriated.

SECTION 494. AMENDMENT. Section 54-44.8-06 of the North Dakota Century Code is amended and reenacted as follows:

54-44.8-06. Gifts and grants.

The department of health and human services may accept contributions and gifts and may apply for and accept grants, in money or otherwise, to the program. Monetary contributions, gifts, and grants must be deposited in the state treasury to be credited to the department of health and human services operating account.

SECTION 495. AMENDMENT. Section 54-46-13 of the North Dakota Century Code is amended and reenacted as follows:

54-46-13. Rules for state and human service zone records - Administrator to adopt.

The administrator shall adopt rules in accordance with chapter 28-32 for state and human service zone records. The rules adopted by the administrator must be consistent with records retention requirements imposed by federal law with respect to those records. The administrator, prior to adoption, amendment, or repeal of rules concerning state and human service zone records, shall consult with the executive director of the department of health and human services.

SECTION 496. AMENDMENT. Subsection 1 of section 54-59-25 of the North Dakota Century Code is amended and reenacted as follows:

1. The health information technology advisory committee consists of the state chief information officer or the chief information officer's designee, the state health officer or the state health officer's designee, the governor or the governor's designee, the executive director of the department of health and human services or the executive director's designee, the chairman of the house human services committee and the chairman of the senate human services committee or if either or both of them are unwilling or unable to serve then the chairman of the legislative management shall appoint a replacement who is a member of the same legislative chamber as the individual being replaced, and individuals appointed by the governor to represent a broad range of public and private health information technology stakeholders. A committee member who is not an ex officio member, designee of an ex officio member, state employee, or legislator is entitled to mileage and expenses as provided by law for state officers and employees, to be paid by the health information technology office. A committee member who is an ex officio member, designee of an ex officio member, state employee, or legislator is

entitled to receive that member's regular salary and receive mileage and expenses, to be paid by the employing agency.

SECTION 497. AMENDMENT. Subdivision i of subsection 2 of section 54-59-26 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 498. AMENDMENT. Subdivision g of subsection 1 of section 54-59-33 of the North Dakota Century Code is amended and reenacted as follows:

- g. The executive director of the department of health and human services or the director's designee;

SECTION 499. AMENDMENT. Subdivision a of subsection 1 of section 54-60-19 of the North Dakota Century Code is amended and reenacted as follows:

- a. Consult with partners in the state's system for workforce development, workforce training, and talent attraction, including job service North Dakota, the department of career and technical education, the superintendent of public instruction, the state board of higher education, the department of health and human services, and other divisions of the department of commerce.

SECTION 500. AMENDMENT. Section 57-38-01.16 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.16. Income tax credit for employment of individuals with developmental disabilities or chronically mentally ill persons.

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

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

SECTION 501. AMENDMENT. Subsection 1 of section 57-38.3-02 of the North Dakota Century Code is amended and reenacted as follows:

1. "Claimant agency" means the department of health and human services, job service North Dakota, workforce safety and insurance, state institutions of higher education, the North Dakota student loan service center, the insurance commissioner, the North Dakota guaranteed student loan program, the industrial commission acting as the state housing finance agency under

chapter 54-17, a housing authority created under section 23-11-02, or the state court administrator on behalf of the state courts for purposes of court-ordered fines, fees, or costs due the state. On or before September first of each year, the state housing finance agency shall conduct an election by mail among housing authorities of the state and certify to the tax commissioner which housing authority received the greatest number of votes and is capable of compliance with the duties of a claimant agency under section 57-38.3-05. During the ensuing calendar year, the housing authority certified as selected under this subsection shall act as the claimant agency for all housing authorities for the purposes of submitting debtor information to the tax commissioner for fund transfers and for providing notice to the debtor as required by section 57-38.3-05.

SECTION 502. AMENDMENT. Subsection 3 of section 57-38.3-04 of the North Dakota Century Code is amended and reenacted as follows:

3. A claim made by any child support unit of the department of health and human services has priority in setting off any refund. Other claims rank by date of certification under section 57-38.3-05 in the office of the commissioner with the claim earlier certified having priority.

²⁷⁴ **SECTION 503. AMENDMENT.** Subsection 24 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

24. Gross receipts from all sales when made to an eligible facility or emergency medical services provider for the use or benefit of its patient or occupant. For the purposes of this subsection:
 - a. "Eligible facility" means any hospital, skilled nursing facility, intermediate care facility, ~~or basic care facility licensed by the state department of health~~, or any assisted living facility licensed by the department of health and human services; and
 - b. "Emergency medical services provider" means an emergency medical services operation licensed by the state department of health and human services under chapter 23-27.

²⁷⁵ **SECTION 504. AMENDMENT.** Subdivision f of subsection 4 of section 57-40.6-10 of the North Dakota Century Code is amended and reenacted as follows:

- f. Dispatch the emergency medical service that has been determined to be the quickest to arrive to the scene of medical emergencies regardless of city, county, or district boundaries. The state department of health and human services shall provide public safety answering points with the physical locations of the emergency medical services necessary for the implementation of this subdivision.

SECTION 505. AMENDMENT. Section 57-63-03 of the North Dakota Century Code is amended and reenacted as follows:

²⁷⁴ Section 57-39.2-04 was also amended by section 1 of House Bill No. 1351, chapter 472, section 1 of Senate Bill No. 2152, chapter 471, and section 4 of Senate Bill No. 2226, chapter 199.

²⁷⁵ Section 57-40.6-10 was also amended by section 5 of House Bill No. 1206, chapter 479, and section 6 of House Bill No. 1206, chapter 479.

57-63-03. Basis of assessment.

Every year beginning July first, each intermediate care facility for individuals with intellectual disabilities must be assessed a quarterly rate per licensed bed as of the first day of each quarter. The quarterly rate may not exceed a rate calculated by the department of health and human services as an annual aggregate of gross revenues as of December thirty-first of the preceding year for all intermediate care facilities for individuals with intellectual disabilities, multiplied by one and one-half percent, and divided by licensed beds as of December thirty-first of the preceding year.

SECTION 506. AMENDMENT. Subdivision n of subsection 2 of section 59-09-02 of the North Dakota Century Code is amended and reenacted as follows:

- n. A trust managed by a nonprofit association for disabled individuals under 42 U.S.C. 1396p(d)(4), as in effect on the effective date of chapters 59-09, 59-10, 59-11, 59-12, 59-13, 59-14, 59-15, 59-16, 59-17, 59-18, and 59-19 and under the rules adopted by the department of health and human services.

²⁷⁶ **SECTION 507. AMENDMENT.** Section 61-38-03 of the North Dakota Century Code is amended and reenacted as follows:

61-38-03. Permits - Certification from state department of health and human services required. (Contingent effective date - [See note](#))

The state engineer may not issue a permit under this chapter without a certification from the state department of health and human services that the permitted activity will not adversely affect water quality.

²⁷⁷ **SECTION 508. AMENDMENT.** Paragraph 3 of subdivision a of subsection 16 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

- (3) Human service zone general assistance workers, except those who are engaged in repaying to human service zones or the department of health and human services moneys the human service zones or the department of health and human services have been compelled by statute to expend for general assistance.

SECTION 509. AMENDMENT. Section 65-05.1-06.3 of the North Dakota Century Code is amended and reenacted as follows:

65-05.1-06.3. Rehabilitation services pilot programs - Reports.

The organization may implement a system of pilot programs to allow the organization to assess alternative methods of providing rehabilitation services. A pilot program may address one or more of the organization's comprehensive rehabilitation services, including vocational, medical, psychological, economic, and social rehabilitation services. The goal of a pilot program must be to improve the outcome of the rehabilitation services offered by the organization to assist the injured employee in making adjustments necessitated from the employee's injury and to improve the

²⁷⁶ Section 61-38-03 was also amended by section 214 of House Bill No. 1353, chapter 488.

²⁷⁷ Section 65-01-02 was also amended by section 1 of House Bill No. 1084, chapter 500, and section 1 of Senate Bill No. 2148, chapter 501.

effectiveness of vocational rehabilitation services in returning an employee to substantial gainful employment. Notwithstanding laws to the contrary, a pilot program may address a broad range of approaches, including collaborative efforts between the organization and the injured employee through which there are variances from the rehabilitation services hierarchy; return-to-work trial periods during which cash benefits are suspended; intensive job search assistance; recognition of and focused services for injured employees who are at risk; and coordination of services of public and private entities. If a pilot program utilizes coordination of services of other state agencies, such as job service North Dakota, department of health and human services, North Dakota university system, or department of public instruction, the organization shall consult with the state agency in establishing the relevant portions of the pilot program and the state agency shall cooperate with the organization in implementing the pilot program. The organization shall provide status reports on current pilot programs in accordance with section 65-01-19.

SECTION 510. LEGISLATIVE INTENT. It is the intent of the sixty-seventh legislative assembly that:

1. Effective September 1, 2022, the state department of health merge into the department of human services and both agencies be called the department of health and human services;
2. Effective September 1, 2022, the state department of health, including the state health officer, fall under the authority of the executive director of the department of human services, now known as the executive director of the department of health and human services;
3. During the 2021-23 biennium, the executive director of the former department of human services review and reorganize the structure of the former department of human services to incorporate the former state department of health and to find efficiencies in the newly formed department of health and human services;
4. The newly formed department of health and human services is not required to reduce the full-time equivalent positions of the former state department of health and department of human services;
5. The office of management and budget transfer the state department of health's appropriation into the department of human services appropriation for the period beginning September 1, 2022, and ending June 30, 2023;
6. Section 1 of Senate Bill No. 2004, as approved by the sixty-seventh legislative assembly, shall transfer into subdivisions 1 and 2 of section 1 of House Bill No. 1012, as approved by the sixty-seventh legislative assembly, for the period beginning September 1, 2022, and ending June 30, 2023;
7. The combined budget of the department of human services and state department of health be referred to the budget of the department of health and human services; and
8. Department of health and human services is to be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the state department of health.

SECTION 511. LEGISLATIVE MANAGEMENT REPORT - MERGER OF STATE DEPARTMENT OF HEALTH INTO DEPARTMENT OF HUMAN SERVICES. During

the 2021-22 interim, the state health officer and the executive director of the department of human services, and then the executive director of the department of health and human services, shall provide periodic reports to the legislative management regarding the status of the merger of the state department of health into the department of human services. The reports must include information regarding any agency structural changes identified, any efficiencies identified with the merger, and whether legislation is required to implement identified structural changes or efficiencies.

SECTION 512. APPLICATION. Upon the effective date of this Act, the state department of health and the department of human services, and then the department of health and human services, shall begin the process of identifying efficiencies and unification of services and administration which will result from the merger of the state department of health into the department of human services.

SECTION 513. EFFECTIVE DATE. Sections 1 through 509 of this Act become effective on September 1, 2022.

Approved April 27, 2021

Filed April 28, 2021

CHAPTER 353

SENATE BILL NO. 2086

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-01.1 of the North Dakota Century Code, relating to gifts and donations received by human service zones; to amend and reenact sections 11-16-01, 11-16-06, 11-23-01, 14-09-06.3, 14-09-06.4, 14-15-09, 14-15-11, 50-01.1-01, 50-01.1-04, 50-01.1-08, 50-01.2-01, 50-01.2-05, 50-06-05.8, 50-12-08, 50-33-01, 50-33-02, 50-35-01, 50-35-02, 50-35-03, 50-35-04, 50-35-05, and 50-35-07 of the North Dakota Century Code, relating to the operation and financing of human service zones; to repeal chapter 50-11.2 of the North Dakota Century Code, relating to foster care parent grievance; to provide for legislative management reports; to provide for a legislative management study; to provide for the transfer of employees; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁷⁸ **SECTION 1. AMENDMENT.** Section 11-16-01 of the North Dakota Century Code is amended and reenacted as follows:

11-16-01. Duties of the state's attorney.

1. The state's attorney is the public prosecutor, and shall:
4. a. Attend the district court and conduct on behalf of the state all prosecutions for public offenses.
2. b. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses when the state's attorney has information that such offenses have been committed, and for that purpose, when the state's attorney is not engaged in criminal proceedings in the district court, the state's attorney shall attend upon the magistrates in cases of arrests when required by them except in cases of assault and battery and petit larceny.
3. c. Attend before, and give advice to, the grand jury whenever cases are presented to it for consideration.
4. d. Draw all indictments and informations.
5. e. Defend all suits brought against the state or against the county.
6. f. Prosecute all bonds forfeited in the courts of record of the county and prosecute all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or to the county.

²⁷⁸ Section 11-16-01 was also amended by section 1 of House Bill No. 1035, chapter 245, and section 9 of House Bill No. 1247, chapter 352.

- 7- g. Deliver duplicate receipts for money or property received in the state's attorney's official capacity and file copies thereof with the county auditor.
- 8- h. On the first Monday of January, April, July, and October in each year, file with the county auditor an account, verified by the state's attorney's oath, of all money received by the state's attorney in an official capacity in the preceding three months, and at the same time, pay it over to the county treasurer.
- 9- i. Give, when required and without fee, the state's attorney's opinion in writing to the county, district, township, and school district officers on matters relating to the duties of their respective offices.
- 10- j. Keep a register of all official business in which must be entered a note of each action, whether civil or criminal, prosecuted officially, and of the proceedings therein.
- 11- k. Act as legal adviser of the board of county commissioners, attend the meetings thereof when required, and oppose all claims and actions presented against the county which are unjust or illegal.
- 12- l. Institute an action in the name of the county to recover any money paid upon the order of the board of county commissioners without authority of law as salary, fee, or for any other purpose, or any money paid on a warrant drawn by any officer to that officer's own order or in favor of any other person without authorization by the board of county commissioners or by law.
- 13- m. Institute an action in the name of the county to restrain the payment of any money described in any order or warrant of the kind described in subsection 13 when the state's attorney secures knowledge of such order or warrant before the money is paid thereon.
- 14- n. Assist the district court in behalf of the recipient of payments for child support or spousal support combined with child support in all proceedings instituted to enforce compliance with a decree or order of the court requiring such payments.
- 15- o. Institute proceedings under chapter 25-03.1 if there is probable cause to believe that the subject of a petition for involuntary commitment is a person requiring treatment.
- 16- p. Institute and defend proceedings under sections 14-09-12 and 14-09-19 and chapters 14-15, 27-20, 27-20.1, and 50-01 upon consultation with the human service zone director or the executive director of the department of human services.
- 17- q. Act as the legal advisor and represent a human service zone as set forth in a plan approved under section 50-01.1-03. The state's attorney within the human service zone, by way of agreement, shall designate a singular state's attorney's office, within or outside the human service zone, to act as legal advisor of the human service zone. The host county state's attorney shall serve as the legal advisor if no agreement is reached. The agreement may not limit a state's attorney's individual discretion in court filings and representation.

- 18- r. Act as the legal advisor and represent the human service zone regarding employer actions, including grievances and appeals, taken against the human service zone team member. The state's attorney of the county by which the human service zone team member is employed shall act as the legal advisor of the human service zone, unless a different agreement is established by the affected state's attorney.
2. The state's attorney ~~shall~~may not require any order of the board of county commissioners to institute an action under subdivision l or m of subsection 42 or 131.

SECTION 2. AMENDMENT. Section 11-16-06 of the North Dakota Century Code is amended and reenacted as follows:

11-16-06. Failure of state's attorney to perform duty - Power of court - Appointment of acting state's attorney.

If it shall appear, by affidavit or otherwise, to the satisfaction of a judge of the district court of the judicial district in which the county is situated, that the county has no state's attorney, or that the state's attorney is absent or unable to attend to the state's attorney's duties, or that the state's attorney has refused or neglected to perform any of the duties prescribed in ~~subsections 2 through 6~~subdivisions b through f of subsection 1 of section 11-16-01, or to institute any civil suit to which the state or the county is a party after the matter has been properly brought to the attention of such state's attorney, and that it is necessary that some act be performed, the judge shall:

1. Request the attorney general or an assistant attorney general to take charge of such prosecution or proceeding; or
2. Appoint an attorney to take charge of such prosecution or proceeding and fix the attorney's fee therefor by an order entered upon the minutes of the court, and the attorney so appointed shall be vested with the powers of the state's attorney for the purposes of that action, but for no other purpose, and shall be the only person authorized to proceed in such action. The fee specified in the order shall be allowed by the board of county commissioners and, if so ordered by the court, the amount of such fee shall be deducted from the salary of the state's attorney.

²⁷⁹ **SECTION 3. AMENDMENT.** Section 11-23-01 of the North Dakota Century Code is amended and reenacted as follows:

11-23-01. Officers required to furnish commissioners with departmental budget.

1. Every officer in charge of any institution, office, or undertaking supported wholly or in part by the county shall file with the board of county commissioners a departmental budget that is prescribed by the state auditor. The departmental budget must include an itemized statement of the estimated amount of money that will be required for the maintenance, operation, or improvement of the institution, office, or undertaking for the ensuing year. The board of county commissioners may require additional information to clarify the departmental budget.

²⁷⁹ Section 11-23-01 was also amended by section 13 of House Bill No. 1247, chapter 352.

2. a. The departmental budget submitted by the human service zone may not exceed an amount determined by the department of human services and the human service zone director pursuant to section 50-35-04 and must include the county's cost allocation of indirect costs based on a formulaan amount established by the department of human services.
- b. The county share of the human service zone's indirect costs must be funded entirely from the county's general fund.
- c. The department of human services shall develop a process to review a request from a human service zone for any proposed increase in staff. As part of its review process, the department of human services shall review pertinent factors, which may include caseload information. If the department of human services approves a request for a proposed increase in staff, the human service zone budget may be increased by the amount determined necessary by the department of human services to fund the approved additional staff. The human service zone director shall submit the proposed increase in staff to the human service zone board for review. The human service zone director shall work with the department to achieve equitable compensation and salary increases for all human service zone team members within the human service zone. The human service zone director shall notify appropriate host county staff of all staffing changes for administrative purposes.
3. For purposes of this section, "host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.

SECTION 4. AMENDMENT. Section 14-09-06.3 of the North Dakota Century Code is amended and reenacted as follows:

14-09-06.3. Custody investigations and reports - Costs.

1. In contested proceedings dealing with parental rights and responsibilities the court, upon the request of either party, or, upon its own motion, may order an investigation and report concerning parenting rights and responsibilities regarding the child. The court shall designate a person or agency responsible for making the investigation and report, which designees may include the human service zone, public health officer, school officials, and any other public agency or private practitioner the court deems qualified to make the investigation.
2. The investigator may consult any person who may have information about the child and any potential arrangements for parenting rights and responsibilities, and upon order of the court may refer the child to any professional personnel for diagnosis.
3. The court shall mail the investigator's report to counsel and to any party not represented by counsel at least thirty days before the hearing. The investigator shall make available to any such counsel or party the complete file of data and reports underlying the investigator's report and the names and addresses of all persons whom the investigator has consulted. A party may call the investigator and any person whom the investigator has consulted for cross-examination at the hearing. A party may not waive the party's right of cross-examination before the hearing.

4. The court shall enter an order for the costs of any such investigation against either or both parties, except that if the parties are indigent the expenses must be borne by the ~~human-service-zone~~county where the child resided at the time the action was commenced or if a modification of parental rights and responsibilities, at the time the motion to modify is served.

SECTION 5. AMENDMENT. Section 14-09-06.4 of the North Dakota Century Code is amended and reenacted as follows:

14-09-06.4. Appointment of guardian ad litem or investigator for child in proceedings involving parental rights and responsibilities - Immunity.

In any action for an annulment, divorce, legal separation, or other action affecting marriage, when either party has reason for special concern as to the future of the minor child, and in any action when the parenting rights and responsibilities concerning the child is contested, either party to the action may petition the court for the appointment of a guardian ad litem to represent the child concerning parenting rights and responsibilities. The court may appoint a guardian ad litem or investigator on its own motion. If appointed, a guardian ad litem shall serve as an advocate of the child's best interests. If appointed, the investigator shall provide those services as prescribed by the supreme court. The court may direct either or both parties to pay the guardian ad litem or investigator fee established by the court. If neither party is able to pay the fee, the court may direct the fee to be paid, in whole or in part, by the ~~human-service-zone~~county where the child resided at the time the action was commenced. The court may direct either or both parties to reimburse the ~~human-service-zone~~county, in whole or in part, for such payment. Any guardian ad litem or investigator appointed under this section who acts in good faith in making a report to the court is immune from any civil liability resulting from the report. For the purpose of determining good faith, the good faith of the guardian ad litem or investigator is a disputable presumption.

SECTION 6. AMENDMENT. Section 14-15-09 of the North Dakota Century Code is amended and reenacted as follows:

14-15-09. Petition for adoption.

1. A petition for adoption must be signed and verified by the petitioner, filed with the clerk of the court, and state:
 - a. The date and place of birth of the individual to be adopted, if known.
 - b. The name to be used for the individual to be adopted.
 - c. The date petitioner acquired custody or date of placement of the minor and the name of the individual placing the minor.
 - d. The full name, age, place, and duration of residence of the petitioner.
 - e. The marital status of the petitioner, including the date and place of marriage, if married.
 - f. That the petitioner has facilities and resources, including those available under a subsidy agreement, suitable to provide for the nurture and care of the minor to be adopted, and that it is the desire of the petitioner to establish the relationship of parent and child with the individual to be adopted.

- g. A description and estimate of value of any property of the individual to be adopted.
 - h. The name of any individual whose consent to the adoption is required, but who has not consented, and facts or circumstances which excuse the lack of the individual's consent normally required to the adoption.
 - i. The department ~~and a human service zone~~ as respondents respondent.
 - j. The human service zone as respondent if the minor to be adopted is in the custody of the human service zone.
 - k. That the petitioner's expenses were reasonable as verified by the court. Reasonable fees may be charged for professional services and living expenses if reflected in a report of agreements and disbursements filed under this chapter and approved by the court. The fees may not be contingent upon placement of the child for adoption, consent to adoption, or cooperation in the completion of adoption. Reasonable fees may include:
 - (1) Preplacement counseling, adoption assessment, placement of the child, foster care, or other preadoption services, which must be paid directly to the provider of the services;
 - (2) Legal fees relating to the petition for relinquishment or adoption, that must be paid directly to the provider of the services;
 - (3) Medical expenses relating to prenatal care and the birth of the child, that are not already covered by health insurance;
 - (4) Expenses for transportation, meals, and lodging incurred for placement of the child or in order to receive counseling, legal, or medical services related to the pregnancy, birth, or placement; and
 - (5) Living expenses of the birth mother which are needed to maintain an adequate standard of living, which the birth mother is unable to otherwise maintain because of loss of income or other support resulting from the pregnancy.
 - (a) The payments may cover expenses incurred during the pregnancy-related incapacity but not for a period longer than six weeks following the delivery, unless the court determines within the six-week period that the birth mother is unable to be employed due to physical limitations relating to the birth of the child.
 - (b) Living expenses do not include expenses for lost wages, gifts, educational expenses, vacations, or other similar expenses of a birth mother.
- 2. A certified copy of the birth certificate or verification of birth record of the individual to be adopted, if available, and the required consents and relinquishments must be filed with the clerk.
 - 3. Any individual filing a petition shall pay to the clerk of court a filing fee as prescribed in subsection 1 of section 27-05.2-03.

280 **SECTION 7. AMENDMENT.** Section 14-15-11 of the North Dakota Century Code is amended and reenacted as follows:

14-15-11. Notice of petition - Investigation and hearing.

1. a. After the filing of a petition to adopt a minor, the court shall fix a time and place for hearing the petition. At least twenty days before the date of hearing, notice of the filing of the petition and of the time and place of hearing must be given by the petitioner to the department and if the minor to be adopted is in the custody of the human service zone to the human service zone; any agency or individual whose consent to the adoption is required by this chapter but who has not consented; an individual whose consent is dispensed with upon any ground mentioned in subdivisions a, b, f, h, i, and j of subsection 1 of section 14-15-06 but who has not consented; and any individual identified by the court as a biological parent or a possible biological parent of the minor, upon making inquiry to the extent necessary and appropriate, as in proceedings under section 27-20-45, unless the individual has relinquished parental rights or the individual's parental rights have been previously terminated by a court. The notice to the department and if the minor to be adopted is in the custody of the human service zone to the human service zone must be accompanied by a copy of the petition.
- b. Notice of the filing of a petition to adopt an adult must be given by the petitioner at least twenty days before the date of the hearing to each living parent of the adult to be adopted.
2. An investigation must be made by a licensed child-placing agency to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor.
3. A written report of the investigation must be filed with the court by the investigator before the petition is heard.
4. The report of the investigation must contain a review of the child's history; a preplacement adoption assessment of the petitioner, including a criminal history record investigation of the petitioner; and a postplacement evaluation of the placement with a recommendation as to the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.
5. An investigation and report is not required in cases in which a stepparent is the petitioner or the individual to be adopted is an adult. The department and human service zone, when required to consent to the adoption, may give consent without making the investigation. If the petitioner is a relative other than a stepparent of the minor, the minor has lived with the petitioner for at least nine months, no allegations of abuse or neglect have been filed against the petitioner or any member of the petitioner's household, and the court is satisfied that the proposed adoptive home is appropriate for the minor, the court may waive the investigation and report required under this section.

280 Section 14-15-11 was also amended by section 7 of House Bill No. 1035, chapter 245.

6. The department and human service zone, when required to consent to the adoption, may request the licensed child-placing agency to conduct further investigation and to make a written report thereof as a supplemental report to the court.
7. After the filing of a petition to adopt an adult, the court by order shall direct that a copy of the petition and a notice of the time and place of the hearing be given to any individual whose consent to the adoption is required but who has not consented and to each living parent of the adult to be adopted. The court may order an appropriate investigation to assist it in determining whether the adoption is in the best interest of the individuals involved.
8. Notice must be given in the manner appropriate under the North Dakota Rules of Civil Procedure for the service of process in a civil action in this state or in any manner the court by order directs. Proof of the giving of the notice must be filed with the court before the petition is heard.

²⁸¹ **SECTION 8. AMENDMENT.** Section 50-01.1-01 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Department" means the department of human services.
2. "Direct costs" means costs that are charged directly to the human service zone human service fund. Direct costs are costs related directly to human service zone team members or human service zone services, including compensation, fringe benefits, and operating costs that are not identified by the department as an indirect cost.
3. "Host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.
- ~~3-4.~~ "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
- ~~4-5.~~ "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.
- ~~5-6.~~ "Human service zone team member" means a county employee who is responsible for administering or delivering human services under the direction of the human service zone director.
- ~~6-7.~~ "Human services" means:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, locally administered economic assistance programs, medical service programs,

²⁸¹ Section 50-01.1-01 was also amended by section 379 of House Bill No. 1247, chapter 352.

and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.

- b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
- c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.

7-8. "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies which are not identified by the department as a direct cost. ~~These~~Indirect costs include legal representation; facilities and related costs, such as utilities and maintenance; administrative support including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services.

8-9. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone office and include:

- a. Temporary assistance for needy families;
- b. Employment and training programs;
- c. Child care assistance programs;
- d. Medical assistance, including early periodic screening, diagnosis, and treatment;
- e. Supplemental nutrition assistance programs, including employment and training programs;
- f. Refugee assistance programs;
- g. Basic care services;
- h. Energy assistance programs; and
- i. Information and referral.

SECTION 9. AMENDMENT. Section 50-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-04. Plan - Financing - Human service zone board.

- 1. A plan for the creation of a human service zone must describe the method of operation of the human service zone office, its administration, its location and the location of any ancillary offices, the disbursements from public funds, and the accountability for funds and manner of reporting receipts and disbursements. The plan must provide for the distribution of property owned by each of the county agencies affected by the consolidation and for the

method of resolution of any disagreement between the boards of county commissioners involved in the human service zone or between the governing board and one or more boards of county commissioners. The plan must also require the participating counties to participate in the indirect cost allocation plan. The plan, once approved, may be continued for a definite term or until rescinded, terminated, or modified by the department through a process developed by the department.

2. The human service zone director shall prepare a proposed budget for the human service zone at the time and in the manner as requested by the department and shall submit the department-approved proposed budget to the board of county commissioners of each county in the human service zone for review. The board of county commissioners may not take any action to amend or modify the amount approved by the department. The board of county commissioners may make recommendations to the human service zone director and the department to amend or modify the amount proposed or budgeted. The amount budgeted must be sufficient to defray the anticipated expenses of administration and the delivery of human services. Within ten days following review of the proposed budget by the boards of county commissioners, the human service zone director shall certify the budget to the respective county auditors of the counties in the district. Each board of county commissioners also shall budget and approve amounts sufficient to defray that county's anticipated indirect costs of the human service zone. Indirect costs of the human service zone may not become direct costs without written approval of the department. The amounts budgeted, reviewed, and approved by the several boards of county commissioners or the department, or both must be periodically deposited with the treasurer of the host county in which the human service zone office is located and must be placed in a special human service zone human services fund. The human service zone's income must be deposited into the human service zone human services fund by the treasurer of the host county. The human service zone board shall establish procedures for the review and approval of all claims against the human service zone human services fund. The human service zone director or designee shall approve or ratify all claims against the human service zone human services fund. The county treasurer of the host county, shall pay approved or ratified claims from the human service zone human services fund. Unexpended human service zone human services funds remaining at the end of a fiscal year may be carried over to the next fiscal year pursuant to section 50-35-05. The department may recalculate and adjust each human service zone's formula payment ~~biannually~~ based on pertinent factors, which include actual expenditures over the prior or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload.

SECTION 10. AMENDMENT. Section 50-01.1-08 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-08. Standards of administration - Action upon failure to administer.

1. The department shall adopt standards for administration for human services and shall provide training for the implementation of those standards. Each human service zone shall provide for administration of human services that meet those standards.
2. The department shall develop a system of progressive discipline to address performance issues within the human service zone. The system shall reserve

the most serious actions for severe or chronic failure to meet the standards adopted under subsection 1.

3. The department shall provide ongoing performance notifications to the human service zone board and human service zone director related to the overall compliance with the standards of administration.
4. If a human service zone fails to provide for administration of human services that meet the standards adopted under subsection 1, the department may take any of the following actions:
 - a. Provide training to the persons responsible for administration.
 - b. Require the human service zone to prepare and implement a corrective action plan.
 - c. Terminate or modify a human service zone, agreement, or plan which may include requiring the reconstituting of the human service zone board or rehiring of a human service zone director as part of a new or modified agreement or plan.
 - d. Recalculate and adjust the human service zone's formula payments.
 - e. Recommend disciplinary action to the human service zone director or the human service zone board.

SECTION 11. A new section to chapter 50-01.1 of the North Dakota Century Code is created and enacted as follows:

Human service zones accepting gifts and donations.

A human service zone shall secure, hold, and administer for the purpose for which the human service zone is established any property and any funds donated to the human service zone either by will or deed, or otherwise, or through court order or otherwise available to the human service zone, and to administer the funds or property in accordance with the instructions in the instrument creating the funds or property or in accordance with the instructions in the court order or otherwise. Property and funds received by a human service zone under this section are not considered income to the human service zone.

SECTION 12. AMENDMENT. Section 50-01.2-01 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-01. Human service zone board - Members - Qualifications.

The board of county commissioners of each county within the human service zone shall appoint the appointed members of the human service zone board based upon fitness to serve as members by reason of character, experience, and training without regard to political affiliation. Appointed members of the human service zone board must consist of local elected officials and other key community partners. Each~~If~~ a human service zone consists of two or more counties, each county must be represented on the human service zone board by at least~~only~~ one county commissioner of that county. If a human service zone consists of a single county, the county must be represented on the human service zone board by no more than two county commissioners of that county and the human service zone board must have at least five appointed members. Appointed members shall elect a vice presiding officer

and appoint a secretary, and other officers as the human service zone board determines necessary. The human service zone director shall serve as presiding officer of the human service zone board as a nonappointed member.

SECTION 13. AMENDMENT. Section 50-01.2-05 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-05. Actions and proceedings - Duty of state's attorney.

Any suit or other proceeding arising out of the administration of the laws pertaining to the support of persons eligible for county general assistance or general assistance must be brought by or against the county in its corporate name or, human service zone, or department. The state's attorney shall institute and conduct or defend any and all actions or proceedings that may be instituted under chapter 50-01. The department may institute and conduct or defend any and all actions or proceedings that may be instituted under section 50-01-21.

SECTION 14. AMENDMENT. Section 50-06-05.8 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.8. Department to assume costs of human services.

The department shall pay each human service zone's expenses for administering human services for calendar years after December 31, 2019, based on the formula payment amount calculated for each human service zone under chapter 50-35. The executive director of the department shall authorize expenditures from the human service finance fund to reimburse the department for the department's costs of providing human services that historically have been provided by a county or human service zone, or for a new service or program based on federal or state law.

²⁸² **SECTION 15. AMENDMENT.** Section 50-12-08 of the North Dakota Century Code is amended and reenacted as follows:

50-12-08. Child must be placed in suitable home - Department~~Human service zone~~ may remove child.

A child may not be placed in any foster or adoptive home until adequate investigation has been made as to the suitability of the proposed foster or adoptive parents and their home surroundings. When the ~~department~~ of human services service zone is satisfied that a child has been placed in an unsuitable home, the ~~department~~ human service zone shall order the child-placing agency, in writing, to remove the child and place the child in a home that meets the approval of the ~~department~~ human service zone. If within a reasonable period of time it appears that suitable arrangements have not been made for the care of the child, the ~~department~~ shall refer the child to the county social service board of the county in which the child has legal settlement. The county social service board human service zone shall make immediate arrangements, ~~subject to the approval of the department~~, for the care and support of the child. If the child has no legal settlement within the state, or in case of a dispute as to the determination of the child's legal settlement or responsibility for the child's support, the child must be brought before the juvenile court as a dependent child in the county in which the child is found, as provided by law.

²⁸² Section 50-12-08 was also amended by section 435 of House Bill No. 1247, chapter 352.

²⁸³ **SECTION 16. AMENDMENT.** Section 50-33-01 of the North Dakota Century Code is amended and reenacted as follows:

50-33-01. Definitions.

For the purposes of this chapter:

1. "Allowable activities" means paid work, job search, attending job training or an education program, any activity in the job opportunity and basic skills program, transportation time related to the activities, temporary illness or incapacity of a current recipient, and temporary illness of the child.
2. "Approved relative" means an individual provider related to a child in that provider's care by marriage, blood, or court decree as a grandparent, step-grandparent, great grandparent, step-great grandparent, aunt, step-aunt, uncle, step-uncle, sibling, or step-sibling, who has been approved to care for specific children in the provider's own home, but does not mean a sibling provider who resides in the home of a child in that provider's care.
3. "Caretaker" means a child's biological or adoptive parent, the spouse of the child's biological or adoptive parent, or an individual acting in the stead of a child's parent at the request of the parent or another with authority to make the request, but does not mean a provider.
4. "Child care assistance unit" means all members of the caretaker's immediate household, including a child through the month of that child's nineteenth birthday, and any parent or stepparent of a child, including an acknowledged or adjudicated father of one or more children in the household, but does not mean any other person who is not acting in the stead of a parent, a child who is nineteen years of age or older, a child for whom the household receives foster care payments, or a minor parent of a child in the household unless the minor parent also requires child care or is incapable of caring for the child.
5. "Child care center" has the meaning provided in chapter 50-11.1.
6. ~~"County agency" means any county social services office.~~
7. "Department" means the department of human services.
- ~~8-7.~~ "Family child care" has the meaning provided in chapter 50-11.1.
- ~~9-8.~~ "Group child care" has the meaning provided in chapter 50-11.1.
9. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
10. "Provider" means an individual who is eighteen years of age or older, licensed as a provider in a family child care, group child care, or child care center, with a self-declaration as a provider of early childhood services who requires no license, registered as a child care provider by a tribal entity, or an approved relative, who meets criteria established by the jurisdiction with authority to regulate child care services.

²⁸³ Section 50-33-01 was also amended by section 480 of House Bill No. 1247, chapter 352.

11. "Recipient" means an individual who is receiving child care assistance.
12. "Tribal entity" means an organization authorized by the government of an Indian tribe within North Dakota to license, register, or otherwise recognize a child care provider operating within the jurisdiction of that Indian tribe.
13. "Work":
 - a. Means any paid employment and any self-employment providing commensurate income; and
 - b. Does not mean any unpaid activity except:
 - (1) With respect to a caretaker who is involved in job opportunity and basic skills or tribal native employment works required by temporary assistance for needy families, any approved activity for the program; and
 - (2) When a state has been determined to have a major disaster, activity by an individual who is residing in the disaster area and involved in unpaid work activities, including the cleaning, repair, restoration, and rebuilding of homes, businesses, and schools.

SECTION 17. AMENDMENT. Section 50-33-02 of the North Dakota Century Code is amended and reenacted as follows:

50-33-02. Child care assistance - Application for benefits - Applicant's duty to establish eligibility - Decisions - Rules.

1. An individual desiring child care assistance or an individual seeking assistance on behalf of another individual may apply for child care assistance. An applicant shall submit a request for child care assistance in writing to a county-agencyhuman service zone on a form prescribed by the department. The applicant shall complete, sign, and date the application. Eligibility begins on the first day of the month in which a signed and dated application is received by the county-agencyhuman service zone. Eligibility may begin on the first day of the month prior to the month in which a signed and dated application is received by the county-agencyhuman service zone, if the applicant requests child care assistance for that month and demonstrates eligibility in that month.
2. The applicant shall provide information sufficient to establish the eligibility of each individual for whom assistance is requested, including the age, verification of relative relationship, citizenship or resident alien status of the children, verification of participation in an allowable activity, and financial eligibility.
3. An eligibility decision must be made within thirty days on child care assistance applications whenever possible. The county-agencyhuman service zone shall notify the applicant following a determination of eligibility or ineligibility.
4. The department shall establish rules for the administration of the child care assistance program, including rules on income requirements, appeals of eligibility determinations for child care assistance, closure of a child care assistance case, and a sliding scale fee schedule for child care assistance

benefits and to establish and enforce standards against program fraud and abuse.

²⁸⁴ **SECTION 18. AMENDMENT.** Section 50-35-01 of the North Dakota Century Code is amended and reenacted as follows:

50-35-01. Definitions.

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

1. "Department" means the department of human services.
2. "Director" means the executive director of the department or the executive director's designee.
3. "Direct costs" means costs that are charged directly to the human service zone human service fund. Direct costs are costs related directly to human service zone team members or human service zone services, including compensation, fringe benefits, and operating costs that are not identified by the department as an indirect cost.
4. "Economic assistance" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone, including:
 - a. Temporary assistance for needy families;
 - b. Employment and training programs;
 - c. Child care assistance programs;
 - d. Medical assistance, including early periodic screening, diagnosis, and treatment;
 - e. Supplemental nutrition assistance programs, including employment and training programs;
 - f. Refugee assistance programs;
 - g. Basic care services;
 - h. Energy assistance programs; and
 - i. Information and referral.
- ~~4.5.~~ "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
- ~~5.6.~~ "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.

²⁸⁴ Section 50-35-01 was also amended by section 481 of House Bill No. 1247, chapter 352.

6-7. "Human services" means:

- a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
- b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
- c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.

7-8. "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies which are not identified by the department as a direct cost. These Indirect costs include legal representation; facilities and related costs, such as utilities and maintenance; administrative support, including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services.

SECTION 19. AMENDMENT. Section 50-35-02 of the North Dakota Century Code is amended and reenacted as follows:

50-35-02. State-paid human services - Application - Study - Report to legislative management.

1. The department shall administer a statewide program for state funding of staffing and administrative costs related to the administration of human services.
2. Payments must be distributed to human service zones and the department pursuant to ~~the formula in section 50-35-04~~, with the first ~~formula~~ payment distributions commencing in January 2020.
3. Human service zones shall cooperate with the department to adopt administrative and operational cost-savings methodologies and determine options for consolidations. Human service zones shall implement the administrative and operational cost-savings methodologies and consolidations.
4. During the ~~2019-2021~~2021-22 interim, the department, with assistance from the North Dakota association of counties and human service zone directors, shall ~~consider options~~develop a process for allowing a human service zone to opt in to state employment. The ~~study~~process must identify under what conditions ~~and factors~~ a transition to state employment may ~~or may not~~ be desirable for a human service zone and the department; outline the governance process for choosing to opt in to state employment, including a description of the role of the human service zone board, county commissions, and the department; and include a template and potential timeline for any zone choosing to make the transition to state employment. Before August 1, 2022, the department shall report to the legislative management the process developed for allowing a

human service zone to opt in to state employment. The transition to state employment is contingent on the approval from the legislative assembly.

5. During the 2021-22 interim, the department, with assistance from the North Dakota association of counties and human service zone directors, shall study indirect costs. The study must identify a plan defining the process to calculate payment for indirect costs. The department shall provide regular updates to the legislative management on the progress of the study. Before August 1, 2022, the department shall report to the legislative management the process developed to calculate payment for indirect costs.

SECTION 20. AMENDMENT. Section 50-35-03 of the North Dakota Century Code is amended and reenacted as follows:

50-35-03. ~~Formula payments~~Payments - Distributions by the director.

1. The director shall calculate the total ~~formula~~ payment for each human service zone pursuant to section 50-35-04 for each calendar year. The director shall notify each human service zone of the ~~estimated~~ amount of that zone's ~~formula~~ payment for calendar year 2020, before December 16, 2019, and for calendar year 2021 and the following years thereafter, before ~~June second~~ July first of the previous year. The director may amend and modify each human service zone's ~~formula~~ payment. If the director amends and modifies a human service zone's ~~formula~~ payment, the human service zone director must be notified within thirty days of amendment or modification.
2. The director shall distribute fifty percent of the amount of each human service zone's ~~formula~~ payment determined under subsection 1, within the limits of legislative appropriation, before January eleventh.
3. By June first of each year, ~~excluding calendar year 2019~~, the director shall recalculate the total ~~formula~~ payment for each human service zone pursuant to section 50-35-04 for the current calendar year.
4. ~~For payments disbursed after calendar year 2020, the~~ The director shall subtract from a human service zone's June fifteenth disbursement any amount exceeding the limitation under section 50-35-05.
5. The director shall calculate the total ~~formula~~ payment for the department pursuant to section 50-35-04.

SECTION 21. AMENDMENT. Section 50-35-04 of the North Dakota Century Code is amended and reenacted as follows:

50-35-04. Calculation of ~~formula~~ payment - Expenditures.

1. The director shall calculate, in collaboration with the human service zone director or designee, the total ~~formula~~ payment for each human service zone. The calculation must be based on the human service zone's most recently available data on historical cost and income, and may include:
 - a. Other factors outlined in subsection 3;
 - b. The human service zone director's proposed budget for the human service zone which may include expansion of scope of human services to include kinship care services and payments and services in response to the

federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123];

- c. Compensation equity and salary increases. The department may limit future salary increases for human service zone team members ~~who received a salary increase from the county commissioners or county social service board for calendar year 2018 or 2019 which was above the~~ salary increase provided by the legislative assembly for state employees ~~or who receive a wage above equitable compensation; and~~
 - d. Current and future duties of and services offered by the human service zone and department.
2. The director shall authorize expenditures from the human service finance fund to reimburse the department for the department's costs of providing human services that historically have been provided by a county, human service zone, or a new service or program based on federal or state law. The department may authorize expenditures from the human service finance fund to reimburse the department for transitional costs incurred for implementing the statewide program for state funding.
 3. The director may recalculate and adjust each human service zone's ~~formula~~ payment ~~biannually~~ based on pertinent factors, which include actual expenditures over the previous or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload. If the director amends and modifies a human service zone's ~~formula~~ payment, the human service zone director must be notified within thirty days of amendment or modification. The spending authority of the human service zone must be increased or decreased based on the approved, adjusted, or modified ~~formula~~ payment.
 4. The director, during the period between January 1, ~~2020~~2021, and December 31, ~~2021~~2023, shall calculate payment for indirect costs ~~according to a formula established by the department, during the period between January 1, 2020, and December 31, 2021. Indirect costs of the human service zone may not become direct costs without written approval of the department.~~ The total payment by the department for reimbursement of indirect costs incurred to support human services may not be less than the prorated amount paid to counties for this purpose in state fiscal year 2018 as identified in the indirect cost plan, unless a cost reduction or cost-savings is achieved by the county.
 5. Direct costs must be applied consistently within all human service zones and may not be included in indirect costs.
 6. Indirect costs must be applied consistently within all counties as it relates to human service zones and may not be included in direct costs.

SECTION 22. AMENDMENT. Section 50-35-05 of the North Dakota Century Code is amended and reenacted as follows:

50-35-05. Human service zone human services fund - Establishment - Fund balance limitations.

1. Each human service zone in this state shall maintain a fund to be known as the human service zone human services fund. All expenditures by the human

service zone for human services must be paid from the human service zone human services fund. If, due to unforeseen or other extenuating circumstances, a human service zone's formula distribution payment, ~~the county's cost allocation of indirect costs~~, and balance of moneys carried over pursuant to subsection 2 are not sufficient to meet the expenses of that human service zone, the director may approve a transfer from the human service finance fund to the human service zone human services fund.

2. The balance of moneys in the human service zone human services fund on January first of each year, after calendar year 2020, may not exceed five hundred thousand dollars for a human service zone that had annual expenditures of two million dollars or greater in calendar year 2020 or ~~one~~two hundred ~~fifty~~ thousand dollars for a human service zone that had annual expenditures of less than two million dollars in calendar year 2020. The balance of moneys carried over must be used for the administration of human services within that human service zone as approved by the human service zone director and may not be used for the county's cost allocation of indirect costs. The human service zone human services fund is not subject to any other charges and is exempt from section 21-02-08.

SECTION 23. AMENDMENT. Section 50-35-07 of the North Dakota Century Code is amended and reenacted as follows:

50-35-07. Human service finance fund.

The human service finance fund is a special fund in the state treasury. Moneys in the fund may be used, subject to legislative appropriation, for the provision of ~~formula~~ payments to human service zones and payments to the department pursuant to this chapter.

SECTION 24. REPEAL. Chapter 50-11.2 of the North Dakota Century Code is repealed.

SECTION 25. LEGISLATIVE MANAGEMENT STUDY - DEPARTMENT OF HUMAN SERVICES AND HUMAN SERVICE ZONES EMPLOYEE COMPENSATION.

1. During the 2021-22 interim, the legislative management shall study issues related to the department of human services and human service zones employee compensation. The study must include consideration of the following issues:
 - a. Total state employee and human service zone team members compensation, including wages and salaries, annual leave, pay grades, classification, disaster or emergency services volunteers' leave, employee assistance program benefits, family and medical leave, funeral leave, holidays, hours of work, administrative leave, jury and witness leave, leave without pay, the merit system, military leave, overtime compensation, retirement benefits, health insurance benefits, severance pay, sick leave, benefits for temporary employees, and time off to vote.
 - b. Health insurance benefits, including the availability of health savings accounts, self-insurance, healthy lifestyle incentives, and the appropriateness of the human service zones' current health insurance benefits.

- c. Compensation equity between the department of human services, other state agencies, human service zones, and the market; within human service zones; within the department of human services; and between human service zones.
 - d. The feasibility and desirability of implementing compensation equity.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 26. TRANSFER OF EMPLOYEES - HEALTH INSURANCE COVERAGE.

1. Sixteen full-time equivalent foster care licensing positions of a human service zone become full-time equivalent positions of the department of human services upon notice of transfer to the human service zone director or county commissioners.
2. An employee who becomes a state employee under this section is entitled to receive a salary in an amount not less than the salary received as an employee of the host county.
3. Each year of county or host county employment of an employee who is transferred under this section will be considered a year of state employment for purposes of section 54-06-14.
4. Before the transfer of the full-time equivalent position from the host county to the department of human services, the host county shall pay the employer's share of any premium that is necessary to continue any existing health insurance coverage for an employee who is transferred under this section for one month after the effective date of this transfer.
5. Any equipment, including technology-related equipment, furnishings, and supplies in the control and custody of a county or human service zone on the effective date of an employment transfer from the host county to the department of human services under this section, must be transferred to the control and custody of the department of human services if requested.
6. A position added to the department of human services under this section would be position transfers from the human service zone and may not result in:
 - a. A net addition of positions delivering human services programs, services, or functions under the appropriation provided in House Bill No. 1012, as approved by the sixty-seventh legislative assembly.
 - b. An increase in human service zone team members delivering human services programs, services, or functions.

SECTION 27. EFFECTIVE DATE. Section 12 of this Act becomes effective on January 1, 2022.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 354

SENATE BILL NO. 2135

(Senators Lee, Dever, Hogan)
(Representatives Keiser, J. Nelson, Weisz)

AN ACT to provide for a department of human services report to the legislative management regarding department quality.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPORT TO THE LEGISLATIVE MANAGEMENT - DEPARTMENT OF HUMAN SERVICES QUALITY STRATEGY REPORT. Before July 1, 2022, the department of human services shall make a report to the legislative management regarding the department's quality strategy, including quality data, verification the department shared the report with stakeholders such as the state department of health and North Dakota health information network, and recommendations for improvement.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 355

HOUSE BILL NO. 1091

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-11 of the North Dakota Century Code, relating to the use of an automated clearinghouse to facilitate payment; to amend and reenact subsection 1 of section 50-06-01.4, subsection 8 of section 50-11-00.1, and sections 50-11-02 and 50-11-03.2 of the North Dakota Century Code, relating to shelter care services, foster care for children, foster care approval and licensing of facilities, and the use of public funds; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸⁵ **SECTION 1. AMENDMENT.** Subsection 1 of section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

1. The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:
 - a. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, certification of shelter care services, child protection services, children's trust fund, licensure of early childhood programs, refugee services, in-home community-based services, quality control, and administration of the interstate compacts on the placement of children and juveniles.
 - b. Administration of programs for individuals with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.
 - c. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult foster care homes, and the committee on aging.
 - d. Administration of behavioral health programs, including:

²⁸⁵ Section 50-06-01.4 was also amended by section 383 of House Bill No. 1247, chapter 352.

- (1) A policy division responsible for reviewing and identifying service needs and activities in the state's behavioral health system in an effort to ensure health and safety, access to services, and quality of services; establishing quality assurance standards for the licensure of substance use disorder program services and facilities; and providing policy leadership in partnership with public and private entities; and
 - (2) A service delivery division responsible for providing chronic disease management, regional intervention services, and twenty-four-hour crisis services for individuals with behavioral health disorders.
- e. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, home energy assistance, child care assistance, refugee assistance, work experience, work incentive, and quality control.
 - f. Administration of medical service programs, including medical assistance for children's health insurance program, Medicaid waivers, early and periodic screening, diagnosis and treatment, utilization control, autism services, and claims processing.
 - g. Administration of general assistance.
 - h. Administration of child support.

²⁸⁶ **SECTION 2. AMENDMENT.** Subsection 8 of section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

8. "Foster care for children" means the provision of substitute parental child care for those children who are in need of care for which the child's parent, guardian, or custodian is unable, neglects, or refuses to provide, and includes the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour basis, to one or more children under twenty-one years of age to safeguard the child's growth and development and to minimize and counteract hazards to the child's emotional health inherent in the separation from the child's family. Foster care may be provided in a licensed or approved family foster home for children, supervised independent living program, or qualified residential treatment program.

SECTION 3. AMENDMENT. Section 50-11-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11-02. License granted - Term - Conditions.

1. The department shall grant a license for the operation of a facility receiving persons for foster care, for a period of not more than two years, to reputable and responsible persons upon showing that:
 - a. The premises to be used are in fit sanitary condition and properly equipped to provide good care for all persons who may be received;
 - b. The persons in active charge of the facility are properly qualified to carry on efficiently the duties required of them;

²⁸⁶ Section 50-11-00.1 was also amended by section 417 of House Bill No. 1247, chapter 352.

- c. The facility is likely to be conducted for the public good in accordance with sound social policy and with due regard to the health, morality, and well-being of all persons cared for in the facility; and
 - d. The facility will be maintained according to the standards prescribed for its conduct by the rules of the department;
 - e. The applicant has not had a previous facility license denied within two years of the date of the current application, unless waived by the department after the department considers the health and safety of children and the licensing history of the applicant; and
 - f. The applicant has not had a previous facility license revoked within five years of the date of the current application, unless waived by the department after the department considers the health and safety of children and the licensing history of the applicant.
2. Before licensing or approving a facility providing foster care for children or adults, the department shall seek a criminal history record when required by this chapter. The department shall consider any criminal history record information available at the time a licensing or approval decision is made.
 3. The department shall determine, in accordance with rules of the department, whether a license may be issued to a facility that houses or employs any individual who has a criminal record.

SECTION 4. AMENDMENT. Section 50-11-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-11-03.2. Use of public funds.

Public funds for the purchase of foster care for children or adults may be used only in facilities licensed or approved by the department. No person acting on behalf of any state, county, or local governmental entity may arrange for or promote care provided in a facility that does not have a license or approval issued by the department. This section does not apply to any home or institution under the management and control of the state. Nonfederal funds may be used to reimburse the costs of shelter care placements for no more than seven days if the shelter care services are certified by the department. If the entity has diligently pursued other placement, the department may grant an extension for the health and safety of the child or due to unforeseeable circumstances.

SECTION 5. A new section to chapter 50-11 of the North Dakota Century Code is created and enacted as follows:

Automated clearinghouse payments.

The department shall provide payment to family foster home for children, supervised independent living program, and qualified residential treatment program for children providers using an automated clearinghouse to provide for electronic fund transfers. To receive payment, family foster home for children, supervised independent living program, and qualified residential treatment program for children providers and applicants shall provide sufficient documentation to enable the department to provide electronic funds transfers through an automated clearinghouse. No other forms of payment are permitted, unless approved by the department.

SECTION 6. APPLICATION. The department of human services shall stagger implementation of section 5 of this Act so it applies:

1. On January 1, 2022, to foster home for children, supervised independent living program, and qualified residential treatment program for children providers first certified on or after January 1, 2022; and
2. On January 1, 2023, to foster home for children, supervised independent living program, and qualified residential treatment program for children providers in existence on December 31, 2021.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 356

SENATE BILL NO. 2089

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 17 of section 50-06-05.1 of the North Dakota Century Code, relating to financing of welfare programs and housing stabilization supports and rental assistance; to repeal sections 1-02-35 and 50-06-14 of the North Dakota Century Code, relating to obsolete effective date language and financing of welfare programs; to provide a statement of legislative intent; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸⁷ **SECTION 1. AMENDMENT.** Subsection 17 of section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

17. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing ~~assistance payments~~stabilization supports, and rental subsidies under any rental assistance programs initiated ~~by the federal government not otherwise by law made the responsibility of another state agency possessing statewide jurisdiction and to promote cooperation and working agreements with public agencies and including the housing finance agency and department of commerce, and private human services agencies.~~

SECTION 2. REPEAL. Sections 1-02-35 and 50-06-14 of the North Dakota Century Code are repealed.

SECTION 3. LEGISLATIVE INTENT - AUTISM SPECTRUM DISORDER VOUCHER PROGRAM. The department of human services shall adopt rules to seek additional flexibility for the administration of the autism spectrum disorder voucher program to ensure families can be served within available appropriations for the program. The administrative code changes should consider changes that include reducing the amount of approved voucher funds available to each household and the amount of time during which a household may use approved voucher funds.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - AUTISM SPECTRUM DISORDER WAIVER AND VOUCHER PROGRAMS AND TASK FORCE. During the 2021-22 interim, the legislative management shall consider studying the autism spectrum disorder waiver and voucher programs and other programs designed to provide services to children who are impacted by autism spectrum disorder and the elimination of the autism spectrum disorder task force. The study may include consideration of the structure of the programs and whether there are any gaps and unmet needs, including contracting with a private, nonprofit entity that does not provide autism spectrum disorder services to facilitate and provide support services to the autism spectrum disorder task force. The legislative management shall report its

²⁸⁷ Section 50-06-05.1 was also amended by section 36 of House Bill No. 1035, chapter 245, section 3 of House Bill No. 1416, chapter 358, and section 1 of Senate Bill No. 2311, chapter 357.

finding and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 357

SENATE BILL NO. 2311

(Senators Heckaman, K. Roers)
(Representatives Buffalo, Devlin, Vigesaa)

AN ACT to amend and reenact subsection 28 of section 50-06-05.1 of the North Dakota Century Code, relating to behavioral health resources for schools; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸⁸ **SECTION 1. AMENDMENT.** Subsection 28 of section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

28. To provide resources on mental health awareness and suicide prevention to the behavioral health resource coordinator at each public school and to the designated individual at a nonpublic school. The resources must include information on identifying warning signs, risk factors, and the availability of resources in the community, and also must include an evidence-based, online virtual mental health and suicide prevention simulation-based training program that incorporates hands-on practice, contextual learning, and personalized feedback through interactive role-playing. The provisions of chapter 54-44.4 do not apply to the online virtual mental health and suicide prevention simulation-based training program under this subsection.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 2025, and after that date is ineffective.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 23, 2021

Filed April 23, 2021

²⁸⁸ Section 50-06-05.1 was also amended by section 36 of House Bill No. 1035, chapter 245, section 3 of House Bill No. 1416, chapter 358, and section 1 of Senate Bill No. 2089, chapter 356.

CHAPTER 358

HOUSE BILL NO. 1416

(Representatives Weisz, Devlin, J. Nelson, Westlund)
(Senators Hogan, Lee, K. Roers)

AN ACT to create and enact a new subsection to section 50-06-05.1 and sections 50-11.1-21, 50-11.1-22, 50-11.1-23, and 50-11.1-24 of the North Dakota Century Code, relating to the four-year old program approval and the North Dakota early childhood council; to amend and reenact sections 15.1-09-58 and 15.1-37-05, subdivision d of subsection 6 of section 50-11.1-02, subsection 2 of section 50-11.1-07, and section 50-11.1-10 of the North Dakota Century Code, relating to four-year old program approval; and to repeal sections 15.1-37-01, 15.1-37-02, 15.1-37-03, 15.1-37-04, and 15.1-37-07 of the North Dakota Century Code, relating to early childhood education programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-58 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-58. ~~Early childhood education~~Four-year old program - Authorization - Support.

The board of a school district may establish ~~an early childhood education~~ a four-year old program and, provided the program is approved by the ~~superintendent of public instruction~~ department of human services in accordance with ~~chapter 15.1-37~~ section 50-11.1-21, may support that program with:

1. Local tax revenues, other than those necessary to support the district's kindergarten program and the provision of elementary and high school educational services;
2. State moneys specifically appropriated for the program;
3. Federal funds specifically appropriated or approved for the program; and
4. Gifts, grants, and donations specifically given for the program.

²⁸⁹ **SECTION 2. AMENDMENT.** Section 15.1-37-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-37-05. Early childhood education providers - Coalition - Eligibility.

1. The superintendent of a school district shall invite all public and private providers of early childhood education services within the district to meet, ~~in order to:~~

²⁸⁹ Section 15.1-37-05 was also amended by section 5 of House Bill No. 1466, chapter 368.

- a. Initiate the identification of all available options for cost-effectively maximizing the provision of early childhood education services within the district;
 - b. Address the coordinated utilization of facilities, personnel, and transportation, for the provision of early childhood education services within the district; and
 - c. (1) Form a coalition of early childhood education service providers; and
(2) Provide for the selection of a coalition governing board.
2. The board of the school district in which the coalition of service providers is located shall provide advice and guidance to the coalition in all matters pertaining to this section through section 15.1-37-08.
3. Any early childhood service provider who agrees to participate in the coalition or on its governing board may submit an application to the department of commerce for a grant under this section, provided the governing board certifies to the department that the provider:
- a. Is a participating member in the coalition or on the governing board.
 - b. Operates an early childhood education program that:
 - (1) Is approved in accordance with section ~~45.1-37-04~~50-11.1-21; and
 - (2) Incorporates within its curriculum at least ten hours of research-based parental involvement.
 - c. Has documented the provider's willingness to admit children of all learning abilities into the early childhood education program.

²⁹⁰ **SECTION 3.** A new subsection to section 50-06-05.1 of the North Dakota Century Code is created and enacted as follows:

To act on behalf of the department of public instruction to administer part B, section 619 of the Individuals with Disabilities Education Act [Pub. L. 108-446; 229 Stat. 2647; 20 U.S.C. 1411 et seq.].

²⁹¹ **SECTION 4. AMENDMENT.** Subdivision d of subsection 6 of section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

- d. Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the ~~superintendent of public instruction~~department.

²⁹⁰ Section 50-06-05.1 was also amended by section 36 of House Bill No. 1035, chapter 245, section 1 of Senate Bill No. 2089, chapter 356, and section 1 of Senate Bill No. 2311, chapter 357.

²⁹¹ Section 50-11.1-02 was also amended by section 421 of House Bill No. 1247, chapter 352, and section 1 of House Bill No. 1466, chapter 368.

²⁹² **SECTION 5. AMENDMENT.** Subsection 2 of section 50-11.1-07 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon request of the department or its authorized agent, the state department of health or the state fire marshal, or the fire marshal's designee, shall inspect the premises for which a license, four-year old program approval, or self-declaration is applied or issued and shall report the findings to the department or the department's authorized agent.

SECTION 6. AMENDMENT. Section 50-11.1-10 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-10. Denial or revocation of license, four-year old program approval, self-declaration, or registration document - Administrative hearing.

Before the department may deny any application for a license, four-year old program approval, self-declaration, or registration document under this chapter or before the department may revoke any license, four-year old program approval, self-declaration, or registration document, the department shall provide a written notice to the applicant, licensee, or holder of the four-year old program approval, self-declaration, or registration document of the reasons for the denial or revocation. The applicant, licensee, holder of a four-year old program approval or self-declaration, or registrant may request an administrative hearing appealing the denial or revocation in the manner provided in chapter 28-32. The applicant, licensee, holder of a self-declaration, or registrant shall make a request for hearing to the department within ten days after receipt of the notice of denial or revocation from the department.

SECTION 7. Section 50-11.1-21 of the North Dakota Century Code is created and enacted as follows:

50-11.1-21. Four-year old program - Approval.

1. Any person or school district operating or seeking to operate a four-year old program may request approval for a two-year period of the four-year old program from the department. The department shall approve a four-year old program if the program:
 - a. Is taught by individuals licensed to teach in early childhood education by the education standards and practices board or approved to teach in early childhood education by the education standards and practices board;
 - b. Follows four-year old program requirements approved by the department;
 - c. Is in compliance with all municipal and state health, fire, and safety requirements;
 - d. Limits enrollment to children who have reached the age of four years old before August first in the year of enrollment;
 - e. Submits a nonrefundable fee of fifty dollars at the time the application is filed. All fees collected under this section must be paid to the department

²⁹² Section 50-11.1-07 was also amended by section 422 of House Bill No. 1247, chapter 352.

and must be used to defray the cost of investigating, inspecting, and evaluating applications for approval; and

- f. Is in compliance with this chapter.
2. In determining the state aid payments to which a school district is entitled, the superintendent of public instruction may not count a student enrolled in a regular four-year old program.
3. The department may investigate and inspect a four-year old program applicant or four-year old program and the conditions of the premises and the qualifications of current and prospective staff. The department may use the findings of the investigation and inspection to determine approval.
4. The department may revoke the four-year old program upon proper showing that:
 - a. Any applicable conditions as prerequisites for the issuance of the approval no longer exist.
 - b. The program is no longer in compliance with the minimum standards prescribed by the department.
 - c. The program approval was issued upon fraudulent or untrue presentation.
 - d. The program has violated any rules of the department.
5. If an action to revoke a four-year old program approval is appealed, the provider may continue the operation of the program pending the final administrative determination or until the approval expires, whichever occurs first.

SECTION 8. Section 50-11.1-22 of the North Dakota Century Code is created and enacted as follows:

50-11.1-22. North Dakota early childhood council - Membership - Terms.

1. The North Dakota early childhood council consists of:
 - a. A chairman appointed by the governor;
 - b. The superintendent of public instruction, or the superintendent's designee;
 - c. The state health officer, or the officer's designee;
 - d. The director of the department, or the director's designee;
 - e. The North Dakota head start - state collaboration administrator, or the administrator's designee;
 - f. The commissioner of higher education, or the commissioner's designee;
 - g. The commissioner of commerce, or the commissioner's designee;
 - h. The chairman of the senate education committee, or the chairman's designee;

- i. The chairman of the house of representatives education committee, or the chairman's designee;
 - j. The chairman of the senate human services committee, or the chairman's designee;
 - k. The chairman of the house of representatives human services committee, or the chairman's designee; and
 - l. The following individuals appointed by the governor:
 - (1) The superintendent of a school district having at least one thousand students in average daily membership;
 - (2) The superintendent of a school district having fewer than one thousand students in average daily membership;
 - (3) The superintendent of a school district headquartered on a reservation or including reservation land within its boundaries;
 - (4) An individual representing a non-religious-based provider of a four-year old program;
 - (5) An individual representing a religious-based provider of a four-year old program;
 - (6) An individual representing a center-based licensed child care provider;
 - (7) An individual representing a home-based licensed child care provider;
 - (8) An individual representing a reservation-based head start program;
 - (9) An elected member of a school board;
 - (10) The parent of a child not yet enrolled in elementary school;
 - (11) The parent of a child with disabilities not yet enrolled in elementary school; and
 - (12) An individual representing children with disabilities.
- 2. The term of each member enumerated in subdivision l of subsection 1 is three years and begins on July first. The terms must be staggered by lot so four of the terms expire each year.
 - 3. If at any time during a member's term the member ceases to possess the qualifications required by this section, the member's seat is deemed vacant and the governor shall appoint another qualified individual to serve for the remainder of the term.
 - 4. A member may not serve more than two consecutive terms. If an individual is appointed to complete a vacancy, that service is not counted as a term, for purposes of this section, unless the duration of that service exceeds one year.

5. The council shall meet at least twice each year, at the call of the chairman.

SECTION 9. Section 50-11.1-23 of the North Dakota Century Code is created and enacted as follows:

50-11.1-23. North Dakota early childhood council - Duties - Reports.

The North Dakota early childhood council shall:

1. Review the availability and provision of early childhood services in this state;
2. Identify opportunities for public and private sector collaboration in the provision of early childhood services in this state;
3. Identify ways to assist with the recruitment and retention of individuals interested in working as providers of early childhood services, including training and continuing education or professional development opportunities;
4. Seek the advice and guidance of individuals uniquely familiar with the nature, scope, and associated challenges of providing early childhood services in geographically and socioeconomically diverse settings, and develop recommendations pertaining to the short-term and longer-term improvement and expansion of early childhood services in this state; and
5. Provide a biennial report regarding the council's findings and recommendations to the governor and the legislative assembly.

SECTION 10. Section 50-11.1-24 of the North Dakota Century Code is created and enacted as follows:

50-11.1-24. North Dakota early childhood council members - Reimbursements for expenses.

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

²⁹³ **SECTION 11. REPEAL.** Sections 15.1-37-01, 15.1-37-02, 15.1-37-03, 15.1-37-04, and 15.1-37-07 of the North Dakota Century Code are repealed.

Approved April 8, 2021

Filed April 9, 2021

²⁹³ Section 15.1-37-02 was amended by section 75 of House Bill No. 1247, chapter 352.

CHAPTER 359

HOUSE BILL NO. 1066

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-06-05.2 of the North Dakota Century Code, relating to the accreditation of the regional human service centers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.2. Regional human service centers - Licensure. (Effective through July 31, 2021)

Human services must be delivered through regional human service centers in the areas designated by the governor's executive order 1978-12 dated October 5, 1978. Services provided by regional human service centers must include those services formerly provided by mental health and retardation service units and area social service centers. The regional human service centers are subject to licensing by the department. The department shall adopt rules and standards for the licensing and operation of the regional human service centers. No human service center may operate without a license issued hereunder. Regional human service centers are authorized to receive federal and other funds available to finance, in whole or in part, the services and operations of the centers.

Regional human service centers - Licensure. (Effective after July 31, 2021)

Human services must be delivered through regional human service centers in the areas designated by the governor's executive order 1978-12 dated October 5, 1978. The department shall request appropriations and resources sufficient for accreditation and to ensure maintenance of the accreditation for the regional human service centers must be accredited, including associated facilities, by the council on accreditation or by a similar national accrediting body and accepted by the department. The regional human service centers are subject to licensing by the department. The department may use the accreditation as a basis for licensing in lieu of adopted rules for the operation of the regional human service centers. The department shall adopt rules for the operation of the regional human service centers. A human service center may not operate without a license issued in accordance with this section. Regional human service centers are authorized to receive federal and other funds available to finance, in whole or in part, the services and operations of the centers.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 360

SENATE BILL NO. 2161

(Senators Lee, Hogan, K. Roers)
(Representatives Dobervich, Weisz, Westlind)

AN ACT to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to a mental health program registry; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Mental health program registry.

The department shall establish and maintain a registry of mental health programs in the state. A mental health program shall provide the information and documentation necessary to the department at least annually in the form and manner prescribed by the department. The department shall make the registry available to the public on the department's website.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - EXPANDED BEHAVIORAL HEALTH SERVICES. During the 2021-22 interim, the legislative management shall consider studying the implementation of expanded behavioral health services, including section 1915(i) waiver implementation, capacity and utilization of the state hospital, a behavioral health bed management system, and implementation of the recommendations of the 2018 North Dakota behavioral health system study conducted by the human services research institute. The legislative management shall report its finding and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 361

HOUSE BILL NO. 1402

(Representatives Mitskog, Schreiber-Beck)
(Senator Luick)

AN ACT to amend and reenact section 50-06-42 of the North Dakota Century Code, relating to the substance use disorder treatment voucher system; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁹⁴ **SECTION 1. AMENDMENT.** Section 50-06-42 of the North Dakota Century Code is amended and reenacted as follows:

50-06-42. Substance use disorder treatment voucher system.

1. The department shall establish and administer, within the limits of legislative appropriations, a voucher system to address underserved areas and gaps in the state's substance abuse treatment system and to assist in the payment of addiction treatment services provided by licensed substance abuse treatment programs, excluding regional human service centers, and hospital- or medical clinic-based programs for medical management of withdrawal. An out-of-state licensed substance abuse treatment program located within a bordering state may participate in the voucher program to serve an underserved area of this state pursuant to the rules adopted by the department. The department shall develop rules to include processes and requirements for an out-of-state provider to receive reimbursement only for outpatient and community-based services upon a provider completing an assessment of need and receiving approval from the department.
2. Services eligible for the voucher program include only those levels of care recognized by the American society of addiction medicine, with particular emphasis given to underserved areas and programs. The department shall ensure that a licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers collects and reports process and outcome measures.
3. The department shall develop requirements and provide training and technical assistance to a licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers. A licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers shall provide evidence-based services.

SECTION 2. EFFECTIVE DATE. This Act is effective on July 1, 2022.

Approved March 22, 2021

Filed March 23, 2021

²⁹⁴ Section 50-06-42 was also amended by section 25 of House Bill No. 1012, chapter 12.

CHAPTER 362

HOUSE BILL NO. 1076

(Representatives Devlin, Beltz, Rohr, M. Ruby, Weisz)
(Senators Heckaman, Lee)

AN ACT to amend and reenact section 50-06-43.1 of the North Dakota Century Code, relating to the children's cabinet; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁹⁵ **SECTION 1. AMENDMENT.** Section 50-06-43.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-43.1. Children's cabinet - Membership - Duties. (~~Effective through July 31, 2025~~)

1. The children's cabinet is created to assess, guide, and coordinate the care for children across the state's branches of government and the tribal nations.
2. The children's cabinet consists of the following members:
 - a. The governor, or the governor's designee;
 - b. The chief justice of the supreme court, or the chief justice's designee;
 - c. The speaker of the house of representatives, or the speaker's designee;
 - d. The president pro tempore of the senate, or the president pro tempore's designee;
 - e. The superintendent of public instruction, or the superintendent's designee;
 - f. The director of the committee on protection and advocacy, or the director's designee;
 - g. A representative of the tribal nations in the state, who is appointed by the governor; and
 - h. Four individuals representing parents, private service providers, or other community interests, who are appointed by the governor to serve a term of two years, at the pleasure of the governor, and who are entitled to reimbursement from the department of human services for travel and lodging at the same rate as provided for state officers and employees.
3. The chairman of legislative management, or a member of the legislative assembly appointed by the chairman of the legislative management, shall serve as the presiding officer of the cabinet. The cabinet shall meet at least

²⁹⁵ Section 50-06-43.1 was also amended by section 404 of House Bill No. 1247, chapter 352.

quarterly. Additional meetings may be held at the discretion of the presiding officer.

4. The children's cabinet shall:
 - a. Coordinate broad-based leadership across programs, agencies, branches of government, and tribal nations to meet the needs of children;
 - b. Develop strategies to address gaps or needs regarding early care and education, medical and behavioral health, community, child welfare, and juvenile justice;
 - c. Develop strategies to provide for the full continuum of care in the delivery of services, including promotion, prevention, early identification and intervention, service delivery, and recovery;
 - d. Seek to engage cooperation across public and private service providers;
 - e. Provide a comprehensive vision for how and where children are best served, attending to children in a respectful and relevant manner;
 - f. Seek strategies to provide services to children without consideration of prior engagement with juvenile services;
 - g. Provide for the active participation of consumers and providers statewide on advisory committees; and
 - h. Receive information and recommendations from the department of human services, department of corrections and rehabilitation, and other state agencies.
5. The department of human services shall provide the children's cabinet with staffing and administrative services.

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

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 363

HOUSE BILL NO. 1150

(Representatives Weisz, Devlin, J. Nelson)
(Senator Lee)

AN ACT to amend and reenact section 50-06-43.2 of the North Dakota Century Code, relating to the commission on juvenile justice; to repeal section 50-06-43.2 of the North Dakota Century Code, relating to the commission on juvenile justice; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁹⁶ **SECTION 1. AMENDMENT.** Section 50-06-43.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-43.2. Commission on juvenile justice - Reports.

1. The commission on juvenile justice is composed of:
 - a. Three members of the house of representatives, two of whom must be selected by the majority leader of the house of representatives and one of whom must be selected by the minority leader of the house of representatives;
 - b. Three members of the senate, two of whom must be selected by the majority leader of the senate and one of whom must be selected by the minority leader of the senate;
 - c. The governor, or the governor's designee;
 - d. The superintendent of public instruction, or the superintendent's designee;
 - e. The executive director of the department of human services, or the executive director's designee;
 - f. The director of the department of corrections and rehabilitation's division of juvenile services, or the director's designee;
 - g. The executive director of the Indian affairs commission, or the executive director's designee;
 - h. A director of juvenile court services, appointed by the chief justice of the supreme court;
 - i. A representative from the commission on legal counsel for indigents; and
 - j. The following members appointed by the governor:

²⁹⁶ Section 50-06-43.2 was also amended by section 37 of House Bill No. 1035, chapter 245, and section 405 of House Bill No. 1247, chapter 352, and was repealed by section 2 of House Bill No. 1150, chapter 363.

- (1) A state's attorney;
 - (2) A representative of a children's advocacy center; and
 - (3) A representative of ~~a city police department~~ local law enforcement.
2. The ~~governor~~ chairman of the legislative management shall designate one of the members of the commission to serve as the presiding officer. The governor's appointees serve at the pleasure of the governor. Excluding ex officio members, the term of a commission member is two years.
 3. The commission shall meet at least four times per year at the times and locations designated by the presiding officer. The office of the governor shall provide staffing for the commission.
 4. The commission shall:
 - a. Review chapter 27-20;
 - b. Gather information concerning issues of child welfare, including education, abuse, and neglect;
 - c. Receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations, in furtherance of the commission's duties;
 - d. Advise effective intervention, resources, and services for children;
 - e. Report to ~~and be subject to the oversight of~~ the children's cabinet; and
 - f. Annually submit to the governor and the legislative management a report with the commission's findings and recommendations which may include a legislative strategy to implement the recommendations.
 5. A member of the commission who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees to be paid by the department of corrections and rehabilitation. A state employee who is a member of the commission is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the commission who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the commission. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the commission who is a member of the legislative assembly.

²⁹⁷ **SECTION 2. REPEAL.** Section 50-06-43.2 of the North Dakota Century Code is repealed.

SECTION 3. EFFECTIVE DATE. Section 2 of this Act becomes effective August 1, 2025.

²⁹⁷ Section 50-06-43.2 was amended by section 37 of House Bill No. 1035, chapter 245, section 1 of House Bill No. 1150, chapter 363, and section 405 of House Bill No. 1247, chapter 352.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 364

SENATE BILL NO. 2039

(Senator Anderson)
(Representative D. Anderson)

AN ACT to amend and reenact subsection 1 of section 50-06.4-10 of the North Dakota Century Code, relating to membership of the brain injury advisory council; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁹⁸ **SECTION 1. AMENDMENT.** Subsection 1 of section 50-06.4-10 of the North Dakota Century Code is amended and reenacted as follows:

1. The governor shall appoint at least five, but no more than nine, voting members to serve on the brain injury advisory council as follows. The governor may make appointments under this subsection so a majority of the total voting members appointed under subsections 1 and 2 are brain injury survivors and family members of brain injury survivors. The members appointed by the governor must consist of the following:
 - a. OneAt least one brain injury survivor, nominated by the council;
 - b. OneAt least one family member of a brain injury survivor, nominated by the council;
 - c. At least one service provider who provides services to brain injury survivors, nominated by the council, who may be a brain injury survivor or a family member of a brain injury survivor;
 - d. An individual representing the Indian affairs commission, nominated by the Indian affairs commission, who may be a brain injury survivor or a family member of a brain injury survivor; and
 - e. At least one individual representing a religious, charitable, fraternal, civic, educational, legal, veteran, welfare, or professional group or organization, who may be a brain injury survivor or a family member of a brain injury survivor.

SECTION 2. APPLICATION. The governor shall implement this Act with brain injury advisory council appointments effective September 1, 2021. This Act does not require the governor to increase the membership of the council.

Approved March 17, 2021

Filed March 18, 2021

²⁹⁸ Section 50-06.4-10 was also amended by section 412 of House Bill No. 1247, chapter 352.

CHAPTER 365

SENATE BILL NO. 2088

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to create and enact a new subsection to section 50-28-02 of the North Dakota Century Code, relating to the use of an automated clearing house to facilitate payment to adoptive parents, to amend and reenact section 50-09-02.2 of the North Dakota Century Code, relating to adoption assistance; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-09-02.2 of the North Dakota Century Code is amended and reenacted as follows:

50-09-02.2. Assistance for adopted children with special needs.

1. Assistance provided under this chapter or chapter 50-24.1 after adoption to a child with special needs must be provided without regard to the income or resources of the adopting parents. Except as provided in this section, such assistance continues until the:
 - a. ~~The adopted child becomes eighteen years of age, is emancipated, or dies; the~~
 - b. The adopted child has attained the age of eighteen or up to the date the individual attains the age of twenty-one, as elected by the state agency under section 475(8)(B) of the federal Social Security Act [42 U.S.C. 675 (8)(B)];
 - c. ~~The adoption is terminated; or a~~
 - d. ~~A determination of ineligibility is made by the human service zone or state agency, whichever occurs earlier. If sufficient funds are available, the human service zone or state agency may continue assistance for an adopted child until the child reaches twenty-one years of age if the human service zone or state agency determines that the adopted child is a student regularly attending a secondary, postsecondary, or career and technical education school in pursuance of a course of study leading to a diploma, degree, or gainful employment.;~~
 - e. The state agency determines the adoptive parents are no longer legally responsible for support of the child who has not attained eighteen years of age, as the adoptive parent's parental rights have been terminated or the child is emancipated, marries, or enlists in the military; or
 - f. The state agency determines the adoptive parents are no longer providing support to the child.

2. Assistance provided to an adopted child must continue regardless of the residence of the adopting parents. The state agency ~~or human service zone~~ may require, as a condition of receiving assistance under this chapter or chapter 50-24.1, that the adopting parents enter a contract or agreement regarding the type of assistance to be received; the amount of assistance; the identity of the physical, mental, or emotional condition for which medical assistance is received; or any conditions for continued receipt of assistance. A child with special needs is a child legally available for adoptive placement whose custody has been awarded to ~~the state agency or a human service zone~~ a public agency authorized by law to receive and provide care for the child and who is seven years of age or older; under eighteen years of age with a physical, emotional, or mental disability or has been diagnosed by a licensed physician, physician assistant, or advanced practice registered nurse to be at high risk for such a disability; a member of a minority; or a member of a sibling group. Once an adoption assistance agreement is signed with the adoptive parent, the state agency shall obtain the concurrence of the adoptive parent if any changes in the payment amount are made, unless the assistance is discontinued under subsection 1.

SECTION 2. A new subsection to section 50-28-02 of the North Dakota Century Code is created and enacted as follows:

The department shall provide adoption assistance payments to adoptive parents using an automated clearing house to provide for electronic fund transfers. To receive payment, adoptive parents shall provide sufficient documentation to enable the department to provide electronic funds transfers through an automated clearing house. No other forms of adoptive assistance payments are permitted, unless approved by the department.

SECTION 3. APPLICATION. The department of human services shall stagger the implementation of section 2 of this Act so the section applies:

1. On January 1, 2022, to adoption assistance agreements entered between the department of human services and the adoptive parent on or after January 1, 2022; and
2. On January 1, 2023, to adoption assistance agreements entered between the department of human services and the adoptive parent on or before December 31, 2021.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 366

HOUSE BILL NO. 1343

(Representatives Vetter, Devlin, Fegley, Paur, Richter, Rohr, M. Ruby, Vigesaa, Westlind)

(Senators Clemens, O. Larsen, K. Roers)

AN ACT to amend and reenact subsection 1 of section 50-10.2-02 of the North Dakota Century Code, relating to rights of health care facility residents to use electronic communication.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 50-10.2-02 of the North Dakota Century Code is amended and reenacted as follows:

1. All facilities shall, upon a resident's admission, provide in hand to the resident and a member of the resident's immediate family or any existing legal guardian of the resident a statement of the resident's rights while living in the facility. Within thirty days after admission, the statement must be orally explained to the resident and, if the resident is unable to understand, to the resident's immediate family member or members and any existing legal guardian of the resident, and thereafter annually so long as the resident remains in the facility. The statement must include rights, responsibilities of both the resident and the facility, and rules governing resident conduct. Facilities shall treat residents in accordance with provisions of the statement. The statement must include provisions ensuring each resident the following minimum rights:
 - a. The right to civil and religious liberties, including knowledge of available choices, the right to independent personal decisions without infringement, and the right to encouragement and assistance from the staff of the facility to promote the fullest possible exercise of these rights.
 - b. The right to have private meetings, associations, and communications with any person of the resident's choice within the facility.
 - c. The right of each resident, the resident's immediate family, any existing legal guardian of the resident, friends, facility staff, and other persons to present complaints on the behalf of the resident to the facility's staff, the facility's administrator, governmental officials, or to any other person, without fear of reprisal, interference, coercion, discrimination, or restraint. The facility shall adopt a grievance process and make the process known to each resident and, if the resident is unable to understand, to the resident's immediate family member or members and any existing legal guardian of the resident. An individual making a complaint in good faith is immune from any civil liability that otherwise might result from making the complaint.
 - d. The right to send and receive unopened personal mail and electronic mail and the right of access to and use of telephones and electronic devices for private conversations.

- e. The right to assured private visits by one's spouse, or if both are residents of the same facility, the right to share a room, within the capacity of the facility, unless sharing a room is not medically advisable as documented in the medical records by the attending physician.
- f. The right to manage one's own financial affairs if not under legal guardianship, or to delegate that responsibility in writing to the administrator or manager of the facility, but only to the extent of funds held in trust by the facility for the resident. If such a trust is established, then a written quarterly accounting of any transactions made on behalf of the resident must be furnished along with an explanation by the facility to the resident or the person legally responsible for the resident.
- g. The right to be fully informed in writing prior to or at the time of admission and during one's stay, of services provided and the charges for those services, including ancillary charges. Residents, or their legal guardians, must be informed at least thirty days prior to any change in the costs or availability of the services. No facility may demand or receive any advance payment or gratuity to assure admission.
- h. The right to be adequately informed of one's medical condition and proposed treatment and to participate in the planning of all medical treatment, including the right to refuse medication and treatment, to be discharged from the facility upon written request, and to be notified by the resident's attending physician of the medical consequences of any such actions.
- i. The right to have privacy in treatment and in caring for personal needs, to use personal belongings, to have security in storing and using personal possessions, and to have confidentiality in the treatment of personal and medical records. The resident has the right to view, and authorize release of, any personal or medical records.
- j. The right to be treated courteously, fairly, and with the fullest measure of dignity.
- k. The right to be free from mental and physical abuse and the right to be free from physical or chemical restraint except in documented emergencies or when necessary to protect the resident from injury to self or to others. In such cases, the restraint must be authorized and documented by a physician for a limited period of time and, if the restraint is a chemical one, it must be administered by a licensed nurse or physician. Except as provided in this subdivision, drugs or physical restraints may not be used or threatened to be used for the purposes of punishment, for the convenience of staff, for behavior conditioning, as a substitute for rehabilitation or treatment, or for any other purpose not part of an approved treatment plan.
- l. The right not to be transferred or discharged except for:
 - (1) Medical reasons;
 - (2) The resident's welfare or that of other residents;
 - (3) Nonpayment of one's rent or fees; or

- (4) A temporary transfer during times of remodeling.
- m. The right to receive at least a thirty-day written advance notice of any transfer or discharge when the resident is being discharged to another facility or the resident's own home, or when the resident is being transferred or discharged because of a change in the resident's level of care; however, advance notice of transfer or discharge may be less than thirty days if the resident has urgent medical needs that require a more immediate transfer or discharge, or a more immediate transfer or discharge is required to protect the health and safety of residents and staff within the facility.
 - n. The right to refuse to perform services on behalf of the facility, unless agreed to by the resident or legal guardian and established in the plan of care.
 - o. The right to a claim for relief against a facility for any violation of rights guaranteed under this chapter.
 - p. The right to have each facility display a notice that the following information is available for public review and make the information available on request:
 - (1) A complete copy of every inspection report, deficiency report, and plan of correction the facility received during the previous two years.
 - (2) The facility's grievance process.
 - (3) A copy of the statement of ownership, board membership, and partners.
 - (4) A statement of ownership setting forth any conflict of interest in the operation of the facility.
 - q. The right to a pharmacist of the resident's choice irrespective of the type of medication distribution system used by the facility.
 - r. The right to not be discriminated against by a facility in the admissions process or in the provision of appropriate care on the basis of the resident's source of payment to the facility. Any applicant for admission to a facility who is denied admission must be given the reason for the denial in writing upon request.
 - s. The right of residents and their families to organize, maintain, and participate in resident advisory and family councils.
 - t. The right of residents receiving services performed by a provider from outside the facility to be informed, on request, of the identity of the provider.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 367

SENATE BILL NO. 2145

(Senators K. Roers, Mathern, Patten)
(Representatives Keiser, Rohr, Westlind)

AN ACT to create and enact chapter 50-10.3 and a new section to chapter 50-11 of the North Dakota Century Code, relating to access to long-term care facilities and unaccompanied undocumented children; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 50-10.3 of the North Dakota Century Code is created and enacted as follows:

50-10.3-01. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

1. "Declaration of disaster or emergency" means a disaster or emergency declared by the governor under chapter 37-17.1.
2. "Department" means the department of human services.
3. "Essential caregiver" means an individual identified by a resident of a long-term care facility or by the resident's designated decisionmaker to provide in-person physical, spiritual, or emotional support to the resident.
4. "Long-term care facility" means a skilled nursing facility, basic care facility, or swing-bed hospital approved to furnish long-term services.

50-10.3-02. Scope.

This chapter does not supersede federal authority regarding long-term care facilities or prevent the department or state department of health from taking necessary actions to render the state eligible for federal funds or reimbursement services provided in long-term care facilities.

50-10.3-03. Access to long-term care facilities for essential caregivers.

1. The department, working jointly with the state department of health, the state long-term care ombudsman, residents and tenants, families of residents and tenants, and long-term care facility representatives, shall establish basic protocols to allow a resident of a long-term care facility or the resident's designated decisionmaker designate one or more individuals as the resident's essential caregivers, including during a declaration of disaster or emergency.
 - a. If a declaration of disaster or emergency results in restricted access to a long-term care facility, the department shall review and update the protocols every thirty days during the period of restriction, including an assessment of the need for continuation of the restriction.

- b. An essential caregiver shall meet the necessary qualifications to enter the long-term care facility to provide in-person physical, spiritual, or emotional support to a resident of a long-term care facility in accordance with the protocols established under this section.
2. The protocols must include:
 - a. Safety measures for an essential caregiver which may include restrictions on travel, enhanced testing for communicable diseases, and the necessary safety equipment required to protect the health and safety of the residents of the long-term care facility; and
 - b. Procedures to replace an essential caregiver due to necessary circumstances, including illness or death of the essential caregiver.

50-10.3-04. Additional safety requirements for residents of long-term care facilities.

A long-term care facility may establish additional safety requirements to protect the residents. The facility may require an essential caregiver to provide personal protective equipment for the essential caregiver and undergo any related training or assume the cost of the personal protective equipment and any related training provided by the facility to allow the essential caregiver to provide in-person physical, spiritual, or emotional support to a resident of the long-term care facility.

50-10.3-05. Suspension of access for essential caregivers.

If a long-term care facility suspends access to the long-term care facility for an essential caregiver who violates the protocols established under section 50-10.3-03, the long-term care facility shall allow the resident, or the resident's designated decisionmaker, to immediately designate a replacement essential caregiver.

50-10.3-06. Liability.

A long-term care facility, facility employee, or facility contractor that, in good faith, implements or complies with this chapter may not be held civilly liable for damages, including punitive damages, for any act or omission related to the implementation of this chapter. This section does not apply to any act or omission that constitutes gross negligence or willful or wanton misconduct.

SECTION 2. A new section to chapter 50-11 of the North Dakota Century Code is created and enacted as follows:

Unaccompanied undocumented children.

A person may not arrange for or promote care provided in a facility for unaccompanied undocumented children unless the facility has a license or approval issued by the department.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 368

HOUSE BILL NO. 1466

(Representatives Weisz, Rohr, Westlund)
(Senators Dever, Lee)

AN ACT to create and enact three new sections to chapter 50-11.1 of the North Dakota Century Code, relating to establishing four-year old program grants; to amend and reenact section 50-11.1-02 of the North Dakota Century Code, relating to the definition of four-year old program; to suspend sections 15.1-37-05, 15.1-37-06, and 15.1-37-08 of the North Dakota Century Code, relating to early childhood education grants; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁹⁹ **SECTION 1. AMENDMENT.** Section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-02. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Authorized agent" means the human service zone, unless another entity is designated by the department.
2. "Child care center" means an early childhood program licensed to provide early childhood services to nineteen or more children.
3. "Department" means the department of human services.
4. "Drop-in care" means the care of children on a one-time, occasional, or unscheduled basis to meet the short-term needs of families.
5. "Early childhood program" means any program licensed under this chapter where early childhood services are provided for at least two hours a day for three or more days a week.
6. "Early childhood services" means the care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services. Early childhood services does not include:
 - a. Substitute parental child care provided pursuant to chapter 50-11.
 - b. Child care provided in any educational facility, whether public or private, in grade one or above.
 - c. Child care provided in a kindergarten which has been established pursuant to chapter 15.1-22 or a nonpublic elementary school program approved pursuant to section 15.1-06-06.1.

²⁹⁹ Section 50-11.1-02 was also amended by section 421 of House Bill No. 1247, chapter 352, and section 4 of House Bill No. 1416, chapter 358.

- d. Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the superintendent of public instruction.
 - e. Child care provided in facilities operated in connection with a church, business, or organization where children are cared for during periods of time not exceeding four continuous hours while the child's parent is attending church services or is engaged in other activities, on the premises.
 - f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
 - g. Summer resident or day camps for children which serve no children under six years of age for more than two weeks.
 - h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
 - i. Head start and early head start programs that are federally funded and meet federal head start performance standards.
 - j. Child care provided in a medical facility by medical personnel to children who are ill.
7. "Family child care" means a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children.
8. "Four-year old program" means an approved child care program operated by a public or private educational entity or an early childhood program designed to serve four-year olds.
9. "Group child care" means a child care program licensed to provide early childhood services for thirty or fewer children.
- ~~9-10.~~ "Household member" means an adult living in the private residence out of which a program is operated, regardless of whether the adult is living there permanently or temporarily.
- ~~40-11.~~ "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
- ~~44-12.~~ "In-home provider" means any person who provides early childhood services to children in the children's home.
- ~~42-13.~~ "Licensed" means an early childhood program has the rights, authority, or permission granted by the department to operate and provide early childhood services.
- ~~43-14.~~ "Multiple licensed program" means an early childhood program licensed to provide more than one type of early childhood services.

- 44-15. "Owner" or "operator" means the person who has legal responsibility for the early childhood program and premises.
- 45-16. "Parent" means an individual with the legal relationship of father or mother to a child or an individual who legally stands in place of a father or mother, including a legal guardian or custodian.
- 46-17. "Premises" means the indoor and outdoor areas approved for providing early childhood services.
- 47-18. "Preschool" means a program licensed to offer early childhood services, which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day.
- 48-19. "Public approval" means a nonlicensed early childhood program operated by a government entity that has self-certified that the program complies with this chapter.
- 49-20. "Registrant" means the holder of an in-home provider registration document issued by the department in accordance with this chapter.
- 20-21. "Registration" means the process whereby the department maintains a record of all in-home providers who have stated that they have complied or will comply with the prescribed standards and adopted rules.
- 21-22. "Registration document" means a written instrument issued by the department to publicly document that the registrant has complied with this chapter and the applicable rules and standards as prescribed by the department.
- 22-23. "School-age child care" means a child care program licensed to provide early childhood services on a regular basis for nineteen or more children aged five years through eleven years.
- 23-24. "School-age children" means children served under this chapter who are at least five years but less than twelve years of age.
- 24-25. "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.
- 25-26. "Staff member" means an individual:
- a. Who is an employee of an early childhood program or of an early childhood services provider under a self-declaration;
 - b. Whose activities involve the care, supervision, or guidance of children of an early childhood program; or
 - c. Who may have unsupervised access to children under the care, supervision, or guidance of an early childhood program or early childhood services provider under a self-declaration.

³⁰⁰ **SECTION 2.** A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Early childhood grant for best in class four-year old experiences.

1. A four-year old program deemed eligible under section 3 of this Act may submit an application for the best in class four-year old experiences grant. An approved program is eligible for an annual award of one hundred twenty thousand dollars per approved group size. The grant award must be matched with no less than twenty thousand dollars in other funds. The department shall assign a program support coach to each approved program. An approved program:
 - a. Shall utilize the assigned support coach and utilize the sliding fee scale for parent fees, as established by the department.
 - b. May use grant funds to support the provision of quality early childhood experiences, including expenditures related to staffing, training, equipment, and supplies.
 - c. May not use grant funds for construction or rehabilitation. An approved program must enter a grant agreement with the department.
2. The department may not collect equipment or supplies purchased with grant funds from the approved program after successful completion of the term of the grant.

SECTION 3. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Eligibility for best in class four-year old experiences grant.

1. A four-year old program may submit, in the form and manner prescribed by the department, an application to the department for a grant under section 2 of this Act, if the provider certifies to the department the provider:
 - a. Operates a four-year old program in this state;
 - b. Operates a four-year old program for children who have reached four years of age before August first in the year of enrollment;
 - c. Operates a four-year old program that has a duration of at least four hundred hours over a period of at least thirty-two consecutive weeks;
 - d. Incorporates within the four-year old program at least ten hours of research-based family engagement;
 - e. Has been determined to meet the standards and expectations of no less than step three in the North Dakota early childhood quality improvement system;
 - f. Is willing to admit children of all learning abilities into the four-year old program;

³⁰⁰ Section 50-11.1-22 was amended by section 29 of House Bill No. 1012, chapter 12.

- g. Is willing to admit children who receive assistance from the child care assistance program into the four-year old program; and
- h. Is willing to operate in compliance with the grant requirements, including:
 - (1) Maintaining the recommended group size for number of children served in the four-year old program;
 - (2) Complying with requirements related to qualifications, training, and professional development of staff delivering services in the four-year old program; and
 - (3) Adhering to expectations established by the department related to four-year old program monitoring and oversight.
- 2. The department may distribute grants under this section to approved four-year old programs, including four-year old programs operated as early childhood programs by educational facilities or federally funded head start programs or in connection with a church, business, or organization that operates a four-year old program.
- 3. The department may recapture grant funds distributed to an approved four-year old program found by the department to be out of compliance with requirements established for the best in class four-year old experiences grant program.

SECTION 4. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Grant program data collection - Requirements.

The state agency with approval authority over four-year old programs, with the advice and consent of the department, shall implement a uniform system for the accounting, budgeting, and reporting of data by any four-year old program provider to whom or to which grants are distributed under section 3 of this Act. Grants may be withheld or forfeited, in whole or in part, if information required in accordance with this section is not submitted at the time or in the manner requested by the state agency with approval authority over four-year old programs. A grant recipient shall consent to provide information needed to comply with data collection requirements. The state agency with approval authority over four-year old programs shall disclose the requested information to the department.

SECTION 5. SUSPENSION. Sections 15.1-37-05, 15.1-37-06, and 15.1-37-08 of the North Dakota Century Code are suspended.

SECTION 6. EXPIRATION DATE. This Act is effective through June 30, 2025, and after that date is ineffective.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 369

HOUSE BILL NO. 1347

(Representatives Bosch, J. Nelson)
(Senators Davison, Lee)

AN ACT to amend and reenact section 50-11.1-13.1 of the North Dakota Century Code, relating to a penalty for the provision of early childhood services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11.1-13.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-13.1. Penalty for provision of services - When applicable.

1. An individual who provides early childhood services to any child, other than a child who is a member of that individual's household, is guilty of a class B misdemeanor if:

- a. Those services are provided after that individual is required to register as a sexual offender;
- b. The department has denied that individual's application for licensure, or self-declaration, or registration to provide early childhood services or has revoked that individual's license, self-declaration, or registration document to provide early childhood services following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that individual; ~~or~~
- c. The individual allows another individual to be in the presence of the child receiving early childhood services if that other individual is required to register as a sexual offender or has had an application for licensure, self-declaration, or registration to provide early childhood services denied or revoked by the department following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that other individual; or
- d. The individual has been found guilty of, pled guilty to, or pled no contest to:

(1) An offense described under chapter 12.1-16, 12.1-18, 12.1-27.2, or 12.1-41; section 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, 12.1-17-06, 12.1-17-07.1, 12.1-17-12, 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-07, 12.1-21-01, 12.1-22-01, 12.1-29-01, 12.1-29-02, 12.1-31-05, or 14-09-22; or subdivision b of subsection 2 of section 12.1-22-02.

(2) An offense under the laws of another jurisdiction which requires proof of substantially similar elements as the elements required for conviction under any offense identified in paragraph 1.

2. An individual is not guilty of a class B misdemeanor under paragraphs b and c of subsection 1 if the department has made a determination that the individual is able to provide care that is free of abuse and neglect, in spite of a finding that services are required under chapter 50-25.1, which has become final or has not been contested.
3. An individual is not guilty of a class B misdemeanor under subdivision d of subsection 1 in the case of a misdemeanor offense described under sections 12.1-17-01, 12.1-17-03, 12.1-17-06, or 12.1-17-07.1, or an equivalent offense in another jurisdiction which requires proof of substantially similar elements as required for conviction for offenses under sections 12.1-17-01, 12.1-17-03, 12.1-17-06, or 12.1-17-07.1, if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 370

HOUSE BILL NO. 1288

(Representatives Hanson, Dobervich, Rohr, Strinden, Westlind)
(Senators Dever, K. Roers)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to Medicaid coverage of continuous glucose monitoring devices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Continuous glucose monitoring devices.

Medical assistance coverage, including Medicaid Expansion, must include coverage of a continuous glucose monitoring device for a covered individual.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 371

SENATE BILL NO. 2085

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to the use of an automated clearing house to facilitate payment to medical assistance providers and provider applicants; to amend and reenact sections 50-24.1-26 and 50-24.1-32 of the North Dakota Century Code, relating to Medicaid waivers to provide in-home services and medical assistance and advanced practice registered nurses; to repeal section 50-24.1-06 of the North Dakota Century Code, relating to medical assistance remedial eye care; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.1-26 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-26. Medicaid waivers - In-home services.

The department shall administer Medicaid waivers to provide in-home services to children with extraordinary medical needs and to children up to the age of ~~fourteen~~sixteen diagnosed with an autism spectrum disorder who would otherwise meet institutional level of care. The department may prioritize applicants for the waiver for children with extraordinary medical needs by degree of need.

SECTION 2. AMENDMENT. Section 50-24.1-32 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-32. Medical assistance - Services provided by physician assistants and advanced practice registered nurse-practitionersnurses.

The medical assistance program must recognize physician assistants and advanced practice registered nurse-practitionersnurses with the roles of nurse practitioner or certified nurse midwife as primary care providers with the same rights and responsibilities given primary care physicians under the medical assistance program. Any care provided by the physician assistant or advanced practice registered nurse-practitionernurse with the roles of nurse practitioner or certified nurse midwife as a primary care provider under the medical assistance program must be within the scope of the physician assistant's or advanced practice registered nurse-practitioner'snurse's respective license.

SECTION 3. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Automated clearing house payments to medical assistance providers and provider applicants.

The department shall provide payment to medical assistance providers and may provide payments to provider applicants using an automated clearing house to provide for electronic fund transfers. To receive payment, medical assistance

providers and provider applicants shall provide sufficient documentation to enable the department to provide electronic funds transfers through an automated clearing house. No other forms of payment are permitted.

SECTION 4. REPEAL. Section 50-24.1-06 of the North Dakota Century Code is repealed.

SECTION 5. APPLICATION. The department of human services shall stagger implementation of section 3 of this Act so the section applies:

1. On January 1, 2022, to agreements entered between the department of human services and the individual on or after January 1, 2022; and
2. On January 1, 2023, to agreements entered between the department of human services and the individual on or before December 31, 2021.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 372

HOUSE BILL NO. 1407

(Representatives Louser, Brandenburg, Jones, Monson, J. Nelson, Vigesaa)
(Senator Kannianen)

AN ACT to amend and reenact section 50-24.1-40 of the North Dakota Century Code, relating to medical assistance tribal health care coordination agreements; to repeal section 50-24.1-40 of the North Dakota Century Code, relating to medical assistance tribal health care coordination agreements; to provide for legislative management and legislative council reports; to provide a continuing appropriation; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁰¹ **SECTION 1. AMENDMENT.** Section 50-24.1-40 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-40. Medical assistance - Tribal health care coordination agreements - Continuing appropriation - Report to legislative management.

1. As used in this section:
 - a. "Care coordination agreement" means an agreement between a health care provider and tribal health care organization which will result in one hundred percent federal funding for eligible medical assistance provided to an American Indian.
 - b. "Tribal health care organization" means Indian health services or a tribal entity providing health care under the federal Indian Self-Determination and Education Assistance Act of 1975 [Pub. L. 93-638; 88 Stat. 2203; 25 U.S.C. 5301 et seq.].
2. The department of human services shall facilitate care coordination agreements. Of any federal funding received in excess of the state's regular share of federal medical assistance funding which results from care coordination agreements, the department shall deposit ~~sixtyeighty~~ percent in the tribal health care coordination fund and ~~fortytwenty~~ percent in the general fund.
3. There is created in the state treasury a tribal health care coordination fund.
 - a. Moneys in the fund are appropriated to the department on a continuing basis for distribution to a tribal government in accordance with an agreement between the department and a tribal government. The agreement between the department and a tribal government must require the tribe to:

³⁰¹ Section 50-24.1-40 was also amended by section 454 of House Bill No. 1247, chapter 352.

- (1) ~~Use the money distributed under this section for health-related purposes related to the ten essential services of public health identified by the federal centers for disease control and prevention and the development or enhancement of community health representative programs or services; however, through June 30, 2025, no more than fifty percent, and thereafter, no more than thirty-five percent, may be used for capital construction. Health-related purposes may include population health programs or services, marketing or education related to health-related programs or services, or developing or enhancing community health representative programs or services. Health-related purposes may not include capital construction, stipends to individuals for services, or services that are covered by Indian health services, Medicaid, or other third-party payers, or state-funded programs.~~
 - (2) Submit to the department annual reports detailing the use of the money distributed under this section.
 - (3) Submit to the department every two years an audit report, conducted by an independent licensed certified public accountant, of the tribal government use of the money distributed under this section. A tribal government may use money distributed under this section to pay for this audit report. At the discretion of a tribal government, an audit may be conducted more often than every two years.
- b. The distribution of moneys from the fund to a tribal government must be in proportion to the federal funding received from care coordination agreement requests for services originating from within that tribal nation.
 - c. At least annually, upon completion of any auditing and verification actions of the department, the department shall distribute moneys from the fund to the tribal government.
 - d. If a tribal government fails to file with the department a timely annual report or audit report, the department shall withhold distribution of moneys from the fund to the tribal government until the report is filed.
 - e. If an audit report or the department's review of the annual report finds a tribal government used moneys distributed from the fund for a purpose inconsistent with this section, the department shall withhold future distributions to that tribal government in an amount equal to the money used improperly. The department shall distribute money withheld from a tribal government under this subdivision if a future audit report indicates moneys distributed from the fund are used for purposes consistent with this section.
4. Before August of each even-numbered year, the department shall compile and summarize the annual reports and audit reports from the participating tribal governments data and provide the legislative management with a biennial report on the fund and ~~tribal government use of money distributed from the fund. Each participating tribe shall compile data and provide the legislative management with a biennial report on the tribe's use of money distributed from the fund.~~

SECTION 2. REPEAL. Section 50-24.1-40 of the North Dakota Century Code is repealed.

SECTION 3. DEPARTMENT OF HUMAN SERVICES - REPORT TO LEGISLATIVE COUNCIL. On January 2, 2023, the executive director of the department of human services shall certify to the legislative council whether any care coordination agreements have been facilitated under section 50-24.1-40 by December 31, 2022. If no care coordination agreements have been facilitated, the executive director also shall certify this status to the secretary of state.

SECTION 4. CONTINGENT EFFECTIVE DATE. Section 2 of this Act becomes effective on January 3, 2023, if the executive director of the department of human services certifies to the secretary of state and to the legislative council that by December 31, 2022, no care coordination agreements have been facilitated under section 50-24.1-40.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 373

SENATE BILL NO. 2224

(Senators Dever, Heckaman, Lee, Mathern, K. Roers)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to medical assistance coverage of metabolic supplements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Medical assistance benefits - Metabolic supplements.

Medical assistance coverage must include coverage of a metabolic supplement if:

1. The metabolic supplement has been identified and agreed to be covered through an agreement between the department and the state department of health;
2. The metabolic supplement is part of a standard recommendation for treatment;
3. A suitable metabolic supplement that is a covered outpatient drug is not available;
4. The individual is under nineteen years of age; and
5. Payment is made at a rate determined by the department.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 374

HOUSE BILL NO. 1090

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-24.4-01, 50-24.4-08, 50-24.4-10, 50-24.4-15, and 50-24.4-19 of the North Dakota Century Code, relating to nursing home rates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁰² **SECTION 1. AMENDMENT.** Section 50-24.4-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-01. Definitions.

For the purposes of this chapter:

1. "Actual allowable historical operating cost per diem" means the per diem operating costs allowed by the department for the most recent reporting year.
2. "Actual resident day" means a billable, countable day as defined by the department.
3. "Department" means the department of human services.
4. ~~"Depreciable equipment" means the standard movable resident care equipment and support service equipment generally used in long-term care facilities.~~
5. "Direct care costs" means the cost category for allowable nursing and therapy costs.
5. "Fair rental value" means the depreciated replacement value of the building, fixed equipment, moveable equipment, and land based on the facility's effective age. The calculation of the fair rental value of the building and fixed equipment must include a location factor, annual depreciation, and an annual replacement cost inflation factor.
6. "Fair rental value rate" means the per diem rate calculated using the fair rental value and rental rate.
- ~~6-7.~~ "Final rate" means the rate established after any adjustment by the department, including adjustments resulting from cost report reviews and audits.

³⁰² Section 50-24.4-01 was also amended by section 458 of House Bill No. 1247, chapter 352.

- 7-8. "Fringe benefits" means workforce safety and insurance, group health or dental insurance, group life insurance, retirement benefits or plans, and uniform allowances, and medical services furnished at nursing home expense.
- 8-9. "General and administrative costs" means all allowable costs for administering the facility, including salaries of administrators, assistant administrators, accounting personnel, data processing personnel, security personnel, and all clerical personnel; board of directors' fees; business office functions and supplies; travel, except as necessary for training programs for dietitians, nursing personnel, and direct resident care related personnel required to maintain licensure, certification, or professional standards requirements; telephone and telegraph; advertising; membership dues and subscriptions; postage; insurance, except as included as a fringe benefit; professional services such as legal, accounting, and data processing services; central or home office costs; management fees; management consultants; employee training, for any top management personnel and for other than direct resident care related personnel; and business meetings and seminars.
- 9-10. "Historical operating costs" means the allowable operating costs incurred by the facility during the reporting year immediately preceding the rate year for which the payment rate becomes effective, after the department has reviewed those costs and determined them to be allowable costs under the medical assistance program, and after the department has applied appropriate limitations such as the limit on administrative costs.
- 40-11. "Indirect care costs" means the cost category for allowable administration, plant, housekeeping, medical records, chaplain, pharmacy, and dietary, exclusive of food costs.
- 44-12. "Managed care organization" means a Medicaid managed care organization as that term is defined in section 1903(m) of the Social Security Act [42 U.S.C. 1396b(m)].
13. "Margin cap" means a percentage of the price limit which represents the maximum per diem amount a nursing home may receive if the facility has historical operating costs below the price limit.
- 42-14. "Nursing home" means a facility, not owned or administered by the state government, defined in section 43-34-01 or a facility owned or administered by the state, which agrees to accept a rate established under this chapter.
- 43-15. "Operating costs" means the day-to-day costs of operating the facility in compliance with licensure and certification standards.
- 44-16. "Other direct care costs" means the cost category for allowable activities, social services, laundry, and food costs.
- 45-17. "Payment rate" means the rate determined under section 50-24.4-06.
- 46-18. "Payroll taxes" means the employer's share of Federal Insurance Contributions Act taxes, governmentally required retirement contributions, and state and federal unemployment compensation taxes.
- 47-19. "Private-paying resident" means a nursing home resident on whose behalf the nursing home is not receiving medical assistance payments and whose

payment rate is not established by any governmental entity with ratesetting authority, including the veterans' administration or Medicare, or whose payment rate is not negotiated by any managed care organization contracting with a facility to provide services for the resident.

18-20. "Rate year" means the fiscal year for which a payment rate determined under this chapter is effective, from January first to the next December thirty-first.

19. ~~"Real estate" means improvements to real property and attached fixtures used directly for resident care.~~

20-21. "Reporting year" means the period from July first to June thirtieth, immediately preceding the rate year, for which the nursing home submits reports required under this chapter.

24-22. "Top management personnel" means owners, board members, corporate officers, general, regional, and district managers, administrators, nursing home administrators, and other persons performing functions ordinarily performed by such personnel.

SECTION 2. AMENDMENT. Section 50-24.4-08 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-08. Notice of increases to private-paying residents.

No increase in nursing home rates for private-paying residents is effective unless the nursing home notifies the resident or person responsible for payment of the increase in writing thirty days before the increase takes effect. A nursing home may adjust its rates without giving the notice required by this section when the purpose of the rate adjustment is to reflect a necessary change in the category of care provided to a resident. ~~If the department fails to set rates at least forty days prior to the beginning of a rate year, the time required for giving notice is decreased by the number of days by which the department was late in setting the rates, except when a facility fails to file a cost report by October first.~~

SECTION 3. AMENDMENT. Section 50-24.4-10 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-10. Operating costs.

1. The department shall establish procedures for determining per diem reimbursement for operating costs.
2. The department shall analyze and evaluate each nursing home's cost report of allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective.
3. The department shall establish price limits on actual allowable historical operating cost per diems, ~~increased by the market basket for skilled nursing facility before productivity assessment~~, based on cost reports of allowable operating costs taking into consideration relevant factors including resident needs, nursing hours necessary to meet resident needs, size of the nursing home, and the costs that must be incurred for the care of residents in an efficiently and economically operated nursing home. For the rate year beginning ~~2006~~2022, the department shall establish price limits for cost

categories using the June 30, 2003~~2021~~, cost report year as the base period. The price limits may not fall below must be established using the same percentage of the median of the most recent cost report used to establish the limits for the June 30, 2020, base period. Until a new base period is established, the department shall adjust the limits annually by the inflation rate for nursing home services used to develop the legislative appropriation for the department. In determining allowable historical operating cost per diems for purposes of setting price limits and nursing home payment rates, the department shall divide the allowable historical operating costs by the actual number of resident days, except that when a nursing home is occupied at less than ninety percent of licensed capacity days, the department may establish procedures to adjust the computation of the indirect care cost per diem to an imputed occupancy level at or below ninety percent. To encourage the development of home and community-based services as an alternative to nursing home care, the department may waive the imputed occupancy level requirements for a nursing home that the department determines to be providing significant home and community-based services in coordination with home and community-based service providers to avoid duplicating existing services. The department shall establish efficiency incentives for indirect care costs. ~~The department may establish efficiency incentives for different operating cost categories. The department shall consider establishing efficiency incentives in care-related cost categories.~~

4. Each nursing home shall receive an operating cost payment rate equal to the sum of the nursing home's operating cost payment rates for each operating cost category. The operating cost payment rate for an operating cost category must be the lesser of the nursing home's historical operating cost in the category increased by the inflation rate for nursing home services used to develop the legislative appropriation for the department for the operating cost category plus an efficiency incentive established pursuant to subsection 3 or the limit for the operating cost category increased by the same inflation rate. If a nursing home's actual historic operating costs are greater than the prospective payment rate for that rate year, there may be no retroactive cost settle-up. In establishing payment rates for one or more operating cost categories, the department may establish separate rates for different classes of residents based on their relative care needs.
5. The efficiency incentives to be established by the department pursuant to subsection 3 for a facility with an actual rate below the limit rate for indirect care costs must include the lesser of two dollars and sixty cents per resident day or the amount determined by multiplying seventy percent times the difference between the actual rate, exclusive of inflation rates, and the limit rate, exclusive of current inflation rates. The efficiency incentive must be included as a part of the indirect care cost rate. The department shall include in the ratesetting system for nursing homes those costs associated with computer software and any related technology, including cloud-based services. These expenses are allowed as a direct passthrough.
6. Each nursing home must receive an operating margin of at least three percent based upon the lesser of the actual direct care and other direct care costs and the limit rate prior to inflation. The operating margin will then be added to the rate for direct care and other direct care cost categories.
7. A new base period must be established at least every four years beginning with the cost report period June 30, 2006~~2023~~.

7. The margin cap used for the rate year beginning 2022 price limits must be no less than three and forty-six hundredths percent.
8. The market basket for skilled nursing facility before productivity adjustment is the preferred index to adjust historical operating costs when a new base period is established and to adjust the price rate in subsequent years until a new base rate period is established.
9. For the rate years beginning 2022 and 2023, the department shall inform the nursing home of the operating rate using historical operating costs and the operating rate using price limits. The nursing home shall inform the department if the nursing home wants to accept the operating rate using historical operating costs as the established rate.

SECTION 4. AMENDMENT. Section 50-24.4-15 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-15. Property-related costs.

1. The department shall include in the ratesetting system for nursing homes a fair rental value payment mechanism for the use of real and personal property which ~~provides for depreciation and related interest costs. The property cost payment mechanism must:~~
 - a. ~~Recognize the valuation basis of assets acquired in a bona fide transaction as an ongoing operation after July 1, 1985, limited to the lowest of:~~
 - (1) Purchase price paid by the purchaser;
 - (2) Fair market value at the time of sale; or
 - (3) Seller's cost basis, increased by one-half of the increase in the consumer price index for all urban consumers (United States city average) from the date of acquisition by the seller to the date of acquisition by the buyer, less accumulated depreciation.
 - b. ~~Recognize depreciation on land improvements, buildings, and fixed equipment acquired, as an ongoing operation over the estimated useful remaining life of the asset as determined by a qualified appraiser.~~
 - c. ~~Recognize depreciation on movable equipment acquired as an ongoing operation after August 1, 1995, over a composite remaining useful life.~~
 - d. ~~Provide for an interest expense limitation determined by the department and established by rule.~~
 - e. ~~Establish.~~
2. The department shall establish a per bed property cost limitation considering single and double occupancy construction. The double room limit effective July 1, 2015, is one hundred fifty-six thousand seven hundred eighty-three dollars and the single room limit is two hundred thirty-five thousand one hundred seventy-six dollars.

- f. ~~Recognize increased lease costs of a nursing home operator to the extent the lessor has incurred increased costs related to the ownership of the facility, the increased costs are charged to the lessee, and the increased costs would be allowable had they been incurred directly by the lessee.~~
 - g. ~~Recognize any mandated costs, fees, or other moneys paid to the attorney general through transactions under sections 10-33-144 through 10-33-149.~~
- 2. ~~For rate years beginning after December 31, 2003, the limitations of paragraph 3 of subdivision a of subsection 1 do not apply to the valuation basis of assets purchased between July 1, 1985, and July 1, 2000. The provisions of this subsection may not be applied retroactively to any rate year before July 1, 2005. The per bed property cost limitation must apply to construction or renovation projects currently in process or which have approved financing in place on or before December 31, 2021. The nursing home must have agency approval of the project by December 31, 2022. The nursing home shall notify the department within thirty days of receiving financial approval for any construction or renovation projects that financing is in place on or before December 31, 2022.~~
- 3. ~~For rate years beginning after December 31, 2007, the limitations of subdivision e of subsection 1 do not apply to the valuation basis of assets acquired as a result of a natural disaster before December 31, 2006. The provisions of this subsection may not be applied retroactively to any rate year before January 1, 2008. The maximum allowable movable equipment replacement value per licensed bed must be fifteen thousand dollars when calculating the fair rental value.~~
- 4. ~~The department shall include in the ratesetting system for nursing homes those costs associated with computer software and any related technology, including cloud-based services. These expenses are allowed as a direct passthrough. The maximum allowable square footage per licensed bed must be nine hundred fifty square feet [88.26 square meters] when calculating the fair rental value.~~
- 5. The maximum allowable rental rate must be eight percent when calculating the fair rental value rate.
- 6. Effective with the 2023 rate year, the property rate component of the payment rate, exclusive of startup and passthrough costs, must be the greater of the rate calculated using allowable property-related costs or the fair rental value rate. If the fair rental value rate is greater than the rate calculated using allowable property-related costs, the increase must be phased in over a four-year period.
- 7. Effective with the 2023 rate year, if the fair rental value rate is greater than the rate calculated using allowable property-related costs, the increase must be reserved until a major renovation or construction is placed in service.
- 8. Effective with the 2023 rate year and subsequent rate years, if the fair rental value rate is less than the rate calculated using allowable property-related costs, the department shall inform the nursing home of the property rate using allowable property-related costs and the fair rental value. Before the start of each rate year, the nursing home shall inform the department if the nursing

home wants to accept the property rate using allowable property-related costs as the established rate. The allowable property-related costs must be calculated using only the allowable depreciation on capital assets and interest on debt as of June 30, 2022, for all rate years. Once the fair rental value rate is equal to or greater than the rate calculated using allowable property-related costs, or the nursing home does not inform the department the nursing home wants to accept the property rate using allowable property-related costs, the department no longer need inform the nursing home of the property rate using allowable property-related costs and the rate must be calculated using the fair rental value methodology.

303 **SECTION 5. AMENDMENT.** Section 50-24.4-19 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-19. Prohibited practices.

A nursing home is not eligible to receive medical assistance payments unless it refrains from all of the following:

1. Charging private-paying residents rates for similar services which exceed those rates which are approved by the department for medical assistance recipients, as determined by the prospective desk audit rate, except under the following circumstances: the nursing home may charge private-paying residents a higher rate for a private room and charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the department of human services. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be offered to all residents and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing home in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing home. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing home that charges a private-paying resident a rate in violation of this chapter is subject to an action by the state or any of its subdivisions or agencies for civil damages. A private-paying resident or the resident's legal representative has a cause of action for civil damages against a nursing home that charges the resident rates in violation of this chapter. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorney's fees or their equivalent.
2. Requiring an applicant for admission to the home, or the guardian or conservator of the applicant, as a condition of admission, to pay any fee or deposit ~~in excess of one hundred dollars~~, loan any money to the nursing home, or promise to leave all or part of the applicant's estate to the home.
3. Requiring any resident of the nursing home to utilize a vendor of health care services who is a licensed physician or pharmacist chosen by the nursing home.

303 Section 50-24.4-19 was also amended by section 460 of House Bill No. 1247, chapter 352.

4. Providing differential treatment on the basis of status with regard to public assistance.
5. Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance. Admissions discrimination shall include, but is not limited to:
 - a. Basing admissions decisions upon assurance by the applicant to the nursing home, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing home care costs.
 - b. Engaging in preferential selection from waiting lists based on an applicant's ability to pay privately.

The collection and use by a nursing home of financial information of any applicant pursuant to a preadmission screening program does not raise an inference that the nursing home is utilizing that information for any purpose prohibited by this chapter.

6. Requiring any vendor of medical care, who is reimbursed by medical assistance under a separate fee schedule, to pay any portion of the vendor's fee to the nursing home except as payment for the fair market value of renting or leasing space or equipment of the nursing home or purchasing support services, if those agreements are disclosed to the department.
7. Refusing, for more than twenty-four hours, to accept a resident returning to the resident's same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.
8. Violating any of the rights of health care facility residents enumerated in section 50-10.2-02.
9. Charging a managed care organization a rate that is less than the rate approved by the department for a medical assistance recipient in the same classification.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 375

SENATE BILL NO. 2087

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 3 of section 50-24.6-04 of the North Dakota Century Code, relating to the medical assistance prior authorization program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 50-24.6-04 of the North Dakota Century Code is amended and reenacted as follows:

3. a. For individuals twenty-one years of age and older, except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert, brand name drugs with a generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, ~~in the aggregate, or~~ generic drugs with a brand name equivalent drug for which the cost to the state postrebate is less than the generic drug, or medications that are considered line extension drugs, the department may not prior authorize the following medication classes:
 - (1) Antipsychotics;
 - (2) Antidepressants;
 - (3) Anticonvulsants;
 - (4) Antiretrovirals, for the treatment of human immunodeficiency virus;
 - (5) Antineoplastic agents, for the treatment of cancer; and
 - (6) Stimulant medication used for the treatment of attention deficit disorder and attention deficit hyperactivity disorder, except an individual who prescribes this medication at a rate two times higher than the rate of the top ten prescribers excluding the top prescriber may be subject to prior authorization.
- b. For individuals under twenty-one years of age, except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert, brand name drugs with a generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, ~~in the aggregate, or~~ generic drugs with a brand name equivalent drug for which the cost to the state postrebate is less than the generic drug, or medications that are considered line extension drugs, the department may not prior authorize the following medication classes:
 - (1) Antipsychotics;
 - (2) Antidepressants;

- (3) Anticonvulsants;
 - (4) Antiretrovirals, for the treatment of human immunodeficiency virus;
 - (5) Antineoplastic agents, for the treatment of cancer; and
 - (6) Stimulant medication used for the treatment of attention deficit hyperactivity disorder.
- c. The restrictions of subdivision b do not apply for individuals under twenty-one years of age, who have five or more concurrent prescriptions for psychotropic medications.
- d. Prior authorization for individuals under twenty-one years of age is required for five or more concurrent prescriptions for antipsychotics, antidepressants, anticonvulsants, benzodiazepines, mood stabilizers, sedative, hypnotics, or medications used for the treatment of attention deficit hyperactivity disorder. The department shall grant authorization to exceed the limits after a prescriber requesting authorization consults with a board certified pediatric psychiatrist approved by the department.
- e. The restrictions of this subsection do not apply if prior authorization is required by the centers for Medicare and Medicaid services.
- f. As used in this subsection, "line extension drug" means a new formulation of a drug. The term does not include an abuse-deterrent formulation of a drug.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 376

HOUSE BILL NO. 1326

(Representatives Weisz, J. Nelson)
(Senator Lee)

AN ACT to provide for exemption of federal coronavirus stimulus funds for the service payments for elderly and disabled and the basic care programs; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. SERVICE PAYMENTS FOR ELDERLY AND DISABLED AND BASIC CARE PROGRAMS - FEDERAL CORONAVIRUS STIMULUS FUNDS.

During the 2019-21 and 2021-23 bienniums, under the service payments for elderly and disabled program, Medicaid waiver for the aged and disabled program, and aid to vulnerable, aged, blind, and disabled program, coronavirus stimulus funds received under federal law, including the federal Coronavirus Response and Relief Supplemental Appropriations Act of 2021 [Pub. L. 116-260] or any other law authorizing stimulus funds as a result of the federal coronavirus pandemic emergency declaration, are not countable income or a resource.

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

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 377

SENATE BILL NO. 2083

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-25.1-02, 50-25.1-03, 50-25.1-03.1, 50-25.1-04, 50-25.1-04.1, 50-25.1-04.2, 50-25.1-04.3, 50-25.1-05, 50-25.1-05.1, 50-25.1-05.2, 50-25.1-05.3, 50-25.1-05.4, 50-25.1-05.5, 50-25.1-05.6, 50-25.1-06, 50-25.1-07, 50-25.1-09.1, 50-25.1-11, 50-25.1-13, 50-25.1-14, 50-25.1-15, 50-25.1-16, 50-25.1-18, 50-25.1-19, 50-25.1-20, 50-25.1-21, 50-25.1-22, and 50-25.1-23 of the North Dakota Century Code, relating to child abuse and neglect; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁰⁴ **SECTION 1. AMENDMENT.** Section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "A person responsible for the child's welfare" means an individual who has responsibility for the care or supervision of a child and who is the child's parent, an adult family member of the child, any member of the child's household, the child's guardian, or the child's foster parent; or an employee of, or any person providing care for the child in, a ~~public or private school or child care setting.~~ For the purpose of institutional child abuse or neglect, "A person responsible for the child's welfare" means an institution that has responsibility for the care or supervision of a child.
2. "Abuse of alcohol", "alcohol abuse", or "abused alcohol" means alcohol use disorder as defined in the current edition of the "Diagnostic and Statistical Manual of Mental Disorders" published by the American psychiatric association or a maladaptive use of alcohol with negative medical, sociological, occupational, or familial effects.
3. "Abused child" means an individual under the age of eighteen years who is suffering from abuse as defined in section 14-09-22 caused by a person responsible for the child's welfare, ~~and "includes a sexually abused child" means an individual under the age of eighteen years who is subjected by a person responsible for the child's welfare, or by any individual, including a juvenile, who acts who is suffering from or was subjected to any act in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.3, or chapter 12.1-27.2, by any individual, including a juvenile.~~

³⁰⁴ Section 50-25.1-02 was also amended by section 39 of House Bill No. 1035, chapter 245, section 467 of House Bill No. 1247, chapter 352, and section 468 of House Bill No. 1247, chapter 352.

4. "Alternative response assessment" means a child protection response involving substance exposed newborns which is designed to:
 - a. Provide referral services to and monitor support services for a person responsible for the child's welfare and the substance exposed newborn; and
 - b. Develop a plan of safe care for the substance exposed newborn.
5. "Authorized agent" means the human service zone, unless another entity is designated by the department.
6. "Child fatality review panel" means a multidisciplinary team consisting of a representative of the department and, if possible, a forensic pathologist, a physician, a representative of the state department of health injury prevention, a representative of the attorney general, a representative of the superintendent of public instruction, a representative of the department of corrections and rehabilitation, a peace officer licensed in the state, a mental health professional, a representative of emergency medical services, a medical services representative from a federally recognized Indian tribe in this state, one or more representatives of the lay community, and a designated tribal representative, as an ad hoc member, acting for each federally recognized Indian tribe in this state. A team member, at the time of selection and while serving on the panel, must be a staff member of the public or private agency the member represents or shall serve without remuneration. The child fatality review panel may not be composed of fewer than three individuals.
- ~~7.~~ "Child protection assessment" means a factfinding process designed to provide information that enables a determination to be made that services are required to provide for the protection and treatment of whether a child meets the definition of an abused or neglected child and an evidence-based screening tool, including instances that may not identify a specific person responsible for the child's welfare which is responsible for the abuse or neglect.
- ~~7-8.~~ "Children's advocacy center" means a full or associate member of the national children's alliance which assists in the coordination of the investigation in response to allegations of child abuse by providing a dedicated child-friendly location at which to conduct forensic interviews, forensic medical examinations, and other appropriate services and which promotes a comprehensive multidisciplinary team response to allegations of child abuse. The team response may include forensic interviews, forensic medical examinations, mental health and related support services, advocacy, and case review.
- ~~8-9.~~ "Citizen review committee" means a committee appointed by the department to review the department's provision of child welfare services.
- ~~9-10.~~ "Confirmed" means that upon completion of a child protection assessment, the department determines, based upon a preponderance of the evidence, that a child meets the definition of an abused or neglected child, and the department confirms the identity of a specific person responsible for the child's welfare which is responsible for the abuse or neglect.

11. "Confirmed with unknown subject" means that upon completion of a child protection assessment, the department determines, based upon a preponderance of the evidence, that a child meets the definition of an abused or neglected child, but the evidence does not confirm the identity of a specific person responsible for the child's welfare which is responsible for the abuse or neglect.
12. "Department" means the department of human services or its designee.
- 40-13. "Family services assessment" means a child protection services response to reports of suspected child abuse or neglect in which the child is determined to be at low risk and safety concerns for the child are not evident according to guidelines developed by the department and an evidence-based screening tool.
- 44-14. "Impending danger" means a foreseeable state of danger in which a behavior, attitude, motive, emotion, or situation can be reasonably anticipated to have severe effects on a child according to criteria developed by the department.
15. "Indicated" means that upon completion of an assessment of a report of institutional child abuse or neglect, the department determines based upon a preponderance of the evidence, that a child meets the definition of an abused or neglected child.
16. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect when the institution responsible for the child's welfare is a public or private school, a residential child care facility, a treatment or care center for individuals with intellectual disabilities, a public or private residential educational facility, a maternity home, or any residential facility owned or managed by the state or a political subdivision of the state or setting either licensed, certified, or approved by the department, or a residential facility or setting that receives funding from the department. For purposes of this subsection, residential facilities and settings excludes correctional, medical, home and community-based residential rehabilitation, and educational boarding care settings.
12. "Local child protection team" means a multidisciplinary team consisting of the designee of the human service zone director who shall serve as presiding officer, together with such other representatives as that director might select for the team. All team members, at the time of their selection and thereafter, must be staff members of the public or private agencies they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three members. The department may coordinate the organization of local child protection teams on a human service zone basis.
- 43-17. "Near death" means an act that, as certified by a physician, places a child in serious or critical condition.
- 44-18. "Neglected child" means a child who, due to the action or inaction of a person responsible for the child's welfare:
 - a. Is without proper care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or

emotional health, or morals, and is not due primarily to the lack of financial means of a person responsible for the child's welfare;

- b. Has been placed for care or adoption in violation of law;
- c. Has been abandoned;
- d. Is without proper care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of a person responsible for the child's welfare, and that such lack of care is not due to a willful act of commission or act of omission, and care is requested by a person responsible for the child's welfare;
- e. Is in need of treatment and a person responsible for the child's welfare has refused to participate in treatment as ordered by the juvenile court;
- f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in ~~chapter 19-03.1~~section 19-03.1-01 in a manner not lawfully prescribed by a practitioner;
- g. Is present in an environment subjecting the child to exposure of a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2, except as used in this subsection, controlled substance includes any amount of marijuana; or
- h. Is a victim of human trafficking as defined in title 12.1.

45-19. "Prenatal exposure to a controlled substance" means use of a controlled substance as defined in chapter 19-03.1 by a pregnant woman for a nonmedical purpose during pregnancy as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.

46-20. "Protective services" includes services performed after an assessment of a report of child abuse or neglect has been conducted, such as social assessment, service planning, implementation of service plans, treatment services, referral services, coordination with referral sources, progress assessment, monitoring service delivery, and direct services.

47-21. "State child protection team" means a multidisciplinary team consisting of the ~~designee~~a representative of the department and, where possible, ~~of a physician, a representative of a child-placing agency, a representative of the state department of health, a representative of the attorney general, a representative of law enforcement, a representative of the superintendent of public instruction, a representative of the department of corrections and rehabilitation, parent with lived experience,~~ one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must be staff members of the public or private agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court

proceeding nor may the child protection team be composed of fewer than three persons~~individuals~~. A quorum of the state child protection team consists of a minimum of one member from the department and two other state child protection team members.

~~18-22.~~ "Substance exposed newborn" means an infant younger than twenty-eight days of age at the time of the initial report of child abuse or neglect and who is identified as being affected by substance abuse or withdrawal symptoms or by a fetal alcohol spectrum disorder.

~~23.~~ "Unable to determine" means insufficient evidence is available to enable a determination whether a child meets the definition of an abused or neglected child.

~~24.~~ "Unconfirmed" means that upon completion of a child protection assessment, the department has determined, based upon a preponderance of the evidence, that a child does not meet the definition of an abused or neglected child.

SECTION 2. AMENDMENT. Section 50-25.1-03 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-03. Persons required and permitted to report - To whom reported.

1. Any dentist; optometrist; dental hygienist; medical examiner or coroner; tier 1 mental health professional, tier 2 mental health professional, tier 3 mental health professional, or tier 4 mental health professional as defined under section 25-01-01; or any other medical or mental health professional, religious practitioner of the healing arts, schoolteacher or administrator, school counselor, child care worker, foster parent, police or law enforcement officer, juvenile court personnel, probation officer, division of juvenile services employee, licensed social worker, family service specialist, child care licenser, or member of the clergy having knowledge of or reasonable cause to suspect a child is abused or neglected, or has died as a result of abuse or neglect, shall report the circumstances to the department or authorized agent if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity. A member of the clergy, however, is not required to report such circumstances if the knowledge or suspicion is derived from information received in the capacity of spiritual adviser.
2. Any person having reasonable cause to suspect a child is abused or neglected, or has died as a result of abuse or neglect, may report such circumstances to the department or authorized agent.
3. A person having knowledge of or reasonable cause to suspect a child is abused or neglected, based on images of sexual conduct by a child discovered on a workplace computer, shall report the circumstances to the department or authorized agent.

SECTION 3. AMENDMENT. Section 50-25.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-03.1. Photographs - X-rays - Medical tests.

Any ~~person~~individual or official required to report under this chapter may cause to be taken color photographs of the areas of trauma visible on a child who the ~~person~~individual or official has knowledge or reasonable cause to suspect is an abused or neglected child and, if indicated by medical consultation, cause to be performed imaging studies, laboratory tests, colposcopies, and other medical tests of the child without the consent of the child's parents or guardian. All photographs and other visual images taken pursuant to this section must be taken by law enforcement officials, physicians, or medical facility professionals upon the request of any ~~person~~individual or official required to report under this chapter. Photographs and visual images, or copies of them, must be sent to the department or the department's ~~designee~~authorized agent at the time the initial report of child abuse or neglect is made or as soon thereafter as possible.

SECTION 4. AMENDMENT. Section 50-25.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04. Method of reporting.

1. All persons mandated or permitted to report cases of known or suspected child abuse or neglect ~~shall immediately shall~~ cause oral or written reports to be made to the department or the department's ~~designee~~authorized agent. Oral reports must be followed by written reports within forty-eight hours if so requested by the department or the department's ~~designee~~authorized agent. A requested written report must include information specifically sought by the department or authorized agent if the reporter possesses or has reasonable access to that information. Reports involving known or suspected institutional child abuse or neglect must be made and received in the same manner as all other reports made under this chapter.
2. The chief administrator of an entity employing more than twenty-five individuals who are required to report suspected child abuse or neglect under this chapter may designate an agent within the entity to file reports of suspected child abuse or neglect on behalf of the staff members and volunteers of the entity. Under no circumstances may a designated agent to whom such report has been made impose conditions, including prior approval or prior notification, upon a staff member or volunteer reporting suspected child abuse or neglect under this chapter or exercise any control, restraint, or modification, or make any changes to the information provided by the staff member or volunteer. A report filed by the designated agent must include the first and last name, title, and contact information for every staff member or volunteer of the entity who is believed to have direct knowledge of the facts surrounding the report. A single report from the designated agent under this subsection is adequate to meet the reporting requirement on behalf of staff members and volunteers of the entity listed with the required information.
3. If a staff member or volunteer makes a report of suspected child abuse and neglect to a designated agent of an entity as authorized in subsection 2, and the designated agent files a report on behalf of the staff member or volunteer, the staff member or volunteer will be considered to be fully compliant with the reporting requirements in this chapter. However, this section does not preclude the staff member or volunteer from also reporting the suspected child abuse and neglect directly to the department or authorized agent. A staff member or volunteer reporting suspected child abuse or neglect under this subsection who has knowledge the designated agent has failed to report on behalf of the staff member or volunteer immediately shall make a report directly to the department or authorized agent.

SECTION 5. AMENDMENT. Section 50-25.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.1. State child protection team - How created - Duties.

1. The department shall name the members of the state child protection team. ~~The members must be appointed for three-year staggered terms. The member who represents the department shall serve as presiding officer and is responsible for the transmittal of all team reports made pursuant to this chapter. The presiding officer~~department shall set meetings for the purposes of fulfilling the duties set forth in sections 50-25.1-02 and 50-25.1-04.
2. Under procedures adopted by the team, ~~the team~~ may meet at any time, confer with any individuals, groups, and agencies, and may issue reports or recommendations on any aspect of child abuse, neglect, or death resulting from abuse or neglect ~~the team~~ deems appropriate. All reports or recommendations issued are subject to section 50-25.1-11, except that the team shall make available information reflecting the disposition of reports of institutional child abuse, neglect, or death resulting from abuse or neglect, when the identity of persons reporting, and of the children and parents of children involved, is protected.
3. In every case of alleged institutional child abuse or neglect, the state child protection team shall make a determination ~~that whether~~ child abuse or neglect is ~~or is not~~ indicated. Upon a determination that institutional child abuse or neglect is indicated, the state child protection team promptly shall make a written report of the determination. When the subject of the report is a ~~state-operated institution~~includes an allegation or report of institutional child abuse and neglect as defined in section 50-25.1-02, the state child protection team promptly shall notify the ~~governor~~executive director of the department of the determination. Notwithstanding section 50-25.1-11, the department shall notify the superintendent of public instruction, the school district administrator, and the president or chairman of the school board or a private school's governing body or entity if the subject of the report is a public or private school.
4. If a determination that institutional child abuse or neglect is indicated relative to a residential facility or setting either licensed, certified, or approved by the department or a residential facility or setting that receives funding from the department, that facility or setting shall engage in an improvement plan approved by the department. Failure to complete the approved improvement plan must result in notification to the residential facility or setting's board of directors and to any entity that accredits the facility or setting. Notification must include the written report of the state child protection team, the approved improvement plan, and areas of deficiency that resulted in the notification.

³⁰⁵ **SECTION 6. AMENDMENT.** Section 50-25.1-04.2 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.2. Child fatality review panel.

~~The state child protection team shall serve as a child fatality review panel is a multidisciplinary panel and incorporates representatives of agencies that are directly~~

³⁰⁵ Section 50-25.1-04.2 was also amended by section 469 of House Bill No. 1247, chapter 352.

~~or indirectly involved in responding to the death of a child. The department shall appoint a peace officer licensed in the state, a mental health professional, and may designate any other person as appropriate to assist the panel in the performance of its the panel's duties. The department, in coordination with the state department of health, shall adopt rules for the operation of the panel. Panel members are not entitled to compensation or reimbursement of expenses for service on the panel. The representative of the department shall serve as presiding officer and is responsible for gathering records and preparing reports to review. The presiding officer shall set meetings for the purpose of fulfilling the duties set forth in sections 50-25.1-04.3 and 50-25.1-04.5.~~

SECTION 7. AMENDMENT. Section 50-25.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.3. Child fatality review panel - Duties.

The child fatality review panel shall meet at least ~~semiannually~~quarterly to review the deaths and near deaths of all minors which occurred in the state during the preceding ~~six~~twelve months and to identify trends or patterns in the deaths and near deaths of minors. The panel may review near deaths alleged to have resulted only from child abuse and neglect. The panel shall promote:

1. Interagency communication for the management of child death cases and for the management of future nonfatal cases.
2. Effective criminal, civil, and social intervention for families with fatalities.
3. Intervention and counseling of surviving and at-risk siblings, and offer the same.
4. Interagency use of cases to audit the total health and social service systems and to minimize misclassification of cause of death.
5. Evaluation of the impact of specific risk factors including substance abuse, domestic violence, and prior child abuse.
6. Interagency services to high-risk families.
7. Data collection for surveillance of deaths and the study of categories of causes of death.
8. The use of media to educate the public about child abuse prevention.
9. Intercounty, interhuman service zones, and interstate communications regarding child death.
10. ~~Use of local child protection team members as local child fatality review panelists.~~
44. Information that apprises a parent or guardian of the parent's or guardian's rights and the procedures taken after the death of a child.

SECTION 8. AMENDMENT. Section 50-25.1-05 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05. Child protection assessment - Alternative response assessment - Family services assessment.

1. The department or authorized agent, in accordance with rules adopted by the department, immediately shall initiate a child protection assessment, alternative response assessment, or family services assessment or cause an assessment, of any report of child abuse or neglect including, when appropriate, the child protection assessment, alternative response assessment, or family services assessment of the home or the residence of the child, any school or child care facility attended by the child, and the circumstances surrounding the report of abuse or neglect.
2. According to guidelines developed by the department, the department or authorized agent may initiate an alternative response assessment or family services assessment if the department or authorized agent determines initiation is appropriate.
3. If the report alleges a violation of a criminal statute involving sexual or physical abuse, the department or authorized agent shall initiate a child protection assessment by contacting the law enforcement agency having jurisdiction over the alleged criminal violation. The department or authorized agent and an appropriate law enforcement agency shall coordinate the planning and execution of the child protection assessment and law enforcement investigation efforts to avoid a duplication of factfinding efforts and multiple interviews. If the law enforcement agency declines to investigate, the department or authorized agent shall continue the child protection assessment to a determination.
4. The department, the authorized agent, or the law enforcement agency may:
 - a. Refer the case to a children's advocacy center for a forensic interview, forensic medical examination, and other services.
 - b. Interview, without the consent of a person responsible for the child's welfare, the alleged abused or neglected child and any other child who currently resides or who has resided with the person responsible for the child's welfare or the alleged perpetrator.
 - c. Conduct the interview at a school, child care facility, or any other place where the alleged abused or neglected child or other child is found.
5. Except as prohibited under title 42, Code of Federal Regulations, part 2, a medical, dental, or mental health professional, hospital, medical or mental health facility, or health care clinic shall disclose to the department or the department's authorized agent, upon request, the records of a patient or client which are relevant to a child protection assessment of reported child abuse or neglect or to a ~~services required~~confirmed decision. The department, or the department's authorized agent, shall limit the request for records to the minimum amount of records necessary to enable a determination to be made or to support a determination of whether ~~services are required~~child abuse or neglect is confirmed, confirmed with unknown subject, or unable to determine to provide for the protection and treatment of an abused or neglected child.
6. The department shall adopt guidelines for case referrals to a children's advocacy center. When cases are referred to a children's advocacy center, all interviews of the alleged abused or neglected child conducted at the children's

advocacy center under this section ~~shall~~must be audio-recorded or video-recorded.

7. The department or authorized agent shall complete an evidence-based screening tool during a child protection assessment or a family services assessment.
8. The department or authorized agent may terminate in process a child protection assessment upon a determination there is no credible evidence supporting the reported abuse or neglect occurred.
9. If a report alleges institutional child abuse or neglect involving a public or private school, the department or the department's authorized agent shall conduct a child protection assessment. If practical, the department or the department's authorized agent shall provide notice of the onset of a child protection assessment to the public or private school. A public or private school may complete an investigation into any conduct reported or alleged to constitute institutional child abuse or neglect at the school's institution concurrently with a child protection assessment. If a public or private school conducts an investigation concurrently with a child protection assessment, the department or the department's authorized agent and the public or private school shall coordinate the planning and execution of the child protection assessment and public or private school investigation efforts to avoid a duplication of fact finding efforts and multiple interviews if practical.

SECTION 9. AMENDMENT. Section 50-25.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.1. ~~Services required~~Child abuse or neglect assessment decision - How determined.

Upon completion of the child protection assessment of the initial report of child abuse or neglect, a decision must be made whether ~~services are required to provide for the protection and treatment of an abused or neglected~~confirmed, confirmed with unknown subject, unconfirmed, or unable to determine abuse or neglect of a child.

1. This determination is the responsibility of the department.
2. A decision ~~that services are required~~of confirmed may not be made if the suspected child abuse or neglect arises solely out of conduct involving the legitimate~~lawful~~ practice of religious beliefs by a parent or guardian. This exception does not preclude a court from ordering that medical services be provided to the child if the child's life or safety requires such an order or the child is subject to harm or threatened harm.

SECTION 10. AMENDMENT. Section 50-25.1-05.2 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.2. Report to the court - Entry of report in the child abuse information index.

1. ~~Upon a decision~~confirmation that ~~services are required~~a child meets the definition of an abused or neglected child, the department promptly shall make a written report of the decision to the juvenile court having jurisdiction in the matter.

2. The department promptly shall file a report of a decision that ~~services are required~~ a child meets the definition of an abused or neglected child under this section in the child abuse information index.

SECTION 11. AMENDMENT. Section 50-25.1-05.3 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.3. Disposition of reports implicating a person not responsible for the child's health or welfare.

1. Upon determination by the department or ~~the department's designee~~ authorized agent that a report made under this chapter implicates a person other than a person responsible for a child's welfare, the department or authorized agent shall refer the report to an appropriate law enforcement agency for investigation and disposition.
2. If law enforcement determines a minor committed an act in violation of sections 12.1-20-01 through 12.1-20-04, section 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2 against another minor, law enforcement shall provide the report to the department or authorized agent. Law enforcement shall conduct a criminal investigation and shall coordinate with the department or authorized agent for the provision of services to the minors, parents, custodians, or other persons serving in loco parentis with respect to the minors.
3. The department or authorized agent shall provide risk assessment, safety planning, and any appropriate evidence-based screening for the minors and any other minors under the same care. The department or authorized agent shall refer the minors, parents, custodians, or other persons serving in loco parentis with respect to the minors, for appropriate services.

SECTION 12. AMENDMENT. Section 50-25.1-05.4 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.4. Department to adopt rules for review of child protection assessment findings.

The department shall adopt rules to resolve complaints and conduct appeal hearings requested by the subject of a report of suspected child abuse, neglect, or death resulting from abuse or neglect who is aggrieved by the ~~conduct or result of a child protection assessment~~ confirmed decision.

SECTION 13. AMENDMENT. Section 50-25.1-05.5 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.5. Child abuse information index - Establishment.

The division of children and family services or other division as determined appropriate by the department shall maintain a child abuse information index of all reports of decisions that ~~services are required~~ confirmed or confirmed with unknown subjects for child abuse, neglect, or death resulting from abuse or neglect which are filed pursuant to section 50-25.1-05.2.

SECTION 14. AMENDMENT. Section 50-25.1-05.6 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.6. Interviews on school property.

The department, authorized agent, or appropriate law enforcement agency shall notify the school principal or other appropriate school administrator of its intent to conduct an interview on school property pursuant to section 50-25.1-05. The school administrator may not disclose the nature of the notification or any other related information concerning the interview to any person, including a person responsible for the child's welfare. The school administrator and department, authorized agent, or law enforcement agency shall make every effort to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school property.

³⁰⁶ **SECTION 15. AMENDMENT.** Section 50-25.1-06 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-06. Protective and other services to be provided.

The department shall provide protective services for thea child meeting the definition of an abused or neglected child and who is at substantial risk of continued abuse or neglect due to a supported state of impending danger, as well as other children under the same care as may be necessary for their well-being and safety and shall provide other appropriate social services, as the circumstances warrant, to the parents, custodian, or other persons serving in loco parentis with respect to the child or the other children. The department may discharge the duties described in this section through an authorized agent. The department may provide protective services, as resources permit, for any child, other children under the same care, parents, custodian, or other persons serving in loco parentis upon concurrence of the parent, custodian, or other persons serving in loco parentis.

SECTION 16. AMENDMENT. Section 50-25.1-07 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-07. Protective custody.

Any physician examining a child with respect to whom abuse or neglect is known or suspected, after reasonable attempts to advise the parents, guardian, or other person having responsibility for the care of the child that the physician suspects has been abused or neglected, may keep the child in the custody of the hospital or medical facility for not to exceed ninety-six hours and must immediately notify the juvenile court and the department or authorized agent in order that child protective proceedings may be instituted.

SECTION 17. AMENDMENT. Section 50-25.1-09.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-09.1. Employer retaliation prohibited - Penalty.

1. An employer ~~who~~that retaliates against an employee solely because the employee in good faith reported having reasonable cause to suspect that a child was abused or neglected, or died as a result of abuse or neglect, or because the employee is a child with respect to whom a report was made, is guilty of a class B misdemeanor. It is a defense to any charge brought under this section that the presumption of good faith, described in section 50-25.1-09, has been rebutted.

³⁰⁶ Section 50-25.1-06 was also amended by section 40 of House Bill No. 1035, chapter 245.

2. The employer of a ~~person~~ individual required or permitted to report pursuant to section 50-25.1-03 ~~who~~ which retaliates against the ~~person~~ individual because of a report of abuse or neglect, or a report of a death resulting from child abuse or neglect, is liable to that ~~person~~ individual in a civil action for all damages, including exemplary damages, costs of the litigation, and reasonable attorney's fees.
3. There is a rebuttable presumption that any adverse action within ninety days of a report is retaliatory. For purposes of this subsection, an "adverse action" is action taken by an employer against the ~~person~~ individual making the report or the child with respect to whom a report was made, including:
 - a. Discharge, suspension, termination, or transfer from any facility, institution, school, agency, or other place of employment;
 - b. Discharge from or termination of employment;
 - c. Demotion or reduction in remuneration for services; or
 - d. Restriction or prohibition of access to any facility, institution, school, agency, or other place of employment or ~~persons~~ individuals affiliated with it.

SECTION 18. AMENDMENT. Section 50-25.1-11 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-11. Confidentiality of records - Authorized disclosures.

1. A report made under this chapter, as well as any other information obtained, is confidential and must be made available to:
 - a. A physician who has before the physician a child whom the physician reasonably suspects may have been abused or neglected.
 - b. A person who is authorized to place a child in protective custody and has before the person a child whom the person reasonably suspects may have been abused or neglected and the person requires the information to determine whether to place the child in protective custody.
 - c. Authorized staff of the department and its authorized agents, children's advocacy centers, and appropriate state ~~and local~~ child protection team members, and citizen review committee members.
 - d. Any person who is the subject of the report; provided, however, that the identity of persons reporting or supplying information under this chapter is protected until the information is needed for use in an administrative proceeding arising out of the report.
 - e. Public officials and their authorized agents who require the information in connection with the discharge of their official duties.
 - f. A court, including an administrative hearing office, whenever the court determines that the information is necessary for the determination of an issue before the court.

- g. A person engaged in a bona fide research purpose approved by the department's institutional review board; provided, however, that no individually identifiable information as defined in section 50-06-15 is made available to the researcher unless the information is absolutely essential to the research purpose and the department gives prior approval.
 - h. ~~A person~~An individual who is identified in subsection 1 of section 50-25.1-03, and who has made a report of suspected child abuse or neglect, if the child is likely to or continues to come before the reporter in the reporter's official or professional capacity.
 - i. A parent or a legally appointed guardian of the child identified in the report as suspected of being, or having been, abused or neglected, provided the identity of persons making the report or supplying information under this chapter is protected. Unless the information is confidential under section 44-04-18.7, when a decision is made under section 50-25.1-05.1 that ~~services are required to provide for the protection and treatment of a~~child is abused or neglected child, the department or authorized agent shall make a good-faith effort to provide written notice of the decision to ~~persons~~individuals identified in this subsection. The department or authorized agent shall consider any known domestic violence when providing notification under this section.
 - j. A public or private school that is the subject of a report of institutional child abuse or neglect, provided the identity of the persons reporting or supplying the information under this chapter is protected, except if the individuals reporting or supplying information are employees of the public or private school.
- 2. In accordance with subsection 3 of section 50-11.1-07.8, the department or authorized agent shall notify the owner, operator, holder of a self-declaration, or in-home provider and shall notify the parent or legally appointed guardian of a child, who at the time of notification is receiving early childhood services under chapter 50-11.1, of the name of the subject and provide a summary of the facts and the results of a child protection assessment conducted under this chapter if the report made under this chapter involves the owner, operator, holder of a self-declaration, or in-home provider; or involves an adult or minor staff member or adult or minor household member of the early childhood program, self-declaration, or in-home provider, who is providing care to the child.
 - 3. In accordance with subsection 4 of section 50-25.1-04.1, the department may notify the residential facility or setting's board of directors and any entity that accredits the facility or setting of the institutional child abuse or neglect indicated determination, written report of the state child protection team, the approved improvement plan, and areas of deficiency that resulted in the notification.
 - 4. If a public or private school is the subject of a report of institutional child abuse or neglect, any records and information obtained, created, generated, or gathered by the public or private school in response to the report or during an investigation by the public or private school of the alleged conduct set forth in the report, are confidential until the state child protection team makes a determination in accordance with section 50-25.1-04.1 whether institutional child abuse or neglect is indicated.

SECTION 19. AMENDMENT. Section 50-25.1-13 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-13. Penalty for failure to report - Penalty and civil liability for false reports.

Any ~~person~~individual required by this chapter to report or to supply information concerning a case of known or suspected child abuse, neglect, or death resulting from abuse or neglect who willfully, as defined in section 12.1-02-02, fails to do so is guilty of a class B misdemeanor. Any ~~person~~individual who willfully, as defined in section 12.1-02-02, makes a false report, or provides false information ~~which that~~ causes a report to be made, under this chapter is guilty of a class B misdemeanor unless the false report is made to a law enforcement official, in which case the ~~person~~individual who causes the false report to be made is guilty of a class A misdemeanor. ~~A person~~An individual who willfully makes a false report, or willfully provides false information that causes a report to be made, under this chapter is also liable in a civil action for all damages suffered by the person reported, including exemplary damages.

SECTION 20. AMENDMENT. Section 50-25.1-14 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-14. Unauthorized disclosure of reports - Penalty.

Any ~~person~~individual who permits or encourages the unauthorized disclosure of reports made or confidential information obtained under the provisions of this chapter is guilty of a class B misdemeanor.

³⁰⁷ **SECTION 21. AMENDMENT.** Section 50-25.1-15 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-15. Abandoned infant - Approved location procedure - Reporting immunity.

1. As used in this section:
 - a. "Abandoned infant" means an infant who has been abandoned at birth at a hospital or before reaching the age of one year regardless of the location of birth and who has been left with an on-duty staff member at an approved location in an unharmed condition.
 - b. "Approved location" means a hospital or other location as designated by administrative rule adopted by the department.
 - c. "Hospital" means a facility licensed under chapter 23-16.
2. A parent of an infant under the age of one year, or an agent of the parent with the parent's consent, may leave the infant with an on-duty staff member at an approved location. Neither the parent nor the agent is subject to prosecution under sections 14-07-15 and 14-09-22 for leaving an abandoned infant.
3. An approved location shall accept an infant left under this section. The approved location may request information regarding the parents and shall provide the parent or the agent with a medical history form and an envelope

³⁰⁷ Section 50-25.1-15 was also amended by section 41 of House Bill No. 1035, chapter 245, and section 470 of House Bill No. 1247, chapter 352.

with the approved location's return address. If a hospital accepting the infant has the infant's medical history, the hospital is not required to provide the parent or the agent with a medical history form. Neither the parent nor the agent is required to provide any information.

4. If an infant is left at a hospital, the hospital shall provide the parent or the agent with a numbered identification bracelet to link the parent or the agent to the infant, unless due to birth of the infant, the infant and parent currently have an identification bracelet. Possession of an identification bracelet does not entitle the bracelet holder to take custody of the infant on demand. If an individual possesses a bracelet linking the individual to an infant left at a hospital under this section and parental rights have not been terminated, possession of the bracelet creates a presumption that the individual has standing to participate in a protection services action brought under this chapter or chapter 27-20. Possession of the bracelet does not create a presumption of maternity, paternity, or custody.
5. The approved location may provide the parent or the agent with any relevant information, including:
 - a. Information about the safe place for abandoned infant programs;
 - b. Information about adoption and counseling services; and
 - c. Information about whom to contact if reunification is sought.
6. Within twenty-four hours of receiving an infant under this section, the approved location shall report to the department or authorized agent, as required by section 50-25.1-03, that an infant has been left at the approved location. The report may not be made before the parent or the agent leaves the approved location.
7. The approved location and its employees and agents are immune from any criminal or civil liability for accepting an infant under this section.
8. Upon receiving a report of an abandoned infant under this section, the department or authorized agent shall proceed as required under this chapter if it appears that the abandoned infant was not harmed, except the department or authorized agent may not attempt to identify or contact the parent or the agent. If it appears the infant who was left was harmed, the department or authorized agent shall initiate a child protection assessment of the matter as required by law.
9. If an individual claiming to be the parent or the agent contacts the department or authorized agent and requests to be reunited with the infant who was left, the department or authorized agent may identify or contact the individual as required under this chapter and all other applicable laws. If an individual contacts the department or authorized agent seeking information only, the department or authorized agent may attempt to obtain information regarding the identity and medical history of the parents and may provide information regarding the procedures in a case involving an infant who was left at an approved location. The individual is under no obligation to respond to the request for information, and the department or authorized agent may not attempt to compel response to investigate the identity or background of the individual.

10. The state department of health, in coordination with the department of human services, shall develop and implement a public awareness campaign to provide information, public service announcements, and educational materials regarding this section to the public, including medical providers, law enforcement, and social service agencies.

SECTION 22. AMENDMENT. Section 50-25.1-16 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-16. Prenatal exposure to controlled substances - Reporting requirements.

1. An individual required to report under section 50-25.1-03 who has knowledge of or reasonable cause to suspect that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy shall report the circumstances to the department or authorized agent if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity.
2. Any individual may make a voluntary report if the individual has knowledge of or reasonable cause to suspect that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy.
3. If a report alleges a pregnant woman's use of a controlled substance for a nonmedical purpose, the department or its designee authorized agent immediately shall immediately initiate an appropriate assessment and offer services indicated under the circumstances. Services offered may include a referral for an addiction assessment, a referral for substance use disorder treatment if recommended, or a referral for prenatal care. The department or its designee authorized agent may also take any appropriate action under chapter 25-03.1.
4. A report and assessment under this section is not required if the pregnant woman voluntarily enters treatment in a licensed treatment program. If the pregnant woman does not complete voluntary treatment or fails to follow treatment recommendations, an individual required to report under section 50-25.1-03 who has knowledge of the failure to complete voluntary treatment or failure to follow treatment recommendations shall make a report as required by this section.
5. A report under this section must be made as described in section 50-25.1-04 and must be sufficient to identify the woman, the nature and extent of use, if known, and the name and address of the individual making the report.

SECTION 23. AMENDMENT. Section 50-25.1-18 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-18. Prenatal exposure to alcohol abuse - Reporting requirements.

1. An individual required to report under section 50-25.1-03 who has knowledge of or reasonable cause to suspect that a woman is pregnant and has abused alcohol after the woman knows of the pregnancy may:
 - a. Arrange for an addiction assessment conducted by a licensed treatment program and confirm that the recommendations indicated by the assessment are followed; or

- b. Immediately report the circumstances to the department or authorized agent if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity.
2. An individual may make a voluntary report if the individual has knowledge of or reasonable cause to suspect that a woman is pregnant and has abused alcohol during the pregnancy.
3. If the woman is referred for an addiction assessment under subdivision a of subsection 1 and fails to obtain an assessment or refuses to comply with the recommendations of the assessment, an individual required to report under section 50-25.1-03 who has knowledge of the failure to obtain the assessment or refusal to comply with recommendations of the assessment shall make a report to the department or authorized agent.
4. If a report alleges a pregnant woman has abused alcohol, the department or ~~its designee~~authorized agent shall immediately initiate an appropriate assessment and offer services indicated under the circumstances. Services offered may include a referral for an addiction assessment, a referral for substance use disorder treatment, if recommended, or a referral for prenatal care. The department or ~~its designee~~authorized agent may also take any appropriate action under chapter 25-03.1.
5. A report and assessment under this section is not required if the pregnant woman voluntarily enters treatment in a licensed treatment program. If the pregnant woman does not complete voluntary treatment or fails to follow treatment recommendations, an individual required to report under section 50-25.1-03 who has knowledge of the failure to complete voluntary treatment or failure to follow treatment recommendations shall make a report as required by this section.
6. A report under this section must be made as described in section 50-25.1-04 and must be sufficient to identify the woman, the nature and extent of the abuse of alcohol, any health risk associated with the abuse of alcohol, and the name and address of the individual making the report.

SECTION 24. AMENDMENT. Section 50-25.1-19 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-19. Child protective services duties - Training requirements.

1. The department or authorized agent, at the initial time of contact with an individual subject to a child abuse or neglect assessment, shall advise the individual of the specific complaints or allegations made against the individual.
2. The department or authorized agent shall provide training to all representatives of the child protective services system regarding the legal duties of the representatives. The training may consist of various methods of informing the representatives of these duties, to protect the legal rights and safety of children and families from the initial time of contact during assessment through treatment.
3. The department shall adopt rules to implement the requirements of this section.

SECTION 25. AMENDMENT. Section 50-25.1-20 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-20. Alternative response assessment - Compliance.

If an alternative response assessment is initiated as a result of a report of child abuse or neglect, a decision that ~~services are required~~ a child is confirmed abused or neglected may not be made if the person responsible for the child's welfare complies with the resulting referred services and plan of safe care for the substance exposed newborn. The department or authorized agent shall determine whether a person responsible for the child's welfare has complied with the referred services and plan of safe care for the substance exposed newborn. If the department or authorized agent determines a person responsible for the child's welfare has not complied with the referred services and plan of safe care for the substance exposed newborn, an assessment of the initial report of child abuse or neglect may be completed.

SECTION 26. AMENDMENT. Section 50-25.1-21 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-21. Alternative response assessment - Services.

1. In response to an alternative response assessment, the department:
 - a. Shall provide referral services to, and monitor support services for, the person responsible for the child's welfare, the substance exposed newborn, and other children under the same care as may be necessary for their well-being and safety;
 - b. Shall develop a plan of safe care for the substance exposed newborn; and
 - c. May take any appropriate action under chapter 25-03.1.
2. The department may discharge the powers and duties provided under this section through an authorized agent.

SECTION 27. AMENDMENT. Section 50-25.1-22 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-22. Family services assessment - Compliance.

If a family services assessment is initiated as a result of a report of child abuse or neglect, a decision that ~~services are required~~ a child is confirmed abused or neglected may not be made if ~~the~~ a person responsible for the child's welfare complies with the resulting referred services for the child. The department or authorized agent shall determine whether a person responsible for the child's welfare has complied with the referred services. If the department or authorized agent determines a person responsible for the child's welfare has not complied with the referred services for the child, a child protection assessment of the initial report of child abuse or neglect may be completed.

SECTION 28. AMENDMENT. Section 50-25.1-23 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-23. Family services assessment - Services.

1. In response to a family services assessment, the department shall provide appropriate referral services to ~~the~~ a person responsible for the child's welfare

and the children under the same care as may be necessary for the well-being and safety of the children.

2. The department may discharge the powers and duties provided under this section through an authorized agent.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 378

SENATE BILL NO. 2131

(Senators Lee, Hogan, K. Roers)
(Representatives Hatlestad, Roers Jones, Westlind)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks requested by the department of human services; to amend and reenact section 50-25.1-11.1 of the North Dakota Century Code, relating to powers of the department of human services regarding requests for criminal history record checks made by children's advocacy centers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁰⁸ **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The department of human services for a criminal history record check for a children's advocacy center as authorized under section 50-25.1-11.1.

³⁰⁹ **SECTION 2. AMENDMENT.** Section 50-25.1-11.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-11.1. Confidentiality of children's Children's advocacy centercenters - Confidentiality of records - Criminal history record checks.

1. Records and digital media in the possession of a children's advocacy center relating to a forensic medical examination, forensic interview, or therapy are confidential and may be released only to a person other than a law enforcement agency, the department or the department's authorized agent, or a medical or mental health professional when the child comes before the medical or mental health professional in that person's professional capacity, upon service of a subpoena signed by a judge.
2. Upon receipt of a request by a children's advocacy center, the department may submit a request for a criminal history record check under section 12-60-24. Under this subsection, a children's advocacy center may require the following individuals to submit to a criminal history record check:

³⁰⁸ Section 12-60-24 was also amended by section 1 of House Bill No. 1073, chapter 98, section 2 of House Bill No. 1073, chapter 98, section 18 of House Bill No. 1247, chapter 352, section 1 of House Bill No. 1253, chapter 164 section 1 of Senate Bill No. 2062, chapter 452, section 1 of Senate Bill No. 2110, chapter 218, section 1 of Senate Bill No. 2174, chapter 447, section 1 of Senate Bill No. 2187, chapter 323, section 1 of Senate Bill No. 2338, chapter 379.

³⁰⁹ Section 50-25.1-11.1 was also amended by section 13 of Senate Bill No. 2002, chapter 30.

- a. An employee, final applicant for employment, contractor, multidisciplinary team member, or volunteer, who has contact with a child at or through a children's advocacy center; and
- b. An individual a children's advocacy center determines requires a criminal history record check to participate in services at a center.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 25, 2021

Filed March 26, 2021

SALES AND EXCHANGES

CHAPTER 379

SENATE BILL NO. 2338

(Senators Fors, J. Roers, Vedaa)
(Representatives Paur, Trottier)

AN ACT to create and enact subdivision yy of subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks; and to amend and reenact sections 51-05.1-01.1 and 51-05.1-02 of the North Dakota Century Code, relating to auctioneer's and clerk's licenses and standards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹⁰ **SECTION 1.** Subdivision yy of subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

yy. The public service commission for initial applicant licenses under chapter 51-05.1, except that criminal history record checks need not be made unless required by the public service commission.

SECTION 2. AMENDMENT. Section 51-05.1-01.1 of the North Dakota Century Code is amended and reenacted as follows:

51-05.1-01.1. Auctioneer's license - Clerk's license - Fees - Bonds.

1. The initial and renewal application for an annual auctioneer's or clerk's license must be ~~in writing, verified, submitted on forms designated by the commission,~~ and must show the name, residence, and address of the applicant. ~~An application must be filed at least ten days prior to the first auction sale the applicant is to conduct or clerk. Application for renewal of an annual license must be on forms designated by the commission.~~ The fee for the annual license or renewal is ~~thirty-five~~fifty dollars and must accompany the application. The name and license number must appear on all advertising of sales conducted by an auctioneer or clerk. Renewals that are not received by ~~January~~December thirty-first must be assessed an additional twenty-five dollar fee.
2. Before a license is issued to an auctioneer or clerk, the applicant must file a corporate surety bond with the commission. This bond must provide annual coverage of not less than five thousand dollars for an auctioneer or ten

³¹⁰ Section 12-60-24 was also amended by section 1 of House Bill No. 1073, chapter 98, section 2 of House Bill No. 1073, chapter 98, section 18 of House Bill No. 1247, chapter 352, section 1 of House Bill No. 1253, chapter 164, section 1 of Senate Bill No. 2062, chapter 452, section 1 of Senate Bill No. 2110, chapter 218, section 1 of Senate Bill No. 2131, chapter 378, section 1 of Senate Bill No. 2174, chapter 447, and section 1 of Senate Bill No. 2187, chapter 323.

thousand dollars for a clerk, must run to the state of North Dakota, and must be for the benefit of any person injured by the licensee's improper conduct. Bonds may not be canceled on less than sixty days' written notice to the commission. When notice of cancellation is received by the commission, the commission, without hearing, shall revoke the license for which the bond was issued effective with the effective date of the cancellation, unless the licensee files a new bond or evidence that the bond will be reinstated before the effective date of the cancellation. The size of the licensee's bond must be clearly and prominently stated in all contracts with sellers.

SECTION 3. AMENDMENT. Section 51-05.1-02 of the North Dakota Century Code is amended and reenacted as follows:

51-05.1-02. License standards.

1. Licenses may be granted only to persons who bear a good reputation for honesty, truthfulness, and fair dealing and who are competent to transact the business of an auctioneer or a clerk.
2. An applicant for a license must be at least eighteen years of age. Every applicant for a license as an auctioneer shall:
 - a. Have been actively engaged as a licensed auctioneer for a period of at least one year preceding the date of application; or
 - b. Furnish proof of satisfactory completion of an approved course of study relating to auctioneers.
3. The commission may request a first-time applicant for a license to pass a criminal background check. An applicant shall pay the costs associated with the performance of a criminal background check.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 380

SENATE BILL NO. 2154

(Senators Vedaa, Klein, Kreun)
(Representatives Louser, Thomas)

AN ACT to amend and reenact section 51-05.1-05 of the North Dakota Century Code, relating to handling of funds by a clerk of an auction sale.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 51-05.1-05 of the North Dakota Century Code is amended and reenacted as follows:

51-05.1-05. Handling of funds by clerk of auction sale.

Every clerk of an auction sale ~~shall~~, at all times, shall maintain in the clerk's name or firm name, a separate trust account designated as such in a federally insured bank or other federally insured depository in this state in which the clerk ~~immediately~~ shall immediately deposit all funds not the clerk's own, including funds in which the clerk may have some future interest or claim. A federally insured depository located outside the state but licensed as a clerk in this state is not required to deposit funds in a depository in this state if auction sale funds are deposited in a separate trust account designated as such in the licensee's depository. ~~No~~ A clerk may not commingle the clerk's personal funds or other funds in a trust account except that a clerk may deposit and keep a sum of one ~~hundred thousand~~ hundred thousand dollars in such account from the clerk's personal funds, which sum must be specifically identified and deposited to cover service charges related to the trust account. In conjunction with such account, the clerk shall maintain at the clerk's usual place of business books, records, and other documents so that the adequacy of such account may be determined at any time. Trust accounts and other records must be open to inspection by the public service commission and its duly authorized agents at all times during regular business hours at the clerk's usual place of business.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 381

HOUSE BILL NO. 1368

(Representatives O'Brien, Westlund)
(Senators Kreun, Patten)

AN ACT to create and enact section 51-07-28.1 of the North Dakota Century Code, relating to tracking devices on motor vehicles; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 51-07-28.1 of the North Dakota Century Code is created and enacted as follows:

51-07-28.1. Tracking devices on motor vehicles - Disclosure - Removal - Penalty.

1. A lender may not require a person to install or maintain a global tracking or positioning system or device on a motor vehicle for the purpose of locating or tracking the vehicle to repossess the vehicle in case of loan default, unless:
 - a. The lender includes within the financing contract, in a clear and conspicuous manner, information on the installation or placement of the system or device;
 - b. The system or device is installed at no cost to the buyer; and
 - c. The system or device is removed within sixty days of the loan for the motor vehicle being paid in full at:
 - (1) The expense of the seller or lender; and
 - (2) A location agreed upon by the seller or lender and buyer.
2. A lender that violates this section is subject to a fine of not more than five hundred dollars. In the case of a second or subsequent violation of this section, the lender is subject to a fine of not less than one thousand dollars nor more than two thousand dollars.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 382

HOUSE BILL NO. 1208

(Representatives Klemin, Kasper, Louser)
(Senators Dwyer, Hogue)

AN ACT to create and enact a new subsection to section 51-08.1-08 and section 51-15-12 of the North Dakota Century Code, relating to damages, injunctive relief, and limitation of actions; to amend and reenact section 51-08.1-07 of the North Dakota Century Code, relating to civil penalty and injunctive enforcement; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 51-08.1-07 of the North Dakota Century Code is amended and reenacted as follows:

51-08.1-07. Civil penalty and injunctive enforcement by state.

The attorney general, or a state's attorney with the permission or at the request of the attorney general, may bring an action for appropriate injunctive relief, equitable relief, including disgorgement, and civil penalties in the name of the state for a violation of this chapter. The trier of fact may assess for the benefit of the state a civil penalty of not more than fiftyone hundred thousand dollars for each violation of this chapter.

SECTION 2. A new subsection to section 51-08.1-08 of the North Dakota Century Code is created and enacted as follows:

The attorney general may bring an action as parens patriae on behalf of a person residing in the state to recover damages sustained by the person by reason of any violation of this chapter.

SECTION 3. Section 51-15-12 of the North Dakota Century Code is created and enacted as follows:

51-15-12. Limitation of actions.

Notwithstanding chapter 28-01, an action for relief under this chapter is barred if the claim is not commenced within four years after the claim for relief accrues. The period of limitation for a claim for relief may not be deemed to have accrued until the aggrieved party discovers the facts constituting the violation of this chapter.

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

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 383

SENATE BILL NO. 2259

(Senators Lee, Davison)
(Representatives Dockter, M. Johnson)

AN ACT to create and enact chapter 51-25.1 of the North Dakota Century Code, relating to tobacco product manufacturer certification, service, and reporting requirements; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 51-25.1 of the North Dakota Century Code is created and enacted as follows:

51-25.1-01. Definitions.

As used in this chapter:

1. "Brand family" means any style of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including "menthol", "lights", "kings", and "100s", and includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.
2. "Cigarette" has the same meaning as in section 51-25-01.
3. "Commissioner" means the tax commissioner.
4. "Distributor" has the same meaning as in section 57-36-01.
5. "Master settlement agreement" has the same meaning as in section 51-25-01.
6. "Nonparticipating manufacturer" means a tobacco product manufacturer that is not a participating manufacturer.
7. "Participating manufacturer" has the same meaning as in section 11(jj) of the master settlement agreement of 1998.
8. "Qualified escrow fund" has the same meaning as in section 51-25-01.
9. "Tobacco product manufacturer" has the same meaning as in section 51-25-01.
10. "Units sold" has the same meaning as in section 51-25-01.

51-25.1-02. Certification - Directory.

1. Before April thirtieth of each year, a tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor,

retailer, or similar intermediary, shall execute and deliver on a form prescribed by the attorney general a certification to the attorney general certifying under penalty of perjury that, as of the date of the certification, the tobacco product manufacturer either is a participating manufacturer or is in compliance with subsection 5 of section 51-25.1-04, subsection 2 of section 51-25-02, and any rules adopted under these provisions.

a. The participating manufacturer shall include a list of its brand families in the participating manufacturer's certification. The participating manufacturer shall update the list thirty calendar days before any addition to, or modification of, the participating manufacturer's brand families by executing and delivering a supplemental certification to the attorney general. The participating manufacturer shall include an electronic mail address and facsimile number in the certification to receive any notification required by this chapter.

b. A nonparticipating manufacturer shall include in the certification:

(1) A list of all the nonparticipating manufacturer's brand families and the number of units sold for each brand family sold in the state during the preceding calendar year;

(2) A list of all the nonparticipating manufacturer's brand families sold in the state during the current calendar year; and

(a) Indicate by an asterisk any brand family sold in the state during the preceding calendar year which is no longer being sold in the state as of the date of certification; and

(b) Identify by name and address any other manufacturer of the brand families in the preceding or current calendar year; and

(3) An electronic mail address and facsimile number to receive any notification required by this chapter.

c. The nonparticipating manufacturer shall update its list of brand families thirty days before any addition to, or modification of, the nonparticipating manufacturer's brand families by executing and delivering a supplemental certification to the attorney general.

d. The certification of the nonparticipating manufacturer further must certify:

(1) The nonparticipating manufacturer is registered to do business in the state or has appointed a resident agent for service of process, and provided notice thereof, as required by section 51-25.1-03.

(2) The nonparticipating manufacturer has:

(a) Established and continues to maintain a qualified escrow fund; and

(b) Executed a qualified escrow agreement that has been reviewed and approved by the attorney general which governs the qualified escrow fund.

- (3) The nonparticipating manufacturer is in compliance with this chapter, chapter 51-25, and any rules adopted under these chapters.
 - (4) With respect to a qualified escrow fund:
 - (a) The name, address, and telephone number of the financial institution in which the nonparticipating manufacturer has established the qualified escrow fund, and any rules adopted thereunder;
 - (b) The account number of the qualified escrow fund and any subaccount number for the state;
 - (c) The amount the nonparticipating manufacturer placed in the qualified escrow fund for cigarettes sold in the state during the preceding calendar year, the date and amount of each deposit, and any evidence or verification the attorney general deems necessary; and
 - (d) The amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the qualified escrow fund or from any other qualified escrow fund into which the nonparticipating manufacturer ever made any escrow payment under subsection 5 of section 51-25.1-04, chapter 51-25, and any rules adopted under these provisions.
 - e. A tobacco product manufacturer may not include a brand family in the certification unless:
 - (1) In the case of a participating manufacturer, the participating manufacturer affirms the brand family is the participating manufacturer's cigarettes for purposes of calculating the participating manufacturer's payments under the master settlement agreement for the relevant year, in the volume and shares determined under the master settlement agreement; and
 - (2) In the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms the brand family is to be deemed the nonparticipating manufacturer's cigarettes for purposes of chapter 51-25.
 - f. This section does not limit the state's right to maintain that a brand family constitutes the cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of chapter 51-25.
 - g. The tobacco product manufacturer shall retain all invoices and documentation of sales and other information relied on for the certification for a period of five years, unless otherwise required by law.
2. The attorney general shall develop and publish on the attorney general's website, a directory listing all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of subsection 1 and all brand families listed in the certifications, except as otherwise provided in this subsection.

- a. The attorney general may not include or retain in the directory the name or brand family of any tobacco product manufacturer that fails to provide the required certification or whose certification the attorney general determines is not in compliance with subsection 1, unless the attorney general has determined the violation has been cured.
 - b. A tobacco product manufacturer or brand family may be included or retained in the directory if the attorney general determines:
 - (1) In the case of a nonparticipating manufacturer, an escrow payment required under subsection 5 of section 51-25.1-04 or subsection 2 of section 51-25-02, for any period for any brand family, whether listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement approved by the attorney general.
 - (2) Any outstanding final judgment, including any interest, for a violation of chapter 51-25 has not been fully satisfied for the brand family and the tobacco product manufacturer.
 - c. The attorney general shall update the directory as necessary to correct mistakes, to add or remove a tobacco product manufacturer or brand family, and to keep the directory in conformity with the requirements of this chapter.
3. The attorney general may not remove a tobacco product manufacturer or the tobacco product manufacturer's brand family from the directory until the tobacco product manufacturer has been provided at least fifteen days' notice of the intended action. Notice is sufficient if sent either electronically or by facsimile to the electronic mail address or facsimile number provided by the tobacco product manufacturer in the tobacco product manufacturer's most recent certification filed under subsection 1.
4. It is unlawful for any person to sell, offer, or possess for sale in this state, cigarettes of a tobacco product manufacturer or brand family not included in the directory.
5. A person is deemed to have received notice that cigarettes of a tobacco product manufacturer or a brand family are not included in the directory maintained by the attorney general under subsection 2 at the time the attorney general's website fails to list any tobacco product manufacturer or brand family in the directory or at the time the attorney general removes the tobacco product manufacturer or brand family from the directory.

51-25.1-03. Agent for service of process.

1. Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity, as a condition precedent to having the nonparticipating manufacturer's brand families included or retained in the directory, shall appoint and continually engage without interruption the services of an agent in this state to act as agent for service of process on whom all process, and any action or proceeding against the nonparticipating manufacturer concerning or arising out of the enforcement of this chapter and chapter 51-25, may be served in any manner authorized by law. This service constitutes legal and valid service of process on the nonparticipating manufacturer. The nonparticipating

manufacturer shall provide the name, address, telephone number, and proof of the appointment and availability of the agent to the attorney general.

2. The nonparticipating manufacturer shall provide notice to the attorney general no less than thirty days before termination of the authority of an agent. The nonparticipating manufacturer shall provide proof, to the satisfaction of the attorney general, of the appointment of a new agent no less than five days before the termination of an existing agent appointment. If an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the attorney general of the termination within five days and shall include proof, to the satisfaction of the attorney general, of the appointment of a new agent.
3. A nonparticipating manufacturer whose products are sold in this state, without appointing or designating an agent as required by this section, is deemed to have appointed the secretary of state as the agent and the nonparticipating manufacturer may be proceeded against in courts of this state by service of process upon the secretary of state. The appointment of the secretary of state as the agent does not satisfy the condition precedent in subsection 1 for having the nonparticipating manufacturer's brand families included or retained in the directory.

51-25.1-04. Reporting of information - Escrow installments.

1. Not later than twenty days after the end of each calendar quarter, and more frequently if directed by the attorney general, a distributor shall submit information the attorney general requires to facilitate compliance with this chapter, including a list by brand family of the total number of cigarettes or, in the case of "roll-your-own", the equivalent stick count the distributor paid the excise tax due for the cigarettes. The distributor shall maintain and make available to the attorney general all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the attorney general for a period of five years. The distributor shall provide the information and documentation to the commissioner, together with any other information and documentation requested by the commissioner. The commissioner shall process the information and documentation as needed by the commissioner and as needed by the attorney general for the purposes of this chapter and chapter 51-25.
2. The commissioner may disclose to the attorney general any information in the commissioner's possession requested by the attorney general for purposes of determining compliance with and enforcement of this chapter. The commissioner and attorney general may share the information received under this chapter, and may share the information with a federal, state, or local agency for purposes of enforcement of chapter 51-25, this chapter, or any equivalent law of another state.
3. The attorney general may require from the nonparticipating manufacturer, at any time, proof from the financial institution in which the nonparticipating manufacturer has established a qualified escrow fund for the purpose of compliance with subsection 2 of section 51-25-02 of the amount of money in the qualified escrow fund, exclusive of interest, being held on behalf of the state, and the amount and date of each deposit to, and withdrawal from, the qualified escrow fund.
4. In addition to the information required to be submitted under chapter 51-25 and this chapter, the attorney general may require a distributor or tobacco

product manufacturer to submit any additional information, including samples of packaging or labeling of a brand family, as necessary to enable the attorney general to determine whether a tobacco product manufacturer is or will continue to be in compliance with this chapter and chapter 51-25.

5. In addition to the requirements of subsection 2 of section 51-25-02, and to promote compliance with this chapter:
 - a. The attorney general may require any nonparticipating manufacturer to make escrow deposits required by subsection 2 of section 51-25-02 in quarterly installments. Any escrow deposits required to be made in quarterly installments must be deposited into a qualified escrow fund no later than thirty calendar days after the end of the quarter in which the sales were made. The failure by a nonparticipating manufacturer to make any quarterly installment required by the attorney general subjects the nonparticipating manufacturer to any penalty and other remedy provided under section 51-25.1-02 and subsection 2 of section 51-25-02.
 - b. The attorney general may require production of information sufficient to enable the attorney general to determine the adequacy of each escrow deposit under this subsection and subsection 2 of section 51-25-02.

51-25.1-05. Penalties - Remedies.

1. In addition to any other civil or criminal remedy provided by law, upon a determination that a distributor has violated subsection 4 of section 51-25.1-02, or any rule adopted under that subsection, the attorney general may revoke the license of a distributor in the manner provided by section 57-36-04. Each sale or offer to sell cigarettes in violation of subsection 4 of section 51-25.1-02 constitutes a separate violation. For each violation, the attorney general may impose a civil penalty in an amount not to exceed five hundred percent of the retail value of the cigarettes sold or five thousand dollars, whichever is greater, upon a determination of violation of subsection 4 of section 51-25.1-02 or any rules adopted under that subsection.
2. Any cigarettes sold, offered for sale, or possessed for sale in this state, or imported for personal consumption in this state in violation of subsection 4 of section 51-25.1-02 are deemed contraband and are subject to seizure, by a law enforcement officer, and forfeiture as follows:
 - a. Upon the seizure of the cigarettes, and within two days thereafter, the law enforcement officer making the seizure shall deliver an inventory of the cigarettes seized to the person from whom the seizure was made, if known, and shall file a copy of the inventory with the attorney general.
 - b. Within ten days after the date of service of the inventory, the person from whom the seizure was made, or any other person claiming an interest in the cigarettes seized, may file a demand with the attorney general for a judicial determination of the issues of whether the cigarettes seized were, or lawfully are, subject to seizure and forfeiture. Within thirty days of the date of a timely demand, the attorney general shall institute an action in the district court of the county in which the seizure was made for a determination of the issues. The action must be brought by the attorney general in the name of the state. The district court shall hear the action, and determine the issues of fact and law.

- c. If a judgment of forfeiture is entered, the attorney general shall destroy the forfeited cigarettes unless the judgment is stayed pending an appeal to the supreme court.
 - d. If a demand for a judicial determination is made, and in the absence of an action commenced under this section or a stipulated settlement, the attorney general shall release the seized cigarettes to the person entitled to the cigarettes.
 - e. If a demand for judicial determination is not made, the seized cigarettes must be deemed forfeited to the state by operation of law and the cigarettes must be destroyed.
3. The attorney general may seek an injunction to restrain a threatened or actual violation of subsection 4 of section 51-25.1-02 or subsections 1 or 4 of section 51-25.1-04 by any person and to compel the person to comply with this subsection. In an action brought under this section, the state is entitled to recover the costs of investigation, costs of the action, and reasonable attorney's fees.
4. A person may not sell, distribute, acquire, hold, own, possess, transport, import, or cause to be imported cigarettes the person knows or should know are intended for distribution or sale in the state in violation of subsection 4 of section 51-25.1-02. A violation of this subsection is a class A misdemeanor.

51-25.1-06. Miscellaneous provisions - Penalties and remedies cumulative - Joint and several liability.

- 1. Any determination by the attorney general not to include in or to remove from the directory a tobacco product manufacturer or brand family is subject to judicial review by the filing of a civil action for prospective declaratory or injunctive relief. The Burleigh County district court has exclusive jurisdiction over the civil action.
- 2. A license or renewal of a license to act as a distributor may not be issued to a person unless the person certifies in writing the person will comply with this chapter.
- 3. A licensed distributor shall provide to the attorney general, and update as necessary, an electronic mail address and facsimile number to receive any notification required by this chapter.
- 4. The first report of a distributor required under subsection 1 of section 51-25.1-04 is due thirty days after the effective date of this chapter.
 - a. The first certification of a tobacco product manufacturer described under subsection 1 of section 51-25.1-02 is due forty-five days after the effective date of this chapter.
 - b. The directory described in subsection 2 of section 51-25.1-02 must be developed and made available for public inspection within one hundred twenty days after the effective date of this chapter.
- 5. The attorney general and commissioner may adopt rules necessary to effect the purposes of this chapter and chapter 51-25.

6. In any action brought by the state to enforce this chapter, the state is entitled to recover the costs of investigation, expert witness fees, costs of the action, and reasonable attorney's fees.
7. If a court determines a person has violated this chapter, the court shall order any profits, gain, gross receipts, or other benefit from the violation disgorged and paid to the general fund, and the court shall order payment of any taxes due under chapter 57-36.
8. Unless otherwise provided, remedies or penalties provided by this chapter are cumulative to each other and to remedies or penalties available under all other laws of this state.
9. If a court of competent jurisdiction finds this chapter in conflict with chapter 51-25 and the conflict cannot be harmonized, chapter 51-25 must control. If any portion of this chapter causes chapter 51-25 to no longer constitute a qualifying or model statute, as the terms are defined in the master settlement agreement, that portion of this chapter must be held to be invalid.
10. For each nonparticipating manufacturer located outside the United States, each importer into the United States of the nonparticipating manufacturer's brand families sold in the state has joint and several liability with the nonparticipating manufacturer for deposit of all escrow amounts due under subsection 2 of section 51-25-02 and payment of all penalties imposed under subsection 2 of section 51-25-02.

Approved April 12, 2021

Filed April 13, 2021

SOCIAL SECURITY

CHAPTER 384

HOUSE BILL NO. 1278

(Representatives Mock, Ista, Kasper, Lefor, Louser, Pyle, Schauer, Stemen)
(Senators Burckhard, Kreun, Oban)

AN ACT to create and enact a new subdivision to subsection 1 of section 52-06-02 of the North Dakota Century Code, relating to eligibility for unemployment compensation for military spouses; and to amend and reenact subdivision b of subsection 2 of section 52-04-07 of the North Dakota Century Code, relating to benefits paid chargeable to accounts of base-period employers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision b of subsection 2 of section 52-04-07 of the North Dakota Century Code is amended and reenacted as follows:

b. With benefits paid to an individual who:

- (1) Left the employment of the base-period employer voluntarily without good cause or with good cause not involving fault on the part of the base-period employer;
- (2) Was discharged from employment by the base-period employer for misconduct; or
- (3) Was separated from employment with the most recent employer for reasons directly attributable to domestic violence, stalking, or sexual assault; or
- (4) Is a military spouse who voluntarily left the most recent employment to relocate because of permanent change of station orders of the individual's military-connected spouse.

SECTION 2. A new subdivision to subsection 1 of section 52-06-02 of the North Dakota Century Code is created and enacted as follows:

This subsection does not apply if the individual is a military spouse who, after disclosure to the individual's employer and a reasonable attempt to maintain the employment relationship through accommodation, voluntarily left the most recent employment to relocate because of permanent change of station orders of the individual's military-connected spouse. For purposes of this subdivision:

- (1) "Military spouse" means the spouse of a member of the armed forces of the United States or a reserve component of the armed forces of the United States stationed in this state in accordance with military orders

or stationed in this state before a reassignment to duties outside this state.

- (2) "Permanent change of station orders" means the assignment, reassignment, or transfer of a member of the armed forces of the United States or a reserve component of the armed forces of the United States from the member's present duty station or location without return to the previous duty station or location.

Approved March 22, 2021

Filed March 23, 2021

SPORTS AND AMUSEMENTS

CHAPTER 385

SENATE BILL NO. 2250

(Senator Sorvaag)

AN ACT to amend and reenact sections 53-01-01.1 and 53-01-07 of the North Dakota Century Code, relating to combative sports.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

53-01-01.1. Mixed fighting style competition - Definition --Prohibition.

As used in this chapter, "mixed fighting style competition" means an advertised or professionally promoted exhibition or contest for which any type of admission fee is charged and in which participants who inflict or employ kicks, punches, blows, holds, and other techniques to injure, stun, choke, incapacitate, or disable an opponent. The techniques may include a combination of boxing, kickboxing, wrestling, grappling, or other recognized martial arts. Boxing and kickboxing exhibitions or contests without the combination of other techniques do not constitute mixed fighting style competitions. ~~A person may not advertise, promote, sponsor, hold, or participate in any mixed fighting style competition in this state until a mixed fighting style advisory board is authorized and appointed and rules governing the competitions have been adopted by the secretary of state under this chapter.~~

SECTION 2. AMENDMENT. Section 53-01-07 of the North Dakota Century Code is amended and reenacted as follows:

53-01-07. Duties of state commissioner of combative sports.

The secretary of state shall supervise all boxing, kickboxing, mixed fighting style competitions, or sparring exhibitions held in the state and may:

1. ~~Adopt combined rules governing the conduct of boxing, kickboxing, mixed fighting style competitions, and sparring exhibitions. In lieu of adopting combined rules the secretary of state may regulate the conduct of any boxing, kickboxing, mixed fighting style, or sparring match, competition, or exhibition through the use of the most recent uniform rules of boxing and the unified rules of mixed martial arts published by the association of boxing commissions.~~
2. Establish license fees for all boxers, kickboxers, mixed style fighters, boxing, kickboxing, and mixed fighting style competition promoters, managers, judges, timekeepers, cornerpersons, knockdown counters, matchmakers, and referees or other participants.

3. Charge a fee equal to the actual cost incurred to regulate the competitions and exhibitions.
4. Adopt rules allowing the secretary of state to perform screening tests for controlled substances, as defined in section 19-03.1-01, on boxers, kickboxers, and mixed style fighters participating in a competition or an exhibition.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 386

SENATE BILL NO. 2251

(Senators Hogue, D. Larsen, Schaible)
(Representatives B. Koppelman, Porter, D. Ruby)

AN ACT to amend and reenact subsection 1 of section 53-06.1-03 and section 53-06.1-11.1 of the North Dakota Century Code, relating to permitting certain political organizations that have a permit to conduct raffles to use the net proceeds for a political purpose.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 53-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as authorized by the attorney general, an organization that has its license suspended or revoked, or has relinquished or not renewed its license and not disbursed its net proceeds, is ineligible for a license or permit. Only one of two or more closely related organizations may have a license or permit at one time. A college or university fraternity, sorority, or club is not closely related to an educational organization. An organization shall apply for a permit as follows:
 - a. An organization recognized as a public-spirited organization by the governing body of a city or county may apply for permits. A local permit may allow the organization to conduct only raffles, bingo, or sports pools. A restricted event permit may allow the organization to conduct only raffles, bingo, sports pools, paddlewheels, twenty-one, and poker. The organization or closely related organizations as a whole may only award a primary prize that does not exceed eight thousand dollars and total prizes of all games do not exceed forty thousand dollars per year. These maximum prize amounts do not apply to raffles conducted under chapter 20.1-08. The determination of what is a "public-spirited organization" is within the sole discretion of the governing body. An organization shall disclose on the application its intended use of the net income from the gaming activity. A governing body may issue a permit for games to be held at designated times and places.
 - b. An organization shall apply to the governing body of the city or county in which the proposed site is located. Application must be made on a form prescribed by the attorney general. Approval may be granted at the discretion of the governing body. A governing body may establish a fee not to exceed twenty-five dollars for each permit. A permit must be on a fiscal year basis from July first to June thirtieth or on a calendar-year basis.
 - c. ~~Except for the restriction of subsection 1 of section 53-06.1-11.1, an~~ An organization that has a local permit or a restricted event permit may use the net income from the gaming activity for any purpose that does not violate this chapter or gaming rules, unless the organization is a state political party or legislative district party committee, the organization may

use the net income from a raffle for a political purpose. For purposes of this subdivision, a public-spirited use includes a political purpose.

- d. An organization that has a restricted event permit is restricted to one event per year and:
 - (1) May not pay remuneration to employees for personal services;
 - (2) Shall use chips as wagers;
 - (3) Shall redeem a player's chips for merchandise prizes or cash;
 - (4) Shall disburse net income to eligible uses referenced by ~~subsection 2~~ in subdivision c, if applicable, and in section 53-06.1-11.1; and
 - (5) Shall file a report prescribed by the attorney general with the governing body and attorney general.

³¹¹ **SECTION 2. AMENDMENT.** Section 53-06.1-11.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-11.1. Restricted use of money in certain political activities - Eligible uses of net proceeds.

1. Except as provided in subdivision c of subsection 1 of section 53-06.1-03:
 - a. A licensed organization or an organization that has a permit may not use money from any source for placing an initiated or referred measure on a ballot or for a political campaign to promote or oppose a person for public office.
 - b. Except for a use related to an organization's primary purpose, a licensed organization or organization that has a permit may not use net proceeds to influence legislation or promote or oppose referendums or initiatives.
 - c. Any funds expended by a licensed organization or an organization that has a permit to promote or oppose an initiated or referred measure that is on the ballot or for any activities of a lobbyist under section 54-05.1-02, that are not compensation or expenses paid to a lobbyist, and that are not required to be reported under section 54-05.1-03 must be reported to the attorney general as prescribed by the attorney general. A violation of this subsection subjects an organization to a suspension of its license or permit for up to one year.
2. A licensed organization or an organization that has a restricted event permit shall disburse net proceeds within the period prescribed by rule and for only these educational, charitable, patriotic, fraternal, religious, or public-spirited uses:
 - a. Uses for stimulating and promoting state and community-based economic development programs within the state which improve the quality of life of community residents.

³¹¹ Section 53-06.1-11.1 was also amended by section 1 of House Bill No. 1263, chapter 388.

- b. Uses for developing, promoting, and supporting tourism within a city, county, or the state.
- c. Uses benefiting an indefinite number of persons by bringing them under the influence of education, cultural programs, or religion which include disbursements to provide:
 - (1) Scholarships for students, if the disbursement is deposited in a scholarship fund for defraying the cost of education to students and the scholarships are awarded through an open and fair selection process.
 - (2) Supplementary assistance to a public or private nonprofit educational institution registered with or accredited by any state.
 - (3) Assistance to libraries and museums.
 - (4) Assistance for the performing arts and humanities.
 - (5) Preservation of cultural heritage.
 - (6) Youth community, social welfare, and athletic activities.
 - (7) Adult amateur athletic activities within the state, including team uniforms and equipment.
 - (8) Maintenance of places of public worship or support of a body of communicants, gathered in common membership for mutual support and edification in piety, worship, or religious observances.
 - (9) Scientific research.
- d. Uses benefiting an indefinite number of persons by relieving them of disease, suffering, or constraint which include disbursements to provide:
 - (1) Assistance to an individual or family suffering from poverty or homelessness.
 - (2) Encouragement and enhancement of the active participation of the elderly in our society.
 - (3) Services to the abused.
 - (4) Services to persons with an addicted behavior toward alcohol, gambling, or drugs.
 - (5) Funds to combat juvenile delinquency and rehabilitate ex-offenders.
 - (6) Relief for the sick, diseased, and terminally ill and their physical well-being.
 - (7) Funds for emergency relief and volunteer services.
 - (8) Funds to nonprofit nursing homes, nonprofit day care centers, and nonprofit medical facilities.

- (9) Social services and education programs aimed at aiding emotionally and physically distressed, handicapped, elderly, and underprivileged persons.
 - (10) Funds for crime prevention, fire protection and prevention, and public safety.
 - (11) Funds to relieve, improve, and advance the physical and mental conditions, care and medical treatment, and health and welfare of injured or disabled veterans.
- e. Uses that perpetuate the memory and history of the dead.
- f. Uses increasing comprehension of and devotion to the principles upon which the nation was founded, including disbursements to aid in teaching the principles of liberty, truth, justice, and equality. However, beauty pageants do not qualify.
- g. The erection or maintenance of public buildings, facilities, utilities, or waterworks.
- h. Uses lessening the burden of government which include disbursements to an entity that is normally funded by a city, county, state, or United States government and disbursements directly to a government entity or its agency.
- i. Uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm and the loss is not covered by insurance.
- j. Uses benefiting a definite number of persons suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense which is not covered by insurance.
- k. Uses, for community service projects, by chambers of commerce exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code. A project qualifies if it develops or promotes public services, including education, housing, transportation, recreation, crime prevention, fire protection and prevention, safety, tourism, and health. Uses that directly benefit a chamber of commerce do not qualify.
- l. Uses for or of benefit to efforts in support of the health, comfort, or well-being of the community which include disbursements to provide:
- (1) Funds for adult bands, including drum and bugle corps.
 - (2) Funds for trade shows and conventions conducted in this state.
 - (3) Funds for nonprofit organizations that operate a humane society, zoo, or fish or wildlife reproduction and habitat enhancement program.
 - (4) Funds for public transportation, community celebration, and recreation.
 - (5) Funds for preservation and cleanup of the environment.

- m. To the extent net proceeds are used toward the primary purpose of a charitable, educational, religious, public safety, or public-spirited organization, or are used for a veterans or public cemetery by a veterans organization, that has obtained a final determination from the internal revenue service as qualifying for exemption from federal income tax under section 501(c)(3) or 501(c)(19) of the Internal Revenue Code, the organization may establish a special trust fund or foundation as a contingency for funding or maintaining the organization's future program services should the organization discontinue conducting games or dissolve.
 - n. Uses for a fundraising activity unrelated to an organization's primary purpose provided that the gross revenue from the activity is disbursed to uses prescribed by this subsection.
- 3. With the exception of a veterans organization, the uses in subsection 2 do not include the erection, acquisition, improvement, maintenance, or repair of real or personal property owned or leased by an organization unless it is used exclusively for an eligible use.
 - 4. A licensed organization or recipient of net proceeds may not use net proceeds for administrative or operating expenses involving the conduct of games.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 387

HOUSE BILL NO. 1162

(Representatives Roers Jones, Dockter, Hanson, Keiser, Lefor, Porter, Pyle)
(Senators Bekkedahl, Davison)

AN ACT to amend and reenact section 53-06.1-10.1 of the North Dakota Century Code, relating to raffle ticket purchases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-06.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-10.1. Raffles.

1. A prize for a raffle may be cash or merchandise but may not be real estate. No single cash prize may exceed twenty-five thousand dollars and the total cash prizes in one day may not exceed twenty-five thousand dollars. However, on not more than two occasions per year a licensed organization may, at the request of a winning player, exchange a merchandise prize valued at not more than twenty-five thousand dollars for a cash prize.
2. The maximum cash prize limits of this section do not apply to a public-spirited organization that supports amateur collegiate athletics.
3. An organization permitted to conduct raffles in this state may conduct a fifty-fifty raffle either by manual drawing or by using a random number generator. Fifty-fifty raffle tickets must be sold and drawings held onsite at the location of and on the date of the event. Fifty-fifty raffles may not be conducted online over the internet.
4. A licensed organization permitted to conduct raffles in this state may sell online over the internet and may accept an electronic payment, including payment by a debit card or a credit card, for the purchase of a raffle ticket. An organization that accepts payment by credit card for the purchase of a raffle ticket shall limit an individual's ticket purchases using a credit card to five hundred dollars per day, not to exceed one thousand five hundred dollars per week. If a licensed organization accepts electronic payment for the purchase of a raffle ticket, the organization shall verify the ticket purchaser is at least eighteen years of age and physically is located in the state.

Approved April 27, 2021

Filed April 28, 2021

CHAPTER 388

HOUSE BILL NO. 1263

(Representatives Hanson, Dockter, Vetter)
(Senators Bekkedahl, Dever, Meyer)

AN ACT to amend and reenact subsection 3 of section 53-06.1-11.1 of the North Dakota Century Code, relating to eligible uses for charitable gaming net proceeds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹² **SECTION 1. AMENDMENT.** Subsection 3 of section 53-06.1-11.1 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~With the exception of a veterans organization, the~~ The eligible uses in subsection 2 do not include the erection, acquisition, property taxes, special assessments, improvement, maintenance, or repair of real ~~or personal~~ property owned or leased by an organization unless ~~if~~ the real property is used exclusively for an eligible use: or by a veterans organization.

Approved April 19, 2021

Filed April 20, 2021

³¹² Section 53-06.1-11.1 was also amended by section 2 of Senate Bill No. 2251, chapter 386.

CHAPTER 389

HOUSE BILL NO. 1212

(Representatives Dockter, Headland, Mitskog)
(Senators Meyer, Bell)

AN ACT to create and enact a new section to chapter 53-06.1 of the North Dakota Century Code, relating to the creation of a charitable gaming operating fund; to amend and reenact section 53-06.1-12 of the North Dakota Century Code, relating to charitable gaming tax; to provide a continuing appropriation; to provide for a transfer; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹³ **SECTION 1.** A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Charitable gaming operating fund - Attorney general - State treasurer - Continuing appropriation - Allocations - Transfer to the general fund.

1. There is created in the state treasury the charitable gaming operating fund. The fund consists of all gaming taxes, monetary fines, and interest and penalties collected under this chapter.
2. Excluding moneys in the charitable gaming operating fund appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming, all other moneys in the charitable gaming operating fund are appropriated to the attorney general on a continuing basis for quarterly allocations as follows:
 - a. Ten thousand dollars to the gambling disorder prevention and treatment fund.
 - b. Five percent of the total moneys deposited in the charitable gaming operating fund to cities and counties in proportion to the taxes collected under section 53-06.1-12 from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.
3. On or before June thirtieth of each odd-numbered year, the attorney general shall certify to the state treasurer the amount of accumulated funds in the charitable gaming operating fund which exceed the amount appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming for the subsequent biennium. The state treasurer shall transfer the certified amount from the charitable gaming operating fund to the general fund prior to the end of each biennium.

³¹³ Section 53-06.1-11.2 was amended by section 13 of House Bill No. 1003, chapter 3.

SECTION 2. AMENDMENT. Section 53-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-12. Gaming tax - Deposits and allocations.

1. A gaming tax is imposed on the total adjusted gross proceeds received by a licensed organization in a quarter and it must be computed and paid to the attorney general on a quarterly basis on the tax return. This tax must be paid from adjusted gross proceeds and is not part of the allowable expenses. For a licensed organization with adjusted gross proceeds:
 - a. Not exceeding ~~one million five hundred fifty~~ thousand dollars the tax is one percent of adjusted gross proceeds.
 - b. Exceeding ~~one million five hundred fifty~~ thousand dollars the tax is ~~fifteen thousand five hundred~~ dollars plus ~~two and twenty-five hundredths~~ twelve percent of adjusted gross proceeds exceeding ~~one million five hundred fifty~~ thousand dollars.
2. The tax must be paid to the attorney general at the time tax returns are filed.
3. ~~Except as provided in subsection 4, the~~The attorney general shall deposit gaming taxes, monetary fines, and interest and penalties collected in the ~~general charitable gaming operating fund in the state treasury.~~
4. ~~The attorney general shall deposit seven percent of the total taxes, less refunds, collected under this section into a gaming tax allocation fund. Pursuant to legislative appropriation, moneys in the fund must be distributed quarterly to cities and counties in proportion to the taxes collected under this section from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation under this subsection is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.~~

SECTION 3. EFFECTIVE DATE. Section 2 of this Act is effective for taxable events occurring after June 30, 2021.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 390

SENATE BILL NO. 2214

(Senators Dwyer, Bakke, Heitkamp)
(Representatives Heinert, Klemin)

AN ACT to amend and reenact subsection 6 of section 53-06.2-01, section 53-06.2-03, subsection 3 of section 53-06.2-07, and section 53-06.2-15 of the North Dakota Century Code, relating to the executive director of the North Dakota racing commission; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 53-06.2-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "~~Director~~Executive director" means the executive director of the commission.

SECTION 2. AMENDMENT. Section 53-06.2-03 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-03. ~~Director~~Executive director of racing - Appointment - Qualifications - Salary - Duties - Other personnel.

1. The commission shall appoint ~~aan~~ an executive director of racing. The commission shall establish the executive director's qualifications and salary.
2. The executive director shall devote such time to the duties of the office as the commission may prescribe. The executive director is the executive officer of the commission and shall enforce the rules and orders of the commission. The executive director shall perform other duties the commission prescribes.
3. The executive director may employ other persons as authorized by the commission.

SECTION 3. AMENDMENT. Subsection 3 of section 53-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

3. At least thirty days before the commission issues or renews a license to conduct races, the applicant shall deliver a complete copy of the application to the local jurisdiction governing body. The application to the commission must include a certificate verified by a representative of the applicant, indicating delivery of the application copy to the governing body. If the governing body of the local jurisdiction adopts a resolution disapproving the application for license or renewal and so informs the executive director within thirty days of receiving a copy of the application, the license to conduct races may not be issued or renewed.

SECTION 4. AMENDMENT. Section 53-06.2-15 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-15. Revocation, suspension, fine - Procedure.

The commission, on proof of violation by a licensee, its agents or employees, of this chapter or any rule adopted by the commission may, on reasonable notice to the licensee and after giving the licensee an opportunity to be heard, fine the licensee or revoke or suspend the license. If the license is revoked, the licensee is not eligible to receive another license within twelve months from the date of revocation. Every decision or order of the commission must be made in writing and filed with the executive director for preservation as a permanent record of the commission. The decision must be signed by the chairman, attested by the executive director, and dated.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 16, 2021

Filed April 16, 2021

STATE GOVERNMENT

CHAPTER 391

SENATE BILL NO. 2130

(Senators Lee, Anderson, Dever)
(Representatives Keiser, Meier, Weisz)

AN ACT to create and enact section 26.1-36-01.1 of the North Dakota Century Code, relating to the scope of health insurance mandates; and to amend and reenact section 54-03-28 of the North Dakota Century Code, relating to a cost-benefit analysis for mandated health insurance coverage measures; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 26.1-36-01.1 of the North Dakota Century Code is created and enacted as follows:

26.1-36-01.1. Scope - Accident and health insurance policy mandates.

Unless expressly provided otherwise, an accident and health insurance policy health coverage mandate under this chapter does not apply to an accident and health insurance policy that is a high-deductible health plan under 26 U.S.C. 223 if the mandate would cause the policy to fail to qualify as a high-deductible health plan under this federal law.

SECTION 2. AMENDMENT. Section 54-03-28 of the North Dakota Century Code is amended and reenacted as follows:

54-03-28. Health insurance mandated coverage of services - Cost-benefit analysis requirement.

1. If the legislative management determines a legislative measure mandating mandates health insurance coverage of services or payment for specified providers of services, the measure may not be acted on by any committee of the legislative assembly unless the measure is accompanied by a cost-benefit analysis provided by the legislative council referred to a committee of the legislative assembly unless a cost-benefit analysis provided by the legislative management is appended to that measure.
 - a. If a committee of the legislative assembly determines a measure mandating health insurance coverage of services or payment of specified providers was referred to committee without a cost-benefit analysis, the committee shall request the legislative management provide a cost-benefit analysis. The committee may not act on the measure unless the measure is accompanied by the cost-benefit analysis.
 - b. If a committee of the legislative assembly determines a proposed amendment to a measure mandates health insurance coverage of

services or payment of specified providers, the committee may not act on the proposed amendment unless the amendment is accompanied by a cost-benefit analysis or amended cost-benefit analysis provided by the legislative management.

2. Factors to consider in this considered in the cost-benefit analysis must include:

- a. The extent to which the proposed mandate would increase or decrease the cost of the service.
- b. The extent to which the proposed mandate would increase the appropriate use of the service.
- c. The extent to which the proposed mandate would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of insureds.
- d. The impact of the proposed mandate on the total cost of health care.

2-3. A committee of the legislative assembly may not act on a legislative measure mandating that the legislative management or committee determines mandates health insurance coverage of services or payment for specified providers of services may not be acted on by any committee of the legislative assembly unless the measure as recommended by the committee provides:

- a. The measure is effective through June thirtieth of the next odd-numbered year following the year in which the legislative assembly enacted the measure, and after that date the measure is ineffective.
- b. The application of the mandate is limited to the public employees health insurance program and the public employee retiree health insurance program. The application of such mandate begins with every contract for health insurance which becomes effective after June thirtieth of the year in which the measure becomes effective.
- c. That for the next legislative assembly, the public employees retirement system shall prepare and request introduction of a bill to repeal the expiration date and to extend the mandated coverage or payment to apply to accident and health insurance policies. The public employees retirement system shall append to the bill a report regarding the effect of the mandated coverage or payment on the system's health insurance programs. The report must include information on the utilization and costs relating to the mandated coverage or payment and a recommendation on whether the coverage or payment should continue. For purposes of this section, the bill is not a legislative measure mandating health insurance coverage of services or payment for specified providers of services, unless the bill is amended following introduction so as to change the bill's mandate.

3. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether a legislative measure mandates coverage of services under this section:

4. Any amendment made during a legislative session to a measure which mandates health insurance coverage of services may not be acted on by a

~~committee of the legislative assembly unless the amendment is accompanied by a cost-benefit analysis provided by the legislative council. The legislative management shall adopt a procedure for identifying measures and proposed measures mandating health insurance coverage of services or payment for specified providers of services. The procedure must include solicitation of draft measures and proposals during the interim between legislative sessions from legislators and agencies with bill introduction privileges and must include deadlines for identification of the measures or proposals.~~

5. The legislative council shall contract with a private entity, after receiving one or more recommendations from the insurance commissioner, to provide the legislative management the cost-benefit analysis required by this section. The insurance commissioner shall pay the cost of the contracted services to the entity providing the services.

SECTION 3. EFFECTIVE DATE. This Act is effective May 1, 2021.

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

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 392

HOUSE BILL NO. 1164

(Representatives Kading, Jones, M. Ruby, Schatz, Schauer, Toman)
(Senators Heitkamp, Kannianen, O. Larsen)

AN ACT to amend and reenact section 54-03-32 of the North Dakota Century Code, relating to the review of presidential executive orders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03-32 of the North Dakota Century Code is amended and reenacted as follows:

54-03-32. Review of presidential executive orders - Restriction.

1. The legislative management may review any executive order issued by the president of the United States which has not been affirmed by a vote of the Congress of the United States and signed into law as prescribed by the Constitution of the United States and recommend to the attorney general and the governor that the executive order be further reviewed. Upon recommendation from the legislative management, the attorney general shall review the executive order to determine the constitutionality of the order and whether the state should seek an exemption from the application of the order or seek to have the order declared to be an unconstitutional exercise of legislative authority by the president.
2. Notwithstanding any other provision of law, the state, a political subdivision, or any other publicly funded organization may not implement an executive order if the attorney general issues an opinion that the executive order unconstitutionally restricts a person's rights or has been found unconstitutional by a court of competent jurisdiction and the executive order relates to:
 - a. Pandemics or other health emergencies;
 - b. The regulation of natural resources, including coal and oil;
 - c. The regulation of the agriculture industry;
 - d. The use of land;
 - e. The regulation of the financial sector as it relates to environmental, social, or governance standards; or
 - f. The regulation of the constitutional right to keep and bear arms.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 393

HOUSE BILL NO. 1429

(Representatives Damschen, Heinert, Klemin, Monson)
(Senator O. Larsen)

AN ACT to amend and reenact section 54-03.3-01 of the North Dakota Century Code, relating to the compact for a balanced budget.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03.3-01 of the North Dakota Century Code is amended and reenacted as follows:

54-03.3-01. Adoption of compact.

The state of North Dakota enacts, adopts, and agrees to be bound by the Compact for a Balanced Budget with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I - DECLARATION OF POLICY, PURPOSE, AND INTENT

Whereas, every state enacting, adopting and agreeing to be bound by this compact intends to ensure that their respective legislature's use of the power to originate a Balanced Budget Amendment under Article V of the Constitution of the United States will be exercised conveniently and with reasonable certainty as to the consequences thereof.

Now, therefore, in consideration of their expressed mutual promises and obligations, be it enacted by every state enacting, adopting and agreeing to be bound by this compact, and resolved by each of their respective legislatures, as the case may be, to exercise herewith all of their respective powers as set forth herein notwithstanding any law to the contrary.

ARTICLE II - DEFINITIONS

1. "Compact" means this "Compact for a Balanced Budget".
2. "Convention" means the convention for proposing amendments organized by this compact under Article V of the Constitution of the United States and, where contextually appropriate to ensure the terms of this compact are not evaded, any other similar gathering or body, which might be organized as a consequence of Congress receiving the application set out in this compact and claim authority to propose or effectuate any amendment, alteration or revision to the Constitution of the United States. This term does not encompass a convention for proposing amendments under Article V of the Constitution of the United States that is organized independently of this compact based on the separate and distinct application of any state.
3. "State" means one of the several states of the United States. Where contextually appropriate, the term "state" shall be construed to include all of its

branches, departments, agencies, political subdivisions, and officers and representatives acting in their official capacity.

4. "Member state" means a state that has enacted, adopted, and agreed to be bound to this compact. For any state to qualify as a member state with respect to any other state under this compact, each such state must have enacted, adopted, and agreed to be bound by substantively identical compact legislation.
5. "Compact notice recipients" means the archivist of the United States, the president of the United States, the president of the United States Senate, the office of the secretary of the United States Senate, the speaker of the United States House of Representatives, the office of the clerk of the United States House of Representatives, the chief executive officer of each state, and the presiding officers of each house of the legislatures of the several states.
6. Notice. All notices required by this compact shall be by United States certified mail, return receipt requested, or an equivalent or superior form of notice, such as personal delivery documented by evidence of actual receipt.
7. "Balanced Budget Amendment" means the following:

"Article ____

Section 1. Total outlays of the government of the United States shall not exceed total receipts of the government of the United States at any point in time unless the excess of outlays over receipts is financed exclusively by debt issued in strict conformity with this article.

Section 2. Outstanding debt shall not exceed authorized debt, which initially shall be an amount equal to 105 percent of the outstanding debt on the effective date of this article. Authorized debt shall not be increased above its aforesaid initial amount unless such increase is first approved by the legislatures of the several states as provided in Section 3.

Section 3. From time to time, Congress may increase authorized debt to an amount in excess of its initial amount set by Section 2 only if it first publicly refers to the legislatures of the several states an unconditional, single subject measure proposing the amount of such increase, in such form as provided by law, and the measure is thereafter publicly and unconditionally approved by a simple majority of the legislatures of the several states, in such form as provided respectively by state law; provided that no inducement requiring an expenditure or tax levy shall be demanded, offered or accepted as a quid pro quo for such approval. If such approval is not obtained within sixty (60) calendar days after referral then the measure shall be deemed disapproved and the authorized debt shall thereby remain unchanged.

Section 4. Whenever the outstanding debt exceeds 98 percent of the debt limit set by Section 2, the President shall enforce said limit by publicly designating specific expenditures for impoundment in an amount sufficient to ensure outstanding debt shall not exceed the authorized debt. Said impoundment shall become effective thirty (30) days thereafter, unless Congress first designates an alternate impoundment of the same or greater amount by concurrent resolution, which shall become immediately

effective. The failure of the President to designate or enforce the required impoundment is an impeachable misdemeanor. Any purported issuance or incurrence of any debt in excess of the debt limit set by Section 2 is void.

Section 5. No bill that provides for a new or increased general revenue tax shall become law unless approved by a two-thirds roll call vote of the whole number of each House of Congress. However, this requirement shall not apply to any bill that provides for a new end user sales tax which would completely replace every existing income tax levied by the government of the United States; or for the reduction or elimination of an exemption, deduction, or credit allowed under an existing general revenue tax.

Section 6. For purposes of this article, "debt" means any obligation backed by the full faith and credit of the government of the United States; "outstanding debt" means all debt held in any account and by any entity at a given point in time; "authorized debt" means the maximum total amount of debt that may be lawfully issued and outstanding at any single point in time under this article; "total outlays of the government of the United States" means all expenditures of the government of the United States from any source; "total receipts of the government of the United States" means all tax receipts and other income of the government of the United States, excluding proceeds from its issuance or incurrence of debt or any type of liability; "impoundment" means a proposal not to spend all or part of a sum of money appropriated by Congress; and "general revenue tax" means any income tax, sales tax, or value-added tax levied by the government of the United States excluding imposts and duties.

Section 7. This article is immediately operative upon ratification, self-enforcing, and Congress may enact conforming legislation to facilitate enforcement."

ARTICLE III - COMPACT MEMBERSHIP AND WITHDRAWAL

1. This compact governs each member state to the fullest extent permitted by their respective constitutions, superseding and repealing any conflicting or contrary law.
2. By becoming a member state, each such state offers, promises, and agrees to perform and comply strictly in accordance with the terms and conditions of this compact, and has made such offer, promise, and agreement in anticipation and consideration of, and in substantial reliance upon, such mutual and reciprocal performance and compliance by each other current and future member state, if any. Accordingly, in addition to having the force of law in each member state upon its respective effective date, this compact and each of its articles shall also be construed as contractually binding each member state when:
 - a. At least one other state has likewise become a member state by enacting substantively identical legislation adopting and agreeing to be bound by this compact; and
 - b. Notice of such state's member state status is or has been seasonably received by the compact administrator, if any, or otherwise by the chief executive officer of each other member state.

3. For purposes of determining member state status under this compact, as long as all other provisions of the compact remain identical and operative on the same terms, legislation enacting, adopting, and agreeing to be bound by this compact shall be deemed and regarded as "substantively identical" with respect to such other legislation enacted by another state notwithstanding:
 - a. Any difference in subsection 2 of article IV with specific regard to the respectively enacting state's own method of appointing its member to the commission;
 - b. Any difference in subsection 5 of article IV with specific regard to the respectively enacting state's own obligation to fund the commission;
 - c. Any difference in subsections 1 and 2 of article VI with specific regard to the number and identity of each delegate respectively appointed on behalf of the enacting state, provided that no more than three delegates may attend and participate in the Convention on behalf of any state; or
 - d. Any difference in subsection 7 of article X with specific regard to the respectively enacting state as to whether subsection 1 of article V of this compact shall survive termination of the compact, and thereafter become a continuing resolution of the legislature of such state applying to Congress for the calling of a convention of the states under Article V of the Constitution of the United States, under such terms and limitations as may be specified by such state.
4. When fewer than three-fourths of the states are member states, any member state may withdraw from this compact by enacting appropriate legislation, as determined by state law, and giving notice of such withdrawal to the compact administrator, if any, or otherwise to the chief executive officer of each other member state. A withdrawal shall not affect the validity or applicability of the compact with respect to remaining member states, provided that there remain at least two such states. However, once at least three-fourths of the states are member states, then no member state may withdraw from the compact prior to its termination absent unanimous consent of all member states.

ARTICLE IV - COMPACT COMMISSION AND COMPACT ADMINISTRATOR

1. Nature of the compact commission. The compact commission ("commission") is hereby established. It has the power and duty:
 - a. To appoint and oversee a compact administrator;
 - b. To encourage states to join the compact and Congress to call the Convention in accordance with this compact;
 - c. To coordinate the performance of obligations under the compact;
 - d. To oversee the Convention's logistical operations as appropriate to ensure this compact governs its proceedings;
 - e. To oversee the defense and enforcement of the compact in appropriate legal venues;

- f. To request funds and to disburse those funds to support the operations of the commission, compact administrator, and Convention; and
 - g. To cooperate with any entity that shares a common interest with the commission and engages in policy research, public interest litigation, or lobbying in support of the purposes of the compact. The commission shall only have such implied powers as are essential to carrying out these express powers and duties. It shall take no action that contravenes or is inconsistent with this compact or any law of any state that is not superseded by this compact. It may adopt and publish corresponding bylaws and policies.
2. Commission membership. The commission initially consists of three unpaid members. Each member state may appoint one member to the commission through an appointment process to be determined by their respective chief executive officer until all positions on the commission are filled. Positions shall be assigned to appointees in the order in which their respective appointing states became member states. The bylaws of the commission may expand its membership to include representatives of additional member states and to allow for modest salaries and reimbursement of expenses if adequate funding exists.
3. Commission action. Each commission member is entitled to one vote. The commission shall not act unless a majority of its appointed membership is present, and no action shall be binding unless approved by a majority of the commission's appointed membership. The commission shall meet at least once a year, and may meet more frequently.
4. First order of business. The commission shall at the earliest possible time elect from among its membership a chairperson, determine a primary place of doing business, and appoint a compact administrator.
5. Funding. The commission and the compact administrator's activities shall be funded exclusively by each member state, as determined by their respective state law, or by voluntary donations.
6. Compact administrator. The compact administrator has the power and duty:
 - a. To timely notify the states of the date, time, and location of the Convention;
 - b. To organize and direct the logistical operations of the Convention;
 - c. To maintain an accurate list of all member states, their appointed delegates, including contact information; and
 - d. To formulate, transmit, and maintain all official notices, records, and communications relating to this compact. The compact administrator shall only have such implied powers as are essential to carrying out these express powers and duties; and shall take no action that contravenes or is inconsistent with this compact or any law of any state that is not superseded by this compact. The compact administrator serves at the pleasure of the commission and must keep the commission seasonably apprised of the performance or nonperformance of the terms and conditions of this compact. Any notice sent by a member state to the compact administrator concerning this compact shall be adequate notice

to each other member state provided that a copy of said notice is seasonably delivered by the compact administrator to each other member state's respective chief executive officer.

7. Notice of key events. Upon the occurrence of each of the following described events, or otherwise as soon as possible, the compact administrator shall immediately send the following notices to all compact notice recipients, together with certified conforming copies of the chaptered version of this compact as maintained in the statutes of each member state:
 - a. Whenever any state becomes a member state, notice of that fact shall be given;
 - b. Once at least three-fourths of the states are member states, notice of that fact shall be given together with a statement declaring that the legislatures of at least two-thirds of the several states have applied for a convention for proposing amendments under Article V of the Constitution of the United States, petitioning Congress to call the Convention contemplated by this compact, and further requesting cooperation in organizing the same in accordance with this compact;
 - c. Once Congress has called the Convention contemplated by this compact, and whenever the date, time, and location of the Convention has been determined, notice of that fact shall be given together with the date, time, and location of the Convention and other essential logistical matters;
 - d. Upon approval of the Balanced Budget Amendment by the Convention, notice of that fact shall be given together with the transmission of certified copies of such approved proposed amendment and a statement requesting Congress to refer the same for ratification by three-fourths of the legislatures of the several states under Article V of the Constitution of the United States. However, in no event shall any proposed amendment other than the Balanced Budget Amendment be transmitted; and
 - e. When any article of this compact prospectively ratifying the Balanced Budget Amendment is effective in any member state, notice of the same shall be given together with a statement declaring such ratification and further requesting cooperation in ensuring that the official record confirms and reflects the effective corresponding amendment to the Constitution of the United States. However, whenever any member state enacts appropriate legislation, as determined by the laws of the respective state, withdrawing from this compact, the compact administrator shall immediately send certified conforming copies of the chaptered version of such withdrawal legislation as maintained in the statutes of each such withdrawing member state, solely to each chief executive officer of each remaining member state, giving notice of such withdrawal.
8. Cooperation. The commission, member states, and compact administrator shall cooperate with each other and give each other mutual assistance in enforcing this compact and shall give the chief law enforcement officer of each other member state any information or documents that are reasonably necessary to facilitate the enforcement of this compact.
9. This article does not take effect until there are at least two member states.

ARTICLE V - RESOLUTION APPLYING FOR CONVENTION

1. Be it resolved, as provided for in Article V of the Constitution of the United States, the legislature of each member state herewith applies to Congress for the calling of a convention for proposing amendments limited to the subject matter of proposing for ratification the Balanced Budget Amendment.
2. Congress is further petitioned to refer the Balanced Budget Amendment to the states for ratification by three-fourths of their respective legislatures.
3. This article does not take effect until at least three-fourths of the several states are member states.

ARTICLE VI - DELEGATE APPOINTMENT, LIMITATIONS, AND INSTRUCTIONS

1. Number of delegates. Each member state shall be entitled to ~~one delegate as its sole and exclusive representative~~ three delegates to represent its sovereign interests at the Convention as set forth in this article.
2. Identity of delegates. ~~Each member state's chief executive officer, who is serving on the enactment date of this compact, is appointed in an individual capacity to represent his or her respective state at the Convention as its sole and exclusive delegate.~~ The governor, speaker of the house of representatives, and president pro tempore of the senate of the member state who hold office at the time of the Convention, or the officers' designees as identified in sworn affidavits executed by the officers, are each appointed in an individual capacity to represent the member state at the Convention as the member state's sole and exclusive delegates. A majority of this delegation shall decide the issue at the Convention on behalf of the member state.
3. Replacement or recall of delegates. A delegate appointed hereunder may be replaced or recalled by the legislature of his or her respective state at any time for good cause, such as criminal misconduct or the violation of this compact. If replaced or recalled, any delegate previously appointed hereunder must immediately vacate the Convention and return to their respective state's capital.
4. Oath. The power and authority of a delegate under this article may only be exercised after the Convention is first called by Congress in accordance with this compact and such appointment is duly accepted by such appointee publicly taking the following oath or affirmation: "I do solemnly swear (or affirm) that I accept this appointment and will act strictly in accordance with the terms and conditions of the compact for a balanced budget, the constitution of the state I represent, and the Constitution of the United States. I understand that violating this oath (or affirmation) forfeits my appointment and may subject me to other penalties as provided by law."
5. Term. The term of a delegate hereunder commences upon acceptance of appointment and terminates upon the permanent adjournment of the Convention, unless shortened by recall, replacement, or forfeiture under this article. Upon expiration of such term, any person formerly serving as a delegate must immediately withdraw from and cease participation at the Convention, if any is proceeding.

6. Delegate authority. The power and authority of any delegate appointed hereunder is strictly limited:
 - a. To introducing, debating, voting upon, proposing, and enforcing the Convention rules specified in this compact, as needed to ensure those rules govern the Convention; and
 - b. To introducing, debating, voting upon, and rejecting or proposing for ratification the Balanced Budget Amendment. All actions taken by any delegate in violation of this section are void ab initio.
7. Delegate authority. No delegate of any member state may introduce, debate, vote upon, reject, or propose for ratification any constitutional amendment at the Convention unless:
 - a. Convention rules specified in this compact govern the Convention and their actions; and
 - b. The constitutional amendment is the Balanced Budget Amendment.
8. Delegate authority. The power and authority of any delegate at the Convention does not include any power or authority associated with any other public office held by the delegate. Any person appointed to serve as a delegate shall take a temporary leave of absence, or otherwise shall be deemed temporarily disabled, from any other public office held by the delegate while attending the Convention, and may not exercise any power or authority associated with any other public office held by the delegate, while attending the Convention. All actions taken by any delegate in violation of this section are void ab initio.
9. Order of business. Before introducing, debating, voting upon, rejecting, or proposing for ratification any constitutional amendment at the Convention, each delegate of every member state must first ensure the Convention rules in this compact govern the Convention and their actions. Every delegate and each member state must immediately vacate the Convention and notify the compact administrator by the most effective and expeditious means if the Convention rules in this compact are not adopted to govern the Convention and their actions.
10. Forfeiture of appointment. If any member state or delegate violates any provision of this compact, then every delegate of that member state immediately forfeits his or her appointment, and shall immediately cease participation at the Convention, vacate the Convention, and return to his or her respective state's capital.
11. Expenses. A delegate appointed hereunder is entitled to reimbursement of reasonable expenses for attending the Convention from his or her respective member state. No delegate may accept any other form of remuneration or compensation for service under this compact.

ARTICLE VII - CONVENTION RULES

1. Nature of the Convention. The Convention shall be organized, construed, and conducted as a body exclusively representing and constituted by the several states.

2. Agenda of the Convention. The agenda of the Convention shall be entirely focused upon and exclusively limited to introducing, debating, voting upon, and rejecting or proposing for ratification the Balanced Budget Amendment under the Convention rules specified in this article and in accordance with the compact. It shall not be in order for the Convention to consider any matter that is outside the scope of this agenda.
3. Delegate identity and procedure. States shall be represented at the Convention through duly appointed delegates. The number, identity, and authority of delegates assigned to each state shall be determined by this compact in the case of member states or, in the case of states that are not member states, by their respective state laws. However, to prevent disruption of proceedings, no more than three delegates may attend and participate in the Convention on behalf of any state. A certified chaptered conforming copy of this compact, together with government-issued photographic proof of identification, shall suffice as credentials for delegates of member states. Any commission for delegates of states that are not member states shall be based on their respective state laws, but it shall furnish credentials that are at least as reliable as those required of member states.
4. Voting. Each state represented at the Convention shall have one vote, exercised by the vote of that state's delegate in the case of states represented by one delegate, or, in the case of any state that is represented by more than one delegate, by the majority vote of that state's respective delegates.
5. Quorum. A majority of the several states of the United States, each present through its respective delegate in the case of any state that is represented by one delegate, or through a majority of its respective delegates, in the case of any state that is represented by more than one delegate, shall constitute a quorum for the transaction of any business on behalf of the Convention.
6. Action by the Convention. The Convention shall only act as a committee of the whole, chaired by the delegate representing the first state to have become a member state, if that state is represented by one delegate, or otherwise by the delegate chosen by the majority vote of that state's respective delegates. The transaction of any business on behalf of the Convention, including the designation of a secretary, the adoption of parliamentary procedures, and the rejection or proposal of any constitutional amendment, requires a quorum to be present and a majority affirmative vote of those states constituting the quorum.
7. Emergency suspension and relocation of the Convention. In the event that the chair of the Convention declares an emergency due to disorder or an imminent threat to public health and safety prior to the completion of the business on the agenda, and a majority of the states present at the Convention do not object to such declaration, further Convention proceedings shall be temporarily suspended, and the commission shall subsequently relocate or reschedule the Convention to resume proceedings in an orderly fashion in accordance with the terms and conditions of this compact with prior notice given to the compact notice recipients.
8. Parliamentary procedure. In adopting, applying, and formulating parliamentary procedure, the Convention shall exclusively adopt, apply, or appropriately adapt provisions of the most recent editions of Robert's Rules of Order and the American Institute of Parliamentarians Standard Code of Parliamentary

Procedure. In adopting, applying, or adapting parliamentary procedure, the Convention shall exclusively consider analogous precedent arising within the jurisdiction of the United States. Parliamentary procedures adopted, applied, or adapted pursuant to this section shall not obstruct, override, or otherwise conflict with this compact.

9. Transmittal. Upon approval of the Balanced Budget Amendment by the Convention to propose for ratification, the chair of the Convention shall immediately transmit certified copies of such approved proposed amendment to the compact administrator and all compact notice recipients, notifying them respectively of such approval and requesting Congress to refer the same for ratification by the states under Article V of the Constitution of the United States. However, in no event shall any proposed amendment other than the Balanced Budget Amendment be transmitted as aforesaid.
10. Transparency. Records of the Convention, including the identities of all attendees and detailed minutes of all proceedings, shall be kept by the chair of the Convention or secretary designated by the Convention. All proceedings and records of the Convention shall be open to the public upon request subject to reasonable regulations adopted by the Convention that are closely tailored to preventing disruption of proceedings under this article.
11. Adjournment of the Convention. The Convention shall permanently adjourn upon the earlier of twenty-four hours after commencing proceedings under this article or the completion of the business on its agenda.

ARTICLE VIII - PROHIBITION ON ULTRA VIRES CONVENTION

1. Member states shall not participate in the Convention unless:
 - a. Congress first calls the Convention in accordance with this compact; and
 - b. The Convention rules of this compact are adopted by the Convention as its first order of business.
2. Any proposal or action of the Convention is void ab initio and issued by a body that is conducting itself in an unlawful and ultra vires fashion if that proposal or action:
 - a. Violates or was approved in violation of the Convention rules or the delegate instructions and limitations on delegate authority specified in this compact;
 - b. Purports to propose or effectuate a mode of ratification that is not specified in Article V of the Constitution of the United States; or
 - c. Purports to propose or effectuate the formation of a new government. All member states are prohibited from advancing or assisting in the advancement of any such proposal or action.
3. Member states shall not ratify or otherwise approve any proposed amendment, alteration, or revision to the Constitution of the United States, which originates from the Convention, other than the Balanced Budget Amendment.

ARTICLE IX - RESOLUTION PROSPECTIVELY RATIFYING**THE BALANCED BUDGET AMENDMENT**

1. Each member state, by and through its respective legislature, hereby adopts and ratifies the Balanced Budget Amendment.
2. This article does not take effect until Congress effectively refers the Balanced Budget Amendment to the states for ratification by three-fourths of the legislatures of the several states under Article V of the Constitution of the United States.

ARTICLE X - CONSTRUCTION, ENFORCEMENT, VENUE, AND SEVERABILITY

1. To the extent that the effectiveness of this compact or any of its articles or provisions requires the alteration of local legislative rules, drafting policies, or procedure to be effective, the enactment of legislation enacting, adopting, and agreeing to be bound by this compact shall be deemed to waive, repeal, supersede, or otherwise amend and conform all such rules, policies, or procedures to allow for the effectiveness of this compact to the fullest extent permitted by the constitution of any affected member state.
2. Date and location of the Convention. Unless otherwise specified by Congress in its call, the Convention shall be held in Dallas, Texas, and commence proceedings at 9:00 a.m. central standard time on the sixth Wednesday after the latter of the effective date of article V of this compact or the enactment date of the Congressional resolution calling the Convention.
3. In addition to all other powers and duties conferred by state law which are consistent with the terms and conditions of this compact, the chief law enforcement officer of each member state is empowered to defend the compact from any legal challenge, as well as to seek civil mandatory and prohibitory injunctive relief to enforce this compact; and shall take such action whenever the compact is challenged or violated.
4. The exclusive venue for all actions in any way arising under this compact shall be in the United States District Court for the northern district of Texas or the courts of the state of Texas within the jurisdictional boundaries of the foregoing district court. Each member state shall submit to the jurisdiction of said courts with respect to such actions. However, upon written request by the chief law enforcement officer of any member state, the commission may elect to waive this provision for the purpose of ensuring an action proceeds in the venue that allows for the most convenient and effective enforcement or defense of this compact. Any such waiver shall be limited to the particular action to which it is applied and not construed or relied upon as a general waiver of this provision. The waiver decisions of the commission under this provision shall be final and binding on each member state.
5. The effective date of this compact and any of its articles is the latter of:
 - a. The date of any event rendering the same effective according to its respective terms and conditions; or
 - b. The earliest date otherwise permitted by law.

6. Article VIII of this compact is hereby deemed nonseverable prior to termination of the compact. However, if any other phrase, clause, sentence, or provision of this compact, or the applicability of any other phrase, clause, sentence, or provision of this compact to any government, agency, person, or circumstance, is declared in a final judgment to be contrary to the Constitution of the United States, contrary to the state constitution of any member state, or is otherwise held invalid by a court of competent jurisdiction, such phrase, clause, sentence, or provision shall be severed and held for naught, and the validity of the remainder of this compact and the applicability of the remainder of this compact to any government, agency, person, or circumstance shall not be affected. Furthermore, if this compact is declared in a final judgment by a court of competent jurisdiction to be entirely contrary to the state constitution of any member state or otherwise entirely invalid as to any member state, such member state shall be deemed to have withdrawn from the compact, and the compact shall remain in full force and effect as to any remaining member state. Finally, if this compact is declared in a final judgment by a court of competent jurisdiction to be wholly or substantially in violation of Article I, Section 10, of the Constitution of the United States, then it shall be construed and enforced solely as reciprocal legislation enacted by the affected member states.
7. Termination. This compact shall terminate and be held for naught when the compact is fully performed and the Constitution of the United States is amended by the Balanced Budget Amendment. However, notwithstanding anything to the contrary set forth in this compact, in the event such amendment does not occur ~~within seven years after the first state passes legislation enacting, adopting, and agreeing to be bound to this compact on or before April 12, 2031,~~ the compact shall terminate as follows:
 - a. The commission shall dissolve and wind up its operations within ninety days thereafter, with the compact administrator giving notice of such dissolution and the operative effect of this section to the compact notice recipients; and
 - b. Upon the completed dissolution of the commission, this compact shall be deemed terminated, repealed, void ab initio, and held for naught.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 394

HOUSE BILL NO. 1058

(Government and Veterans Affairs Committee)
(At the request of the Office of Management and Budget)

AN ACT to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to the state's leave sharing program; to amend and reenact section 54-06-14.4 of the North Dakota Century Code, relating to state employee leave for organ or bone marrow donation; and to repeal sections 54-06-14.1 and 54-06-14.2 of the North Dakota Century Code, relating to the state's leave sharing program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-14.4 of the North Dakota Century Code is amended and reenacted as follows:

54-06-14.4. State employee leave for organ or bone marrow donation.

The executive officer in charge of a state agency may grant a leave of absence, not to exceed twenty workdays, to an employee for the purpose of donating an organ or bone marrow. Notwithstanding the limitations for the donation and use of donated leave under ~~sections 54-06-14.1 and 54-06-14.2~~ section 2 of this Act, an employee may request and use donated annual leave or sick leave for the purpose of donating an organ or bone marrow. If an employee requests donations of sick leave or annual leave, but does not receive the full amount needed for the donation of an organ or bone marrow, the executive officer of the state agency may grant a paid leave of absence for the remainder of the leave up to the maximum total of twenty workdays. The executive officer of the state agency may require verification by a physician regarding the purpose of the leave requested and information from the physician regarding the length of the leave requested. Any paid leave of absence granted under this section may not result in a loss of compensation, seniority, annual leave, sick leave, or accrued overtime for which the employee is otherwise eligible.

SECTION 2. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

State leave sharing program - Rulemaking.

1. The human resource management services division of the office of management and budget shall establish a state leave sharing program for permanent employees of the state. The program must provide for a mechanism for state employees to donate accrued annual and sick leave to an employee who does not have available leave who is suffering from a severe, extreme, or life-threatening condition or who is caring for an immediate relative or household member who is suffering from a severe, extreme, or life-threatening condition.
2. A probationary, temporary, or contracted employee with a limited-term appointment is not eligible to participate in the leave sharing program. An employee may not use more than four months donated leave in any twelve-

month period and an employee may not retain leave beyond the occurrence necessitating the leave.

3. The human resource services division shall:

- a. Require medical certification from a physician, physician assistant, psychologist, or advanced practice nurse practitioner verifying the severe, extreme, or life-threatening nature of the medical condition and the expected duration of the condition;
- b. Track the amount of leave taken by permanent state employees under the program; and
- c. Adopt rules in accordance with chapter 28-32 to implement this section.

SECTION 3. REPEAL. Sections 54-06-14.1 and 54-06-14.2 of the North Dakota Century Code are repealed.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 395

HOUSE BILL NO. 1453

(Representative Pollert)
(Senator Wardner)

AN ACT to create and enact a new section to chapter 54-10 and a new section to chapter 54-35 of the North Dakota Century Code, relating to protections for individuals who report potential violations of law and the legislative audit and fiscal review committee; and to amend and reenact subsection 1 of section 34-11.1-04, and sections 54-10-01, 54-10-26, 54-35-02.2 of the North Dakota Century Code, relating to protections for public employees who report potential violations of law, the powers and duties of the state auditor, state auditor working papers, and the legislative audit and fiscal review committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 34-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

1. An employee may, without fear of reprisal, may report in writing to the employee's respective agency head, a state's attorney, the attorney general, the state auditor, or an employee organization the existence of:
 - a. A job-related violation of local, state, or federal law, rule, regulation, or ordinance.
 - b. The job-related misuse of public resources.

SECTION 2. AMENDMENT. Section 54-10-01 of the North Dakota Century Code is amended and reenacted as follows:

54-10-01. Powers and duties of state auditor.

The state auditor shall:

1. ~~Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of the state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.~~
2. ~~Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state and perform or provide for the audits and reviews of state agencies. Except for the annual audit of the North Dakota lottery required by section 53-12.1-03, the state auditor shall audit or review each state agency once every two years. The state auditor shall determine the contents of the audits and reviews of state agencies. The state auditor may conduct any work required by the federal government. The state auditor may not contract for work required by the federal government without the prior approval of the legislative audit and fiscal review committee. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state~~

auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for any agency that receives and expends both general fund and nongeneral fund moneys. State agencies must use nongeneral fund moneys to pay for audits performed by the state auditor. If nongeneral fund moneys are not available, the agency may, upon approval of the legislative assembly, or the budget section if the legislative assembly is not in session, use general fund moneys to pay for audits performed by the state auditor. The budget section reviews and approvals must comply with section 54-35-02.9. Audits and reviews may be conducted at more frequent intervals if requested by the governor or legislative audit and fiscal review committee.

3. Be vested with the authority to determine whether to audit the International Peace Garden at the request of the board of directors of the International Peace Garden.
4. Perform or provide for performance audits of state agencies, or the agencies' blended component units or discreetly presented component units, as determined necessary by the legislative assembly; the legislative audit and fiscal review committee; or the state auditor, subject to approval by the legislative audit and fiscal review committee. A performance audit must be done in accordance with generally accepted auditing standards applicable to performance audits. The state auditor may not hire a consultant to assist with conducting a performance audit of a state agency without the prior approval of the legislative audit and fiscal review committee. The state auditor shall notify an agency of the need for a consultant before requesting approval by the legislative audit and fiscal review committee. The agency that is audited shall pay for the cost of any consultant approved.
5. For the audits and reviews the state auditor is authorized to perform or provide for under this section, the audit or review may be provided for by contract with a private certified or licensed public accountant or other qualified professional. If the state auditor determines that the audit or review will be done pursuant to contract, the state auditor, except for occupational or professional boards, shall execute the contract, and any executive branch agency, including higher education institutions, shall pay the fees of the contractor.
6. Be responsible for the above functions and report thereon to the governor and the secretary of state in accordance with section 54-06-04 or more often as circumstances may require.
7. Perform all other duties as prescribed by law.
8. Perform work on mineral royalties for the federal government in accordance with section 1735(a) of the Mineral Lands and Mining Act [30 U.S.C. 1735 et seq.]. The state auditor shall:
 - a. Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.
 - b. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive

- annual financial report of the state in accordance with government auditing standards.
- c. Perform or provide for audits of state agencies in accordance with government auditing standards and legislative audit and fiscal review committee guidelines developed under section 6 of this Act. Except for the annual audit of the North Dakota lottery required by section 53-12.1-03, the state auditor shall audit each state agency once every two years. Audits may be conducted at more frequent intervals if requested by the governor or the legislative audit and fiscal review committee. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for an agency that receives and expends both general fund and nongeneral fund moneys. State agencies shall use nongeneral fund moneys to pay for the cost of the audit. If nongeneral fund moneys are not available, the agency may, upon approval of the legislative assembly, or the budget section if the legislative assembly is not in session, use general fund moneys to pay for the audit. Any budget section action under this subdivision must comply with section 54-35-02.9.
 - d. Perform or provide for performance audits of state agencies, or the agencies' blended component units or discreetly presented component units, as determined necessary by the legislative assembly, or the legislative audit and fiscal review committee if the legislative assembly is not in session. When determining the necessity of a performance audit, the legislative audit and fiscal review committee shall consider:

 - (1) The potential cost-savings or efficiencies that may be gained as a result of the performance audit;
 - (2) The staff resources of the state auditor's office and of the state agency being audited which will be required to conduct the audit;
 - (3) The potential for discovery of noncompliance with state law or legislative intent regarding the program or agency; and
 - (4) The potential for the performance audit to identify opportunities for program improvements.
 - e. Report on the functions of the state auditor's office to the governor and the secretary of state in accordance with section 54-06-04 or more often as circumstances may require.
 - f. Perform work on mineral royalties for the federal government in accordance with section 1735(a) of the Mineral Lands and Mining Act [30 U.S.C. 1735 et seq.].
 - g. Perform all other duties as prescribed by law.
2. The state auditor may:
- a. Conduct any work required by the federal government.

- b. Within the resources available to the state auditor, perform or provide for performance audits of state agencies as determined necessary by the state auditor.
- c. Audit the International Peace Garden at the request of the board of directors of the International Peace Garden.
- d. Contract with a private certified public accountant or other qualified professional to conduct or assist with an audit, review, or other work the state auditor is authorized to perform or provide for under this section. Before entering any contract, the state auditor shall present information to the legislative audit and fiscal review committee on the need for the contract and its estimated cost and duration. Except for performance audits conducted under subdivision d of subsection 1 of this section or subdivision b of this subsection and except for audits of occupational or professional boards, the state auditor shall execute the contract and any executive branch agency, including higher education institutions, shall pay the fees of the contractor. For performance audits conducted under subdivision d of subsection 1 of this section or subdivision b of this subsection, the state auditor may charge a state agency for the cost of a contract relating to an audit, subject to approval by the legislative assembly or the legislative audit and fiscal review committee if the legislative assembly is not in session. When considering a request, the legislative audit and fiscal review committee shall consider the effect of the audit cost on the agency being audited, the necessity of the contract, and the potential benefit to the state resulting from the contract. The state auditor shall notify the affected agency of the potential cost before requesting approval from the legislative assembly or the legislative audit and fiscal review committee.

SECTION 3. A new section to chapter 54-10 of the North Dakota Century Code is created and enacted as follows:

Reporting noncompliance - Confidentiality.

Information that reasonably may be used to identify an individual who reported suspected or potential violations of law or other irregularities to the state auditor is a confidential record under section 44-04-17.1.

SECTION 4. AMENDMENT. Section 54-10-26 of the North Dakota Century Code is amended and reenacted as follows:

54-10-26. State auditor's working papers.

Working

- 1. Except as provided in this section, working papers of the state auditor are not public records and are exempt from section 44-04-18. Working papers include records kept by the auditor of the procedures applied, the tests performed, the information obtained, draft audit reports, and the pertinent conclusions reached in the engagement. Working papers may be, at the discretion of the state auditor and unless otherwise prohibited by law, made available for inspection. A
- 2. Except as provided in subsection 3, a draft audit report released to the governing body or management of the audited entity is confidential until the

final audit report is issued or work ceases on the audit. ~~The issued audit report is public information at which time the audit report becomes an open record.~~

3. Except as provided in this subsection, a draft audit report for an audit completed in accordance with performance auditing standards contained in government auditing standards issued by the comptroller general of the United States to provide an independent assessment of the performance and management of a program released to the governing body or management of the audited entity is confidential until the final version of the audit report is an open record. After the auditor receives the audited entity's response to the draft report, the auditor shall complete the audit report, which is then deemed a preliminary audit report. The auditor shall provide the preliminary audit report and the audited entity's response to the legislative audit and fiscal review committee for a seven-day review period, except the auditor may not provide any information that is confidential under subsection 2 of section 54-10-25. During the review period, the preliminary audit report and the response may not be provided to any other person except by the legislative audit and fiscal review committee as necessary to perform the committee's duties as described in section 54-35-02.2. At the end of the review period, the preliminary audit report is deemed a final audit report, and the final audit report and the audited entity's response are open records. Reports for audits performed under subdivision f of subsection 1 of section 54-10-01 or subdivision a of subsection 2 of section 54-10-01 are not subject to this subsection.
4. The respective working papers of an issued audit report or an audit report presented to the legislative audit and fiscal review committee are public. At the discretion of the state auditor, open records unless the state auditor declares all or a portion of the working papers of an issued audit report may be declared confidential. The declaration of confidentiality must state the reason for the confidentiality and the date, as can best be reasonably determined at the time, when the working papers will be made public.

SECTION 5. AMENDMENT. Section 54-35-02.2 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.2. Powers and duties of the legislative audit and fiscal review committee.

The legislative audit and fiscal review committee shall study and review audit reports as selected by the committee from those submitted by the state auditor, confer with the auditor and deputy auditors in regard to such reports, and when necessary, confer with representatives of the department, agency, or institution audited in order to obtain full and complete information in regard to any and all fiscal transactions and governmental operations of any department, agency, or institution of the state. The committee shall meet at least once each calendar quarter during each interim. Each department, agency, or institution shall furnish to the committee such aid, information, and assistance in regard to fiscal transactions and governmental operations as it may from time to time request. Whenever the committee may determine or have reason to believe that there may have been a violation of law relating to the receipt, custody, or expenditure of public funds by any state officer or employee, the committee shall present such evidence or information as may be in its possession to the attorney general. The attorney general shall receive and accept such evidence or information and shall immediately commence such additional investigation as the attorney general determines necessary. Upon completion of the investigation, if the evidence supplied by the committee and through the investigation

indicates the probability of a violation of law by any state official or employee, the attorney general immediately shall prosecute such official or employee as provided by law. Whenever the committee may determine that a state agency, department, or institution has failed to correct an audit finding within two bienniums which the committee determines critically important, the committee may recommend the legislative assembly reduce the state agency, department, or institution's appropriation as compared with the amount appropriated to the agency, department, or institution for the previous biennium. The legislative management, through its committee on legislative audit and fiscal review, or such persons as may be directed or employed by the legislative council, is authorized, within the limits of legislative appropriations, to make such audits, examinations, or studies of the fiscal transactions or governmental operations of departments, agencies, or institutions of the state as the legislative management may determine necessary.

SECTION 6. A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

Legislative audit and fiscal review committee - Auditing guidelines.

Each biennium, the legislative audit and fiscal review committee, in consultation with the state auditor, shall review updates to government auditing standards and develop guidelines for the contents of state agency audit reports. The legislative audit and fiscal review committee shall consider the following when developing the guidelines:

1. Applicable auditing standards;
2. Sound financial practices;
3. Compliance with laws and legislative intent;
4. Data analyses; and
5. The opportunity to improve the efficient and effective operations of state agencies.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 396

HOUSE BILL NO. 1276

(Representative Schreiber-Beck)

AN ACT to repeal section 54-10-20 of the North Dakota Century Code, relating to a special state auditor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 54-10-20 of the North Dakota Century Code is repealed.

Approved April 22, 2021

Filed April 23, 2021

CHAPTER 397

HOUSE BILL NO. 1127

(Representatives Heinert, Damschen, Dockter, M. Johnson, Kasper, Klemin, Lefor,
Porter)
(Senators Dwyer, Bell)

AN ACT to amend and reenact sections 44-08-05.1 and 54-10-25 of the North Dakota Century Code, relating to the disclosure of a pending investigation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹⁴ **SECTION 1. AMENDMENT.** Section 44-08-05.1 of the North Dakota Century Code is amended and reenacted as follows:

44-08-05.1. Payments - Purchasing card authority - Penalty.

1. Any public officer or employee who has the power to approve a payment for travel expenses or any other expenditure of public funds shall determine before approving the payment:
 - a. That the expenditure for travel or other expenditures were for lawful and official purposes.
 - b. If for employee travel reimbursement, the sums claimed for travel expenses are actually due the individual who is seeking reimbursement, allowance, or payment.
 - c. If the payment is for expenditure other than travel expense, that the expenditure is lawful and that the payment contains no false claims.
2. The director of the office of management and budget, the state board of higher education, the governing body of any political subdivision, and the board of any school district may establish and administer a purchasing card system for use by its officers, employees, representatives, or agents. If the director of the office of management and budget establishes a cooperative purchasing contract under section 54-44.4-13, each participating government entity is responsible for its purchasing card system.
3. An employee of the office of management and budget designated by the director of the office of management and budget, on behalf of all state agencies, may review and approve payments made with a purchasing card and make payments. The director of the office of management and budget may designate the state agencies that are required to use the purchasing card system.
4. Any public officer or employee who fraudulently uses a purchasing card or knowingly approves a payment for false or unlawful claims or which does not otherwise meet the requirements of this section for approval may be subject to

³¹⁴ Section 44-08-05.1 was also amended by section 1 of House Bill No. 1344, chapter 331.

criminal prosecution under title 12.1. Any public officer or employee who, without the use of ordinary care and diligence, uses a purchasing card or approves a payment for false or unlawful claims or which does not otherwise meet the requirements of this section for approval is personally liable for any funds improperly expended.

5. Any public officer, employee, or any other individual who has knowledge of an actual or possible violation of this section shall make that information known to the attorney general or the appropriate state's attorney. The attorney general or appropriate state's attorney shall investigate any alleged violation. If there is probable cause to believe that a violation has occurred, the attorney general or appropriate state's attorney shall initiate a criminal prosecution under title 12.1 or a civil suit against the public officer or employee for the recovery of the funds as may actually have been improperly paid, or may initiate a prosecution and a civil suit. Any public officer, employee, or any other individual who has provided information to the attorney general or a state's attorney under this subsection shall keep the information confidential until a determination is made as to whether a criminal prosecution is warranted.

SECTION 2. AMENDMENT. Section 54-10-25 of the North Dakota Century Code is amended and reenacted as follows:

54-10-25. Divulging of certain secret information prohibited.

1. The state auditor and the auditor's employees, including any person employed by the auditor to perform the examination of any return, report, or other information filed and in the possession of the tax commissioner which is made confidential by law, may not divulge the contents of any return, report, or other information examined or any listing made therefrom by the state auditor or the auditor's employees except when otherwise directed by judicial order, or as is otherwise provided by law.
2. The state auditor, the auditor's employees, or an agent of the auditor may not divulge any information relating to a matter forwarded to the attorney general or a state's attorney for further investigation until the attorney general or state's attorney has made a determination as to whether there is probable cause to believe a violation of law has occurred.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 398

HOUSE BILL NO. 1140

(Representatives Klemin, Devlin, Keiser, Roers Jones)
(Senators Dwyer, Larson, Lee)

AN ACT to amend and reenact section 54-12-08.1 of the North Dakota Century Code, relating to contingent fee arrangements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-12-08.1 of the North Dakota Century Code is amended and reenacted as follows:

54-12-08.1. Contingent fee arrangements.

The attorney general may not appoint or allow to be employed a special assistant attorney general in a civil case in which the amount in controversy exceeds one ~~hundred fifty thousand~~ million dollars and the special assistant attorney general is compensated by a contingent fee arrangement, unless the contingent fee arrangement is approved by the emergency commission. A state governmental entity may not contract for legal services that are compensated by a contingent fee arrangement, unless the entity receives an appointment from the attorney general for a special assistant attorney general for each case in which there is a contingent fee arrangement. Any proceeding or information used by the emergency commission under this section is not subject to sections 44-04-18 and 44-04-19, unless made public by order of the emergency commission.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 399

SENATE BILL NO. 2281

(Senators Erbele, Bakke, Myrdal)
(Representatives Brandenburg, Meier, Rohr)

AN ACT to create and enact a new section to chapter 54-12 of the North Dakota Century Code, relating to a statewide sexual assault evidence collection kit tracking system; to amend and reenact subsection 5 of section 31-13-03 of the North Dakota Century Code, relating to the collection of samples of blood or body fluids for DNA testing; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 31-13-03 of the North Dakota Century Code is amended and reenacted as follows:

5. If a sample of blood or body fluids collected under this section does not contain sufficient material necessary to obtain accurate DNA identification, the crime laboratory may request a law enforcement officer or correctional personnel collect another sample for analysis and inclusion in the law enforcement identification databases.

SECTION 2. A new section to chapter 54-12 of the North Dakota Century Code is created and enacted as follows:

Statewide sexual assault evidence collection kit tracking system - Exception.

1. The state crime laboratory shall develop and implement a statewide sexual assault evidence collection kit tracking system. The director of the state crime laboratory may contract with public or private entities, including private software and technology providers for the creation, operation, and maintenance of the system.
2. All medical providers, law enforcement agencies, forensic laboratories, or other persons or entities that collect evidence for, or receive, store, analyze, maintain, or preserve sexual assault kits, shall participate in the statewide sexual assault evidence collection kit tracking system for the purpose of tracking the location and status of all sexual assault kits in their custody. Participation must begin according to the implementation schedule established by the state crime laboratory.
3. The statewide sexual assault evidence collection kit tracking system must:
 - a. Track the location and status of each sexual assault kit throughout the criminal justice process, including the initial collection during examinations performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, storage, and any destruction of the kit after the applicable evidence is analyzed;

- b. Allow participating entities that have custody of sexual assault kits to update and track the status and location of the kits;
 - c. Allow victims of sexual assault to track or receive updates anonymously regarding the status of their sexual assault kits; and
 - d. Use electronic or other technologies that allow for continuous access.
- 4. The state crime laboratory may phase in the requirement of initial participation in the statewide sexual assault evidence collection kit tracking system according to region, volume of sexual assault forensic evidence kits, or other appropriate classifications. All law enforcement agencies, medical providers, forensic laboratories, or other persons that collect evidence for, or receive, store, analyze, maintain, or preserve sexual assault forensic evidence kits are required to participate fully in the tracking system within one year of the tracking system's initial date of operation.
- 5. Annually, the state crime laboratory shall post a report on the statewide sexual assault evidence collection kit tracking system on the attorney general's website. The report must include:
 - a. Total number of sexual assault kits in the system statewide and by jurisdiction;
 - b. Total and semiannual number of sexual assault kits where forensic analysis has been completed both statewide and by jurisdiction;
 - c. Number of sexual assault kits added to the system in the reporting period both statewide and by jurisdiction;
 - d. Total and semiannual number of sexual assault kits where forensic analysis has been requested but not completed both statewide and by jurisdiction; and
 - e. Total and semiannual number of sexual assault kits destroyed or removed from the system both statewide and by jurisdiction.
- 6. Records and information within the tracking system described in this section are exempt from disclosure under section 44-04-18.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 400

SENATE BILL NO. 2207

(Senators Lee, Bekkedahl, Dever)
(Representatives M. Johnson, Porter, Westlind)

AN ACT to amend and reenact section 54-16-03 of the North Dakota Century Code, relating to submissions to the emergency commission; and to repeal section 54-16-03.1 of the North Dakota Century Code, relating to emergency requests.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-16-03 of the North Dakota Century Code is amended and reenacted as follows:

54-16-03. Unlawful to expend more than appropriated - May secure approval from commission for use of other funds - Deficit void - Submission of petition to emergency commission.

1. A state officer may not expend, or agree or contract to expend, any amount in excess of the sum appropriated for that expenditure, and may not expend an amount appropriated for any specific purpose or fund or for any other purpose without prior approval in the form of a transfer approval or expenditure authorization as provided in this chapter. The
2. When an emergency exists, a state officer may submit to the secretary of the emergency commission an itemized petition requesting approval to:
 - a. Transfer money and spending authority between funds or line items pursuant to section 54-16-04;
 - b. Accept and expend federal funds pursuant to section 54-16-04.1;
 - c. Accept and expend state contingency funds pursuant to section 54-16-09;
 - d. Accept and expend other funds pursuant to section 54-16-04.2; or
 - e. Recommend full-time equivalent positions pursuant to section 54-16-04.3.
3. The secretary of the emergency commission shall provide a copy of each petition submitted under this section to the office of management and budget shall provide information to the emergency commission with respect to all emergency requests. The office of management and budget may provide an analysis and prioritization of emergency requests to the emergency commission.
4. Any petition to the emergency commission by a state officer must be considered by the emergency commission. A petition under this section must be approved or recommended by the emergency commission before submission for consideration by the budget section.
5. Any debt or deficit created by a state officer in violation of this section is void.

SECTION 2. REPEAL. Section 54-16-03.1 of the North Dakota Century Code is repealed.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 401

SENATE BILL NO. 2290

(Senators Hogue, Holmberg, Wardner)
(Representatives Delzer, Devlin, Pollert)

AN ACT to amend and reenact sections 54-16-04.1 and 54-16-04.2 of the North Dakota Century Code, relating to emergency commission and budget section approval to accept and disburse federal and other funds; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-16-04.1 of the North Dakota Century Code is amended and reenacted as follows:

54-16-04.1. May authorize acceptance and disbursement of federal funds.

1. The emergency commission, upon the advice and counsel of the office of management and budget, may authorize the state treasurer to receive any moneys not appropriated by the legislative assembly which are made available by any federal agency and which the legislative assembly has not indicated an intent to reject.
2. The emergency commission may authorize passthrough federal funds from one state agency to another state agency.
3. The emergency commission, with approval of the budget section of the legislative management if the amount under consideration exceeds fifty thousand dollars but does not exceed three million dollars, may authorize any state officer to receive and expend federal moneys from the date such moneys become available until June thirtieth following the next regular legislative session.
4. The emergency commission, with approval of the budget section of the legislative management if the amount under consideration exceeds three million dollars, may authorize any state officer to receive and expend federal moneys from the date such moneys become available until June thirtieth following the next regular legislative session. The budget section may approve a request under this subsection in the form received from the emergency commission or may amend and approve a request. A request amended and approved by the budget section is deemed to be approved by the emergency commission. Any request considered by the budget section must comply with section 54-35-02.9.
- 4-5. Any federal funds made available to this state which are not for a specific purpose or program and which are not required to be spent prior to the next regular legislative session, upon the approval for acceptance by the emergency commission and the budget section of the legislative management, must be deposited into a special fund until the legislative assembly appropriates the funds.

- ~~5-6.~~ a. Approval by the budget section of the legislative management is not required for the acceptance of federal funds if the acceptance is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or an imminent financial loss to the state.
- b. Budget section approval is required under this section before the expenditure of any funds accepted under these conditions.
- ~~6-7.~~ The expenditures must be consistent with state law and with the terms of the grant and the program may not commit the legislative assembly for matching funds in the future unless the program has first been approved by the legislative assembly.
- ~~7-8.~~ A state officer may not expend funds received from the federal government which have not been specifically appropriated by the legislative assembly except as provided in this chapter.
- ~~8-9.~~ A state officer shall submit an expenditure plan with a request for approval under this section of expenditure of federal funds combined with or as part of a block grant for a new or existing program.
10. The aggregate amount of requests to expend funds that may be approved each biennium under this section may not exceed fifty million dollars. Any request received under this section which, if approved, would result in more than fifty million dollars of funds being approved for expenditure under this section during the biennium may be approved only by the legislative assembly during a regular legislative session or during a special legislative session called by the governor.
11. Any request received under this section to expend funds received through a federal act that makes available more than fifty million dollars to the state may be approved only by the legislative assembly during a regular legislative session or a special legislative session called by the governor.
12. Subsections 10 and 11 do not apply to federal highway administration emergency relief funding received by the state or to disaster or emergency recovery funding received by the state pursuant to section 37-17.1-23.

SECTION 2. AMENDMENT. Section 54-16-04.2 of the North Dakota Century Code is amended and reenacted as follows:

54-16-04.2. Commission may authorize acceptance and expenditure of moneys.

1. Upon a finding that an emergency exists, the emergency commission, upon the advice of the office of management and budget, with approval of the budget section of the legislative management if the amount under consideration exceeds fifty thousand dollars but does not exceed three million dollars, may authorize a state officer to receive and expend moneys from gifts, grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys or the program.
2. Upon a finding that an emergency exists, the emergency commission, upon the advice of the office of management and budget, with approval of the budget section of the legislative management if the amount under

consideration exceeds three million dollars, may authorize a state officer to receive and expend moneys from gifts, grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys or the program. The budget section may approve a request under this subsection in the form received from the emergency commission or may amend and approve a request. A request amended and approved by the budget section is deemed to be approved by the emergency commission. Any request considered by the budget section must comply with section 54-35-02.9.

3. The emergency commission may authorize theA state officer receiving authorization to expend money received under this section may expend the money from the date the money becomes available until June thirtieth following the next regular legislative session. Approval by the budget section of the legislative management is not required for the acceptance of moneys under this section if the acceptance is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or an imminent financial loss to the state. Budget section approval is required before the expenditure of any funds accepted under these conditions.
4. The aggregate amount of requests to expend funds which may be approved each biennium under this section may not exceed five million dollars. Any request received under this section which, if approved, would result in more than five million dollars being approved for expenditures under this section during the biennium may be approved only by the legislative assembly during a regular legislative session or during a special legislative session called by the governor.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Disapproved April 26, 2021

Filed April 29, 2021

NOTE: The Governor's veto of Senate Bill No. 2290 was not sustained. For the text of the Governor's veto message, see chapter 509.

CHAPTER 402

HOUSE BILL NO. 1056

(Energy and Natural Resources Committee)
(At the request of the Industrial Commission)

AN ACT to amend and reenact section 54-17.4-02 of the North Dakota Century Code, relating to the collection of global positioning system data; and to repeal section 54-17.4-12 of the North Dakota Century Code, relating to the duties of the state geologist.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-17.4-02 of the North Dakota Century Code is amended and reenacted as follows:

54-17.4-02. Survey - Responsibilities.

There is created a North Dakota geological survey. The survey has the following responsibilities:

1. Serve as the primary source of geological information in the state.
2. Investigate, describe, and interpret the geological setting of the state with special reference to the economic products, geological hazards, and energy resources of the state's geology.
3. Conduct investigations designed to promote public understanding of the state's natural setting and natural resources.
4. Conduct research relative to the exploration, production, and regulation of oil, gas, coal, and other mineral resources of the state.
5. Conduct investigations and review externally prepared reports pertaining to geological aspects of the health and safety of the citizens and environment of the state.
6. Provide geological information contributing to the development of public health policies and to the use and management of natural resources.
7. Publish bulletins, circulars, maps, and other related materials that make available the results of the geological research and technical studies.
8. Provide educational information about the geology of the state to the public.
9. Operate and maintain a public repository for books, reports, maps, and other publications regarding the geology and mineral resources of the state.
10. Operate and maintain a public repository for fossil and rock specimens, rock cores, well cuttings, and associated data.

11. Provide technical advice and assistance concerning the geology of the state to local, state, and federal governmental agencies and to state educational institutions.
12. Aid in the regulation of the state's natural resources by providing the resource assessment and evaluation information necessary to create and maintain effective regulatory policy.
13. Investigate the kind, amount, and availability of the various mineral substances contained in state-owned lands, so as to contribute to the most effective and beneficial administration of these lands for the state.
14. Consider such other scientific and economic questions in the field of geology as in the judgment of the state geologist is deemed of value to the people of the state.
15. Carry out any other responsibilities assigned to it by the legislative assembly.
- ~~16. Cooperate with other agencies in maintaining a global positioning system community base station and make data gathered by the station available to the public.~~

SECTION 2. REPEAL. Section 54-17.4-12 of the North Dakota Century Code is repealed.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 403

SENATE BILL NO. 2066

(Energy and Natural Resources Committee)
(At the request of the Industrial Commission)

AN ACT to amend and reenact section 54-17.4-09.1 of the North Dakota Century Code, relating to use of funds from the fossil excavation and restoration fund; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-17.4-09.1 of the North Dakota Century Code is amended and reenacted as follows:

54-17.4-09.1. Fossil excavation and restoration fund - Continuing appropriation.

A special fund known as the fossil excavation and restoration fund must be maintained in the state treasury. Funds received by the geological survey for ~~the participation in a public fossil dig, fossil excavation and, fossil restoration of fossils, and fossil exhibit~~ must be deposited in the fund. All moneys in the fund are appropriated on a continuing basis to the geological survey for the purpose of public fossil dig expenses, fossil excavation and, fossil restoration of fossils, and fossil exhibit development. The provisions of section 54-27-10 do not apply to appropriations from this fund.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 404

HOUSE BILL NO. 1427

(Representatives Klemm, Devlin, Hanson, Karls, Meier, Schneider, Weisz)
(Senators Dever, Larson)

AN ACT to provide for duties of the commission on juvenile justice and the children's cabinet and to create a juvenile justice planning committee, a planning committee for children in need of services, and a planning committee for alternatives to juvenile detention.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. COMMISSION ON JUVENILE JUSTICE AND CHILDREN'S CABINET. During the 2021-23 biennium, the commission on juvenile justice shall establish planning committees under the supervision of the commission to research and develop recommendations and strategies to implement best practices for juvenile justice. During the 2021-23 biennium, the children's cabinet and the commission on juvenile justice shall review and approve recommendations made by the planning committees under the supervision of the commission on juvenile justice.

SECTION 2. JUVENILE JUSTICE PLANNING COMMITTEE.

1. During the 2021-23 biennium, a juvenile justice planning committee is created under the supervision of the commission on juvenile justice. The planning committee is created to assess, identify, and develop opportunities to build a service continuum designed to safely maintain youth under system supervision in the community.
2. By August 15, 2021, the commission on juvenile justice, in collaboration with the heads of the respective entities, shall appoint members to serve on the juvenile justice planning committee with cross-system and cross-government branch representation, including juvenile justice, child welfare, behavioral health, education, workforce development, service providers, and tribal representatives. The presiding officer of the commission on juvenile justice shall appoint the presiding officer of the juvenile justice planning committee. The committee shall meet at least quarterly, and more often as necessary to carry out the duties of the committee.
3. The juvenile justice planning committee shall:
 - a. Facilitate strengthening and expansion of evidence-based community services for moderate- to high-risk juvenile offenders;
 - b. Identify gaps in services and a plan to fill those gaps;
 - c. Develop a plan for blending or braiding funding across systems and branches which would allow for youth to be served in a coordinated way and limited resources to be used efficiently and effectively;
 - d. Develop strategies for improving service access in rural and tribal communities;

- e. Establish standardized information sharing and case planning protocols between providers and system entities;
 - f. Identify shared outcome measures that all youth serving agencies and service providers receiving state funds shall track and report, including a common definition of recidivism;
 - g. Develop a plan for how data must be collected as part of contracting requirements;
 - h. Establish policies for evaluating the effectiveness of service providers, including time frames and who is responsible for conducting the evaluations;
 - i. Develop a plan for the outcome measures to be reported to the children's cabinet; and
 - j. Report to and be subject to the oversight of the commission on juvenile justice.
- 4. The department of corrections and rehabilitation shall provide the juvenile justice planning committee with staffing and administrative services.
 - 5. The committee shall recommend changes to laws, appropriations, rules, or standards that need to be made before fully implementing the committee's recommendations. Recommendations must be approved and implemented within twelve months of committee formation, as applicable, but may not circumvent the processes in place for the adoption of rules, policies, or procedures.

SECTION 3. PLANNING COMMITTEE FOR CHILDREN IN NEED OF SERVICES.

- 1. During the 2021-23 biennium, a planning committee for children in need of services is created under the supervision of the commission on juvenile justice. The planning committee is created to access, guide, and coordinate the transition of children in need of services being referred to the human service zones.
- 2. By August 15, 2021, the children's cabinet, in collaboration with the heads of the respective entities, shall appoint members to serve on the planning committee for children in need of services which represent the department of human services, human service zones, human services centers, juvenile court, law enforcement, education or school representation or both, health districts, tribal representatives, parents, and service providers. The presiding officer of the commission on juvenile justice shall appoint the presiding officer of the planning committee for children in need of services. The committee shall meet at least quarterly, and more often as necessary to carry out the duties of the committee.
- 3. The planning committee for children in need of services shall:
 - a. Develop strategies to provide for a continuum of care in the delivery of services to children in need of services and their families without formal court involvement;

- b. Ensure the cooperation and coordination of entities involved with the family of children in need of services;
 - c. Establish policies and protocols for schools, law enforcement, and other entities for making referrals of children in need of services to the human service zones;
 - d. Develop the required documentation needed for referrals;
 - e. Provide recommendations on the process when temporary shelter care is needed;
 - f. Determine specific requirements of the case plan related to children in need of services;
 - g. Determine how children in need of services data will be tracked and reported;
 - h. Establish a plan for educating key stakeholders about the recommendations; and
 - i. Report to and be subject to the oversight of the children's cabinet.
4. The department of human services shall provide the planning committee for children in need of services with staffing and administrative services.
 5. Recommendations must be approved and implemented within twelve months of committee formation, as applicable, but may not circumvent the processes in place for the adoption of rules, policies, or procedures.

SECTION 4. PLANNING COMMITTEE FOR ALTERNATIVES TO JUVENILE DETENTION.

1. During the 2021-23 biennium, a planning committee for alternatives to juvenile detention is created under the supervision of the commission on juvenile justice. The planning committee is created to access and develop alternatives to juvenile detention. Community-based alternatives to detention must be based on the principle of using the least-restrictive setting possible and returning a child to the child's home, family, or other responsible adult whenever possible consistent with public safety. Detention must be limited to only those who pose a substantial risk of serious harm to others or themselves or who are a flight risk from prosecution.
2. Before August 15, 2021, the commission on juvenile justice, in collaboration with the heads of the respective entities, shall appoint members to serve on the planning committee for alternatives to juvenile detention which must include representatives of juvenile court, law enforcement, indigent defense, juvenile court judges and referees, county government, parents, private service providers, and other community interests. The presiding officer of the commission on juvenile justice shall appoint the presiding officer of the planning committee for alternative to juvenile detention. The committee shall meet at least quarterly, and more often as necessary to carry out the duties of the committee.
3. The planning committee for alternatives to juvenile detention shall:

- a. Explore pre-adjudication service options that could serve as alternatives to juvenile detention and the criteria for juveniles served through alternative services;
 - b. Identify gaps in services for those youth who are not able to return home;
 - c. Consider what funds are available to cover the costs of alternative options;
 - d. Explore validation of the detention screening tool;
 - e. Establish statewide scoring override policies that minimize the subjective decisions to place a juvenile in a detention facility, while allowing for local flexibility; and
 - f. Report to and be subject to the oversight of the commission on juvenile justice.
4. The department of corrections and rehabilitation shall provide the planning committee for alternatives to juvenile detention with staffing and administrative services.
 5. Recommendations must be approved and implemented within twelve months of committee formation, as applicable, but may not circumvent the processes in place for the adoption of rules, policies, or procedures.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 405

SENATE BILL NO. 2107

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to create and enact a new section to chapter 54-23.3 of the North Dakota Century Code, relating to an exemption of certain internal investigation records of the department of corrections and rehabilitation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-23.3 of the North Dakota Century Code is created and enacted as follows:

Exemption of certain internal investigation records.

Notwithstanding subsection 6 of section 44-04-18.1 and except as required under subsection 1 of section 44-04-18.11, records relating to the department of corrections and rehabilitation's internal investigations are exempt if:

1. The records could reasonably be used to identify victims, witnesses, employees providing investigative information, or individuals providing information as correctional confidential informants; and
2. Disclosure would cause a credible threat of violence or other harm.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 406

HOUSE BILL NO. 1112

(Representatives Heinert, Howe, Jones, Meier, J. Nelson, Roers Jones, Schatz)
(Senators Dever, Larson, Myrdal)

AN ACT to amend and reenact section 54-23.3-11 of the North Dakota Century Code, relating to the prioritization of admission of inmates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-23.3-11 of the North Dakota Century Code is amended and reenacted as follows:

54-23.3-11. Prioritization of admission of inmates - Report to legislative management.

1. The department of corrections and rehabilitation may refuse to admit inmates sentenced to the physical custody of the department when the admission of inmates will exceed the maximum operational capacity of the penitentiary and its affiliated facilities and result in the department exceeding its authorized legislative appropriation for contracting for housing inmates in other correctional facilities.
2. For purposes of this section, maximum operational capacity of the department means the total number of inmates that may be imprisoned at the same time in the penitentiary and its affiliated facilities.
3. The department shall develop a prison population management plan to prioritize admissions based on sentences and the availability of space in the penitentiary and its affiliated facilities. If the plan includes the use of a local jail or correctional facility, the department shall negotiate the terms of the agreement with each facility. An agreement under this section must include a minimum daily rate per inmate, including medical costs, to be paid by the department to the governing body of the jail or correctional facility beginning the day after the department receives notice from the district court of an order placing an individual in the care and custody of the department and ending on the admission date provided by the department.
4. The department shall report annually to the legislative management on the prison population management plan and inmate admissions and the number of inmates the department has not admitted after sentencing.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 407

SENATE BILL NO. 2157

(Senators Oban, Elkin)
(Representatives Hager, Rohr, Schneider, Zubke)

AN ACT to amend and reenact section 54-24.4-01 of the North Dakota Century Code, relating to membership of the North Dakota library coordinating council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-24.4-01 of the North Dakota Century Code is amended and reenacted as follows:

54-24.4-01. North Dakota library coordinating council - Members - Term.

The North Dakota library coordinating council consists of eleven members. The president of the North Dakota library association, or the president's designee, is an ex officio voting member of the council. The state librarian is an ex officio nonvoting member of the council. The governor shall appoint nine members to the council, ~~one of whom must represent special libraries;~~ one of whom must represent a public or private higher education institution libraries, ~~one library;~~ two of whom must represent ~~private higher education institution libraries;~~ at large; one of whom must represent school libraries; two of whom must represent public libraries; one of whom must represent disabled, economically disadvantaged, and minority populations; and two must be citizens at large. All appointed members, except citizens at large, must be practicing librarians. The governor shall take into account reasonable geographic considerations when appointing members of the council. The term of each member is three years. If at any time during a member's term the member ceases to possess the qualifications required by this section, the member's office is deemed vacant, and the governor shall appoint a qualified representative to complete the term of office. No member may be appointed to serve more than two consecutive three-year terms.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 408

HOUSE BILL NO. 1031

(Legislative Management)
(Government Finance Committee)

AN ACT to create and enact a new section to chapter 54-35 of the North Dakota Century Code, relating to legislative management studies of state agency fees; to provide for a legislative management study relating to establishing new state agency fees; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

Legislative interim committee review of state agency fees.

1. The legislative management shall assign to one or more interim committees a study of selected state agency fees as provided in this section.
 - a. By July 1, 2022, each state agency that is authorized to impose forty fees or fewer shall submit a report to the office of management and budget including:
 - (1) The amount of each fee;
 - (2) When the fee was implemented;
 - (3) Why the fee is set at the specific dollar amount;
 - (4) Where the fee is deposited; and
 - (5) Whether the fee is critical for the budget of the agency.
 - b. By July 1, 2024, each state agency that is authorized to impose more than forty fees shall submit a report to the legislative management including:
 - (1) The amount of each fee;
 - (2) When the fee was implemented;
 - (3) Why the fee is set at the specific dollar amount;
 - (4) Where the fee is deposited; and
 - (5) Whether the fee is critical for the budget of the agency.
 - c. By September first in the year the reports are received, the office of management and budget shall compile all of the reports into a single report and provide the report to the legislative management.

2. In addition to the report required under subsection 1, each state agency shall provide an analysis of each fee. The analysis must include:
 - a. A comparison of revenue generated by the fee to the cost incurred to provide the services associated with the fee;
 - b. The history of the fee, including when it was created and any subsequent changes;
 - c. The appropriateness of the fee amount and the affordability of the fee to the public; and
 - d. The appropriateness of using other government revenues to pay a portion of services associated with the fee and the effect of the use of other revenues.
3. An interim committee assigned a fee study shall:
 - a. Make a recommendation regarding the fee which identifies whether the fee should remain unchanged or be eliminated, increased, decreased, or otherwise modified and the rationale for the recommendation.
 - b. Report its findings and recommendations to the legislative management. As part of its recommendations, the committee shall identify potential state agency fees to be reviewed during the subsequent interim.
4. Any state agency authorized by the legislative assembly to impose a fee shall provide data, analysis, and other information as requested by the interim committee conducting a study under this section.
5. Fees to be examined under this section include those deposited in the general fund or the agency operating budget.
6. If a state agency is unable to meet the deadline imposed under subsection 1, the state agency may appeal to the legislative management for an extension.
7. Notwithstanding any other provision of law, state agencies may not establish any new fees under chapter 28-32 unless the fee was approved by the legislative assembly, the budget section, or the emergency commission.
8. By July first of each even-numbered year, each agency that has fees shall provide a report to the legislative management indicating whether any fees were added, deleted, or changed during the course of the biennium.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY. During the 2021-22 interim, the legislative management shall consider studying the creation of a general fee policy relating to how state agencies' fees should be established for new programs and a continued review of existing fees. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 409

HOUSE BILL NO. 1038

(Legislative Management)
(Legacy Fund Earnings Committee)

AN ACT to provide for a legislative management legacy fund earnings committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGACY FUND EARNINGS - LEGISLATIVE MANAGEMENT COMMITTEE.

1. During the 2021-22 interim, the legacy fund earnings committee is created and is composed of the following members:
 - a. The majority and minority leaders of the house of representatives and the senate, or their designees;
 - b. The chairmen of the finance and taxation standing committees of the house of representatives and the senate, or their designees;
 - c. The chairmen of the appropriations committees of the house of representatives and the senate, or their designees;
 - d. One member of the legacy and budget stabilization fund advisory board from the house of representatives and one member of the legacy and budget stabilization fund advisory committee from the senate, appointed by the respective majority leaders; and
 - e. The chairman of the legislative management, or the chairman's designee.
2. The legislative management shall designate the chairman of the committee.
3. The committee shall study potential uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for reinvestment of legacy fund earnings, fund research and technological advancements, promote economic growth and diversification, and promote workforce development and career and technical education.
4. The committee may consider public input on the use of legacy fund earnings and review the operation of other funds, such as Norway's sovereign wealth fund.
5. The legislative management shall report its findings and recommendations, together with any legislation required to implement those recommendations, to the sixty-eighth legislative assembly.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 410

HOUSE BILL NO. 1397

(Representatives Pollert, Louser)
(Senators Klein, Wardner)

AN ACT to establish a legislative management redistricting committee, to provide for the implementation of a legislative redistricting plan, to exempt drafts of redistricting plans from open records requirements, to provide for public access to plans that are distributed or reported, and to provide for a special legislative session; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT REDISTRICTING COMMITTEE - OPEN RECORDS EXEMPTION - SPECIAL LEGISLATIVE SESSION.

1. The chairman of the legislative management shall appoint a committee to develop a legislative redistricting plan to be implemented in time for use in the 2022 primary election. The committee must consist of an equal number of members from the senate and the house of representatives appointed by the chairman of the legislative management.
2. The committee shall ensure any legislative redistricting plan submitted to the legislative assembly for consideration must be of compact and contiguous territory and conform to all constitutional requirements with respect to population equality. The committee may adopt additional constitutionally recognized redistricting guidelines and principles to implement in preparing a legislative redistricting plan for submission to the legislative assembly.
3. The committee shall submit a redistricting plan and legislation to implement the plan to the legislative management by November 30, 2021.
4. A draft of the legislative redistricting plan created by the legislative council or a member of the legislative assembly is an exempt record as defined in section 44-04-17.1 until presented or distributed at a meeting of the legislative management, a legislative management committee, or the legislative assembly, at which time the presented or distributed draft is an open record. If possible, the presented or distributed draft must be made accessible to the public on the legislative branch website such as through the use of hyperlinks in the online meeting agenda. Any version of a redistricting plan other than the version presented or distributed at a meeting of the legislative management, a legislative management committee, or the legislative assembly is an exempt record.
5. The chairman of the legislative management shall request the governor to call a special session of the legislative assembly pursuant to section 7 of article V of the Constitution of North Dakota to allow the legislative assembly to adopt a redistricting plan to be implemented in time for use in the 2022 primary election and to address any other issue that may be necessary.

SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2022, and after that date is ineffective.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 411

HOUSE BILL NO. 1036

(Legislative Management)
(Judiciary Committee)

AN ACT to provide for a legislative management study regarding the juvenile justice process.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. JUVENILE JUSTICE PROCESS - LEGISLATIVE MANAGEMENT STUDY. During the 2021-22 interim, the legislative management shall consider studying the juvenile justice process and collaborate with the commission on juvenile justice. The study must include a review of the effective intervention, resources, and services for children. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 412

HOUSE BILL NO. 1111

(Representatives Heinert, M. Johnson, Owens, Zubke)
(Senator Schaible)

An Act to provide for a legislative management study of competency-based learning initiatives implemented in school districts under innovative education programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - INNOVATIVE EDUCATION PROGRAMS - WAIVERS - COMPETENCY-BASED LEARNING INITIATIVES.

1. During the 2021-22 interim, the legislative management shall study competency-based learning and schools participating in innovative education programs. The study may include a review of:
 - a. The progress of schools and districts in the state which have received waivers under section 15.1-06-08.1 to participate in innovative education programs under section 15.1-06-08.2;
 - b. Waivers to participate in innovative education programs that incorporate competency-based learning initiatives;
 - c. The schools and districts participating in innovative education programs; and
 - d. The schools and districts that have received waivers to participate in innovative education programs, the contents of the implemented innovative education programs, best practices, and whether the competency-based learning initiatives implemented under the innovative education programs can be duplicated and expanded for implementation statewide.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved March 15, 2021

Filed March 15, 2021

CHAPTER 413

HOUSE BILL NO. 1159

(Representatives Brandenburg, Mitskog)
(Senator Wanzek)

AN ACT to provide for a legislative management study regarding natural gas infrastructure development.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY. During the 2021-22 interim, the legislative management shall consider studying natural gas and propane infrastructure development in the state. The study must include consideration of the current infrastructure available for natural gas and propane, challenges related to the development of natural gas and propane infrastructure, community needs for natural gas and propane infrastructure, and a cost benefit analysis of any state incentives to encourage the development of natural gas and propane infrastructure. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved March 15, 2021

Filed March 15, 2021

CHAPTER 414

HOUSE BILL NO. 1209

(Representatives M. Ruby, Dockter, O'Brien, Schauer)
(Senators Anderson, Dever)

AN ACT to provide for a legislative management study of the public employees retirement system defined benefit and defined contribution retirement plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES RETIREMENT SYSTEM DEFINED BENEFIT AND DEFINED CONTRIBUTION PLANS. During the 2021-22 interim, the legislative management shall develop a plan for new hires under the public employees retirement system main system to participate in the defined contribution plan and to close the defined benefit plan to new entries effective January 1, 2024. Upon approval of the chairman of the legislative management, the study may use the services of a third-party contractor to assist in the study. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved May 7, 2021

Filed May 10, 2021

CHAPTER 415

HOUSE BILL NO. 1210

(Representatives M. Ruby, Dobervich, Heinert, Monson, Richter, Sanford, Schreiber-Beck, Strinden)
(Senators Bekkedahl, Oban)

AN ACT to provide for a legislative management study of out-of-pocket expenses incurred by teachers in the state for classroom school supplies and the feasibility and desirability of creating a teacher reimbursement program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY.

1. During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of creating a teacher reimbursement program. The study must include:
 - a. A review of out-of-pocket expenses incurred by kindergarten through grade twelve teachers on classroom school supplies, including the total amount of annual out-of-pocket expenses teachers in the state incur on classroom school supplies;
 - b. A review of school districts in the state that have implemented teacher reimbursement programs; and
 - c. An evaluation of whether a teacher reimbursement program would mitigate the financial burden incurred by teachers purchasing school supplies for their classrooms, and the total potential annual cost to the state to reimburse teachers for the out-of-pocket expenses.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved March 15, 2021

Filed March 15, 2021

CHAPTER 416

HOUSE BILL NO. 1231

(Representatives Satrom, K. Koppelman, Ostlie, Paulson, D. Ruby, Schauer, Vetter)
(Senator Conley)

AN ACT to provide for a legislative management study regarding the benefits of investing legacy fund moneys locally.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - INVESTMENT OF LEGACY FUND. During the 2021-22 interim, the legislative management shall consider studying the benefits of investing legacy fund moneys locally before investing any moneys outside the state. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 417

HOUSE BILL NO. 1249

(Representative B. Koppelman)

AN ACT to provide for a legislative management study of the building space needs of the legislative branch.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - LEGISLATIVE BRANCH BUILDING SPACE NEEDS. During the 2021-22 interim, the legislative management shall consider studying the building space needs of the legislative branch for purposes of considering whether an expansion or renovation of the space available to the legislative branch is necessary to serve the public and meet the needs of the legislative branch. The study must include consideration of whether adequately sized committee rooms, appropriate accommodations under the federal Americans with Disabilities Act, and flexible meeting areas are available, and will continue to be available, to the legislative branch, and the impact on the space needs from a potential expansion of the information technology division of the legislative council. The legislative management may consult with third-party consultants for this study. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 418

HOUSE BILL NO. 1254

(Representative Vetter)
(Senator Meyer)

AN ACT to provide for a legislative management study of the types of spousal support ordered by the district court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - SPOUSAL SUPPORT.

During the 2021-22 interim, the legislative management shall study the types of spousal support ordered by the district court and the desirability and feasibility of providing statutory guidance for awards of spousal support. The study must include input from practicing attorneys in the area of family law and the division of child support. The study must include a review of the frequency and duration of spousal support awards that are entered in the state. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 419

HOUSE BILL NO. 1339

(Representatives Simons, Becker, Christensen, Ertelt, Hoverson, Jones, B.
Koppelman, Paulson, Toman)
(Senator O. Larsen)

AN ACT to provide for a legislative management study of the definitions of "dangerous weapon" and "public gathering".

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - DANGEROUS WEAPONS. During the 2021-23 interim, the legislative management shall consider studying the definitions of "dangerous weapon" and "public gathering". The study must consider which weapons should be considered dangerous weapons. The study also must consider whether a "public gathering" includes athletic or sporting events, school buildings, or churches. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 1, 2021

Filed April 1, 2021

CHAPTER 420

HOUSE BILL NO. 1459

(Representatives M. Ruby, Becker, Guggisberg, Heinert, Paulson)
(Senators Hogue, Larson)

AN ACT to provide for a legislative management study regarding county correctional employees carrying firearms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - COUNTY CORRECTIONAL EMPLOYEES - FIREARMS. During the 2021-22 interim, the legislative management shall consider studying the development of a licensing system that would authorize county correctional employees to carry a firearm while transporting inmates. The study must include input from the North Dakota sheriffs and deputies association, state jail administrators, the North Dakota peace officer standards and training board, the department of corrections and rehabilitation, and all other interested parties. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 421

HOUSE BILL NO. 1470

(Representatives Buffalo, Dobervich, Heinert, Ista, J. Nelson, Schneider)
(Senator Mathern)

AN ACT to provide for a legislative management study relating to the behavioral health needs of inmates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - BEHAVIORAL HEALTH NEEDS OF INMATES. During the 2021-22 interim, the legislative management shall consider studying the behavioral health needs of incarcerated adults. The study must consider the behavioral health needs of incarcerated adults, including access, availability, and delivery of services. The study also must include input from stakeholders, including representatives of law enforcement, social and clinical service providers, educators, medical providers, mental health advocacy organizations, emergency medical service providers, tribal government, state and local agencies and institutions, and family members. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 422

HOUSE BILL NO. 1494

(Representatives Mock, Heinert, Ista, M. Ruby, Schauer, Stemen, Vetter)
(Senator Meyer)

AN ACT to provide for a legislative management study of law enforcement and correctional officer recruitment, retention, turnover, and training.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LAW ENFORCEMENT AND CORRECTIONAL OFFICERS - LEGISLATIVE MANAGEMENT STUDY. During the 2021-22 interim, the legislative management shall consider studying the recruitment, retention, turnover, and training of law enforcement and correctional officers employed by state agencies and political subdivisions. The study may include a review of current and historical rates of retention and turnover, the training and professional development offered and required of law enforcement and correctional officers, and an analysis of the compensation and benefits of law enforcement and correctional officers employed by state agencies, political subdivisions, and comparable positions in other states within the region. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.

Approved April 1, 2021

Filed April 1, 2021

CHAPTER 423

SENATE BILL NO. 2036

(Legislative Management)
(Natural Resources Committee)

AN ACT to provide for a legislative management study regarding access to lands and electronic posting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS AND ELECTRONIC POSTING.

1. During the 2021-22 interim, the legislative management shall continue the 2019-20 interim study of access to public and private lands for hunting, trapping, fishing, and related issues. The study must include evaluation of the electronic land access database and application developed during the 2019-20 interim and expansion of the database and application to all counties in the state. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.
2. The legislative management shall appoint a committee for the study as follows:
 - a. The voting members of the committee to be appointed by the legislative management are:
 - (1) Two members representing agriculture landowners;
 - (2) Two members representing sportsmen organizations; and
 - (3) Five members of the legislative assembly, including:
 - (a) One member of the majority party in the house of representatives;
 - (b) One member of the minority party in the house of representatives;
 - (c) One member of the majority party in the senate;
 - (d) One member of the minority party in the senate; and
 - (e) One member from either party in either chamber to serve as the committee chairman.
 - b. The nonvoting members of the committee are:
 - (1) A representative of the North Dakota association of counties;
 - (2) The agriculture commissioner or the commissioner's designee;

- (3) The director of the game and fish department or the director's designee;
 - (4) The chief information officer or the officer's designee; and
 - (5) A representative of the North Dakota state's attorneys' association.
3. A member of the committee who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the legislative council. A state employee who is a member of the committee is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the committee who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the committee. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the committee who is a member of the legislative assembly.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 424

SENATE BILL NO. 2151

(Senators Klein, Kreun, Vedaa)
(Representative Lefor)

AN ACT to provide for a legislative management study related to uninsured drivers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - UNINSURED DRIVERS.

During the 2021-22 interim, the legislative management shall consider studying the use of blockchain to identify an accurate and continuous count of uninsured drivers in this state. The study must be in consultation with the department of transportation and must consider blockchain technology that allows for a dynamic, ongoing, decentralized, secure, and immutable method of tracking uninsured drivers in this state. In addition, the study must include an analysis of the impact relating to consumer fraud that may result from a state law mandating uninsured motorist property damage coverage. The insurance department shall request the thirty largest auto insurers, as measured by premiums written, to provide information to facilitate the study of the use and implementation of blockchain for this purpose. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved March 15, 2021

Filed March 15, 2021

CHAPTER 425

SENATE BILL NO. 2189

(Senators Bekkedahl, Oban, K. Roers)
(Representatives Keiser, Klemin, Mitskog)

AN ACT to provide for a legislative management study of reduced harm nicotine products.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - REDUCED HARM NICOTINE PRODUCTS. During the 2021-22 interim, the legislative management shall consider studying reduced harm nicotine products. The study must include a review of "modified risk tobacco products," as defined in section 387(k) of the federal Food, Drug, and Cosmetic Act [21 U.S.C. 387(k)], and a review of products that should be deemed reduced harm nicotine products based on the product's potential for reducing tobacco-related diseases and the product's benefit to the population as a whole, including benefits to both current and potential tobacco users. The study also must evaluate how a reduction in the tax rate on reduced harm nicotine products might benefit public health by encouraging the use of reduced harm nicotine products, rather than the use of other products that potentially are more harmful. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 426

SENATE BILL NO. 2208

(Senator Wardner)
(Representative Schmidt)

AN ACT to provide for a legislative management study of drainage and other water-related issues.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - WATER REGULATION.

1. During the 2021-22 interim, the legislative management shall consider studying the regulation of water in the state, including eliminating redundancy and conflicts in chapters 61-16.1, 61-21, and 61-32; making assessment procedures uniform across all types of water projects, including drain projects; revising procedures for appeals from water resource board decisions, including the possible creation of an appeals board or appealing the decisions to an existing entity such as the North Dakota mediation service within the department of agriculture; managing water on the basis of watersheds or water basins throughout the state; reviewing responsibility for culvert sizing decisions; applying cost-benefit analyses to additional projects before the state water commission considers whether to approve the projects; reviewing the cost-share for additional assessment drains across the state; reviewing the cost-share for and regulation of snagging and clearing; reviewing the structural relationship between the state water commission and water resource districts; the process for awarding irrigation permits; the length of time irrigation permit applications are held in abeyance; prioritization of irrigation permit applications; methods for maximizing water resources; possible development of an irrigation permit that may be suspended during periods of water scarcity; methods for on-time monitoring of well water levels; improving communication between the office of state engineer and irrigation permit applicants; and related issues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.
2. The study committee must include the following eleven voting members and nine nonvoting members:
 - a. Two voting members representing agriculture producers, appointed by the agriculture commissioner;
 - b. Two voting members who are members of water resource boards, appointed by the North Dakota water resource districts association;
 - c. Seven voting members including:
 - (1) Two members of the majority party in the house of representatives;
 - (2) One member of the minority party in the house of representatives;

- (3) One member of the majority party in the senate;
 - (4) One member of the minority party in the senate;
 - (5) One member from either party in either chamber to serve as the committee chairman; and
 - (6) A road superintendent or engineer selected by the voting members in paragraphs 1 through 5;
- d. One nonvoting member appointed by North Dakota township officers association;
 - e. One nonvoting member appointed by the North Dakota association of counties;
 - f. One nonvoting member appointed by the North Dakota state's attorneys' association;
 - g. The agriculture commissioner or the commissioner's designee who is a nonvoting member;
 - h. The state engineer or the state engineer's designee who is a nonvoting member;
 - i. The legal counsel to the state water commission who is a nonvoting member;
 - j. One nonvoting member appointed by the director of the department of transportation; and
 - k. Two nonvoting citizen members appointed by the legislative management.
3. A member of the committee who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the legislative council. A state employee who is a member of the committee is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the committee who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the committee. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the committee who is a member of the legislative assembly.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 427

SENATE BILL NO. 2212

(Senator Anderson)
(Representatives M. Nelson, Satrom)

AN ACT to provide for a legislative management study of prescription drug pricing, importation, reference pricing, and the role pharmacy benefit managers play in drug pricing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PRESCRIPTION DRUG PRICING. During the 2021-22 interim, the legislative management shall study prescription drug pricing, importation, reference pricing, and the role pharmacy benefit managers play in drug pricing. The study must include input from the public employees retirement system, workforce safety and insurance, the insurance commissioner, the state board of pharmacy, prescription drug wholesalers in Canada, and the public. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 428

SENATE BILL NO. 2217

(Senators Bekkedahl, Dwyer, Kannianen)
(Representatives Brandenburg, Kempenich, Zubke)

AN ACT to provide for a legislative management study of postproduction cost deductions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - POSTPRODUCTION COST DEDUCTIONS. During the 2021-22 interim, the legislative management shall consider studying deductions for postproduction costs under oil and gas leases.

1. The study must include:
 - a. Consideration of the methods used to calculate the value of oil and gas, the point of sale used to determine the value, oil and gas sales in the absence of an arm's-length contract, any deductions or incentives applied to the value, and the methods used to report any deductions or incentives on mineral royalty statements;
 - b. Input from representatives from the oil and gas industry, representatives from an organization representing royalty owners, the department of mineral resources, the department of trust lands, and the attorney general's office; and
 - c. An analysis and review of state-mandated natural gas capture targets, federal land permitting restrictions, the effectiveness of using onsite flare mitigation technologies and the infrastructure necessary to enhancing oil and natural gas value.
2. The study may include consideration of the desirability and feasibility of expanding the use and market access of natural gas, including value-added energy opportunities within the state.
3. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 429

SENATE BILL NO. 2253

(Senators Mathern, Hogan)
(Representatives P. Anderson, Guggisberg)

AN ACT to provide for a legislative management study relating to the long-term care insurance market.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - LONG-TERM CARE INSURANCE MARKET. During the 2021-22 interim, the legislative management shall consider studying the long-term care insurance market in the state. The insurance commissioner and, as requested, the ten largest long-term care insurance insurers in the state shall participate in this study to review the current premium market, benefits, and consumer options in relation to premium increases and overall market. Additionally, the department of human services and insurance department shall report to the legislative management regarding the long-term care partnership program, including data addressing utilization of the program, whether there are barriers to access to the program, and how utilization of the program might be increased. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 430

SENATE BILL NO. 2256

(Senators Dever, Hogan, Lee, Mathern)
(Representatives Meier, J. Nelson)

AN ACT to provide for a legislative management study of the state's developmental disability services and autism spectrum disorder waiver and voucher programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - DEVELOPMENTAL DISABILITIES SERVICES - AUTISM SPECTRUM DISORDER WAIVER AND VOUCHER PROGRAMS. During the 2021-22 interim, the legislative management shall study state and federal laws and regulations and services relating to the care and treatment of individuals with developmental disabilities and individuals with autism spectrum disorder.

1. The study must include a review of the following:
 - a. The state's existing programs to identify potential pathways for individuals who have a developmental disability and individuals who have an autism spectrum disorder but do not meet the eligibility criteria for existing programs;
 - b. Gap identification with programmatic recommendations identifying potential strategies to address the gaps, and potential federal and state funding sources, including the federal Medicaid 1915(i) state plan amendment;
 - c. Efforts and services offered by other states, including the planning and implementation process for any new or modified programs;
 - d. The impact of implementation and expanding of programs to address service gaps, including the number of individuals impacted, cost, and timeline for implementation; and
 - e. The elimination of the autism spectrum disorder task force, including contracting with a private, nonprofit entity that does not provide autism spectrum disorder services to facilitate and provide support services to the autism spectrum disorder task force.
2. In conducting the study, the legislative management shall contract with a third party.
3. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement those recommendations, to the sixty-eighth legislative assembly.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 431

SENATE BILL NO. 2258

(Senators Davison, Hogan)

AN ACT to provide for a legislative management study relating to shelter care programs for runaway youth.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - SHELTER CARE PROGRAMS FOR RUNAWAYS. During the 2021-22 interim, the legislative management shall consider studying, in collaboration with the commission on juvenile justice, the necessity of licensing shelter care programs for runaway, homeless, and former foster care youth and the ability of these youth to access temporary shelter. The study must include a review of the current barriers, effective intervention, and necessary resources and services. The legislative management shall report its findings, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 432

SENATE BILL NO. 2271

(Senators Erbele, Dever, Kreun)
(Representatives D. Johnson, Trottier)

AN ACT to provide a statement of legislative intent regarding presidential elections; to provide for a legislative management study; and to provide a directive.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE INTENT - OPPOSITION TO NATIONAL POPULAR VOTE INTERSTATE COMPACT - APPEAL TO CONGRESS. It is the intent of the sixty-seventh legislative assembly to oppose the national popular vote interstate compact, which would circumvent the electoral process set forth in the United States Constitution. If the compact becomes effective, the compact will require each signatory state to award the state's electoral college votes to the presidential candidate who received the most popular votes in all fifty states and the District of Columbia. Fifteen states and the District of Columbia have adopted the compact. However, the current system for awarding electoral college votes to the winners of state elections fulfills the requirements for appointing electoral college electors under Article II of the United States Constitution and ensures states have proportionate representation in presidential elections. The sixty-seventh legislative assembly urges Congress not to consent to the interstate compact and to oppose any efforts to seek a national popular election of a president other than through an amendment to the Constitution.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - NATIONAL POPULAR VOTE INTERSTATE COMPACT. During the 2021-22 interim, the legislative management shall consider studying how to defeat the effort of the national popular vote interstate compact to ensure the electoral college process is preserved as prescribed in the United States Constitution. The study also must include examination of how states report presidential election results and whether states report the results using vote percentages or vote totals. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 3. DIRECTIVE TO SECRETARY OF STATE. The secretary of state shall forward a copy of the enrolled version of this bill to the president of the United States Senate, the speaker of the United States House of Representatives, and each member of the North Dakota congressional delegation.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 433

SENATE BILL NO. 2282

(Senators Schaible, Klein, Luick)
(Representatives D. Johnson, Schmidt)

AN ACT to provide for a legislative management study regarding the memberships of the board of university and school lands and the industrial commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - MEMBERSHIPS OF BOARD OF UNIVERSITY AND SCHOOL LANDS AND INDUSTRIAL COMMISSION. During the 2021-22 interim, the legislative management shall study the membership of the board of university and school lands and the membership of the industrial commission. The study must include consideration of potential conflicts of interest relating to the memberships, possible changes to the composition of the memberships of the board of university and school lands and the industrial commission, and possible changes to article IX of the Constitution of North Dakota. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 434

SENATE BILL NO. 2293

(Senators Meyer, Burckhard, J. Roers)
(Representatives M. Ruby, Vetter)

AN ACT to provide for a legislative management study of exceptions to deeds transferring title of certain types of property or relating to certain transactions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - EXCEPTIONS TO STATEMENT OF CONSIDERATION. During the 2021-22 interim, the legislative management shall consider studying the legislative intent of the exceptions to the requirement of a statement of full consideration for deeds transferring title of certain types of transactions and property under subsection 6 of section 11-18-02.2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 435

SENATE BILL NO. 2299

(Senators Vedaa, Kannianen, O. Larsen)
(Representatives Lefor, D. Ruby, Thomas)

AN ACT to provide for a legislative management study regarding the motor vehicle excise tax.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - MOTOR VEHICLE EXCISE TAX. During the 2021-22 interim, the legislative management shall consider studying the desirability and feasibility of providing a credit against the purchase of a motor vehicle in an amount not to exceed the total amount the person received for the private sale of the vehicle being replaced for purpose of calculating the motor vehicle excise tax. The study must include a review of the current law applied to credits for trade-ins, motor vehicle sale industry practices, vehicles of a certain age, and the potential fiscal and technological impact on the state. The study also must consider the potential for tax fraud, the effect on child support collections, and implications regarding consumer protection. The study also must include input from the tax commissioner and department of transportation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 436

SENATE BILL NO. 2336

(Senators Lee, Anderson, K. Roers)
(Representatives Keiser, Rohr, Weisz)

AN ACT to provide for a legislative management study of occupational boards that address mental health and behavioral health.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - OCCUPATIONAL BOARDS RELATING TO MENTAL HEALTH AND BEHAVIORAL HEALTH. During the 2021-22 interim, the legislative management shall consider studying the occupational boards that address mental health and behavioral health issues which may include the state board of psychologist examiners, board of addiction counseling examiners, board of counselor examiners, education standards and practices board, North Dakota board of social work examiners, and North Dakota marriage and family therapy licensure board. The study must include a review of the rules adopted by the boards and consideration of the frequency with which the rules are reviewed, whether there are barriers to practice and barriers to admission of foreign practitioners, and whether there is adequate training for board members and executive directors of these boards. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 437

SENATE BILL NO. 2162

(Senators Lee, Bekkedahl)
(Representatives Lefor, Monson)

AN ACT to create and enact two new sections to chapter 54-44.4 and subsection 3 of section 54-44.4-14 of the North Dakota Century Code, relating to payments for purchases, communication with elected officials, and the procurement information website; and to amend and reenact subsection 7 of section 54-44.4-02 of the North Dakota Century Code, relating to emergency purchases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

Elected officials - Bidder - Communication.

The office of management and budget shall develop guidelines for a person interested in conducting business with the state. The guidelines must address communications between interested persons and purchasing agencies before, during, and after the procurement process. Procurements conducted by the office of management and budget or a purchasing agency must have a procurement officer who serves as the point of contact for all correspondence related to the procurement. A person that is interested in submitting a bid or has submitted a bid or proposal to provide commodities or services to the state in response to an active procurement should ensure all communications related to the procurement are only with the designated point of contact. This section does not restrict an interested person's communication with state officials or any member of the legislative assembly unless the state official or member of the legislative assembly is involved directly with the procurement for which the person is interested or has submitted a bid or proposal.

³¹⁵ **SECTION 2. AMENDMENT.** Subsection 7 of section 54-44.4-02 of the North Dakota Century Code is amended and reenacted as follows:

7. Emergency purchases the office of management and budget or a purchasing agency cannot make within the required time and which involve public health or public safety, or when immediate expenditures are necessary for repairs of state property to protect it against further loss or damage, or to prevent or minimize serious disruption in state services.
 - a. Emergency purchases made under this subsection must be made with the level of treat all bidders fairly and promote competition as is practicable under the circumstances, and a;
 - b. The procurement file must contain a written determination of the:

(1) The basis for the emergency; and for

³¹⁵ Section 54-44.4-02 was also amended by section 4 of House Bill No. 1452, chapter 448.

- (2) The basis for the selection of the particular contractor must be included in the contract file.
- c. If the emergency circumstances warrant a noncompetitive purchase, the office of management and budget or the purchasing agency shall document within the procurement file a written determination of the basis for the noncompetitive purchase, including the circumstances that justified the noncompetitive purchase.
- d. If the emergency purchase is subject to federal funding reimbursement, the office of management and budget or the purchasing agency shall ensure the procurement procedures and documentation are adequate to satisfy requirements for federal reimbursement.
- e. If time allows, emergency purchases for commodities under this subsection may require a sample for use in determining whether an offered product meets specifications.

SECTION 3. A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

Purchases - Payment.

The purchasing agency and the vendor may negotiate payment terms for all commodities and services procured. If a date for payment is not specified by the contract, payment must be made pursuant to section 13-01.1-01.

SECTION 4. Subsection 3 of section 54-44.4-14 of the North Dakota Century Code is created and enacted as follows:

3. The office of management and budget shall establish and maintain a standardized procedure for the submission of electronic bids and proposals through the procurement information website. The office of management and budget, in consultation with the office of the attorney general, shall develop standardized solicitation documents. The documents must be made available on the procurement information website. When drafting a solicitation, the office of management and budget and purchasing agencies shall use their best efforts to minimize the length of the solicitation by ensuring only those sections from the standardized solicitation documents applicable to the procurement are included.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 438

HOUSE BILL NO. 1041

(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

AN ACT to amend and reenact subsection 2 of section 54-52-06, section 54-52.1-06, and subsection 2 of section 54-52.6-09 of the North Dakota Century Code, relating to public employees retirement system penalties for late payments or failures to follow required processes; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

2. For those members who elect to exercise their rights under section 54-52-17.14, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund from the governmental unit's funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, or failing to otherwise comply with the board's established wage reporting or payroll reporting process requirements, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof ~~a month~~ after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date the contributions became due, penalty and interest to be paid on delinquent contributions may be waived.

SECTION 2. AMENDMENT. Section 54-52.1-06 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-06. State contribution - Penalty.

1. Each department, board, or agency shall pay to the board each month from its funds appropriated for payroll and salary amounts a state contribution in the amount as determined by the primary carrier of the group contract for the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. The board

~~then~~ shall ~~then~~ pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis.

2. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium amount must be credited at least annually to a separate fund of the uniform group insurance program to be used by the board to reimburse the administrative expense and benefit fund of the public employees retirement program for the costs of administration of the uniform group insurance program. ~~In the event~~
3. If an enrolled eligible employee is not entitled to receive salary, wages, or other compensation for a particular calendar month, that employee may make direct payment of the required premium to the board to continue the employee's coverage, and the employing department, board, or agency shall provide for the giving of a timely notice to the employee of that ~~person's~~employee's right to make such payment at the time the right arises.
4. A governmental unit that fails to pay the contributions by the board's established due date is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction of a month after the payment became due.

SECTION 3. AMENDMENT. Subsection 2 of section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the monthly reporting period of January 2013; and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. For members first enrolled after December 31, 2019, the employer contribution includes an additional increase of one and fourteen-hundredths percent. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. Monthly, the employer shall pay such contribution into the participating member's account from the employer's funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, or fails to otherwise comply with the board's established wage reporting or payroll reporting process requirements, the employer is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction of a month after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date the contributions became due, penalty and interest to be paid on delinquent contributions may be waived.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 439

SENATE BILL NO. 2044

(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

AN ACT to amend and reenact section 39-03.1-10, subsection 2 of section 39-03.1-11.2, subsection 8 of section 54-52-17, subsection 10 of section 54-52-26, subsection 2 of section 54-52-28, subsection 2 of section 54-52.1-03.2, subsection 1 of section 54-52.1-03.3, and subsection 2 of section 54-52.6-21 of the North Dakota Century Code, relating to public employees retirement system unpaid benefit payments, missing member confidentiality requirements, compliance with Internal Revenue Code distribution requirements, insurance programs for which retiree health insurance credit moneys may be used, and clarification of eligibility for retiree health insurance credit payments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹⁶ **SECTION 1. AMENDMENT.** Section 39-03.1-10 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-10. Contributions by the state.

The state shall contribute to the fund a sum equal to sixteen and seventy-hundredths percent of the monthly salary or wage of a participating member. State contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the member's contribution is paid by the state under subsection 2 of section 39-03.1-09, the state shall contribute, in addition, an amount equal to the required member's contribution. The state shall pay the associated employer contribution for those members who elect to exercise their rights under ~~subsection 3 of section 39-03.1-10.~~ 39-03.1-10.3.

SECTION 2. AMENDMENT. Subsection 2 of section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. For a member who attains age seventy and one-half before January 1, 2020, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment. For a member who attains age seventy and one-half after December 31, 2019, the

³¹⁶ Section 39-03.1-10 was also amended by section 2 of Senate Bill No. 2043, chapter 282.

member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy-two or terminates employment.

SECTION 3. AMENDMENT. Subsection 8 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a member receiving retirement benefits or the member's surviving spouse receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate. A benefit payment owed to the member, surviving spouse, or alternate beneficiary which was not paid before the death of the member, surviving spouse, or alternate beneficiary must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.

SECTION 4. AMENDMENT. Subsection 10 of section 54-52-26 of the North Dakota Century Code is amended and reenacted as follows:

10. The general public, but only after the board has been unable to locate the member for a period in excess of ~~two years~~one year, and limited to the member's name and the fact ~~that~~ the board has been unable to locate the member.

SECTION 5. AMENDMENT. Subsection 2 of section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. AFor a member who attains age seventy and one-half before January 1, 2020, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment. For a member who attains age seventy and one-half after December 31, 2019, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy-two or terminates employment.

SECTION 6. AMENDMENT. Subsection 2 of section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

2. All moneys deposited in the fund established under subsection 1, not otherwise appropriated, are hereby appropriated to the board for the purpose of making investments for the fund and to make contributions toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and for any dental, vision, and long-term care benefits coverage under ~~the uniform group~~any insurance program for eligible

retired employees or surviving spouses of eligible retired employees and their dependents as elected.

SECTION 7. AMENDMENT. Subsection 1 of section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

1. The following individuals are entitled to receive credit for hospital benefits coverage, medical benefits coverage, and prescription drug coverage under any health insurance program and for any dental, vision, and long-term care benefits coverage under any insurance program:
 - a. A member or surviving spouse ~~receiving retirement benefits under~~ the highway patrolmen's retirement system is eligible for the credit beginning on the date retirement benefits are effective.
 - b. If the member first enrolled before January 1, 2020, a member or surviving spouse ~~receiving retirement benefits under~~ the public employees retirement system is eligible for the credit beginning on the date retirement benefits are effective.
 - c. A member or surviving spouse ~~receiving retirement benefits under~~ the retirement program established by job service North Dakota under section 52-11-01 is eligible for the credit beginning on the date retirement benefits are effective.
 - d. A retired judge or surviving spouse ~~receiving retirement benefits under~~ the retirement program established under chapter 27-17 is eligible for the credit beginning on the date retirement benefits are effective.
 - e. If the former participating member first enrolled before January 1, 2020, a former participating member of the defined contribution retirement plan receiving retirement benefits, or the surviving spouse of a former participating member of that retirement plan who was eligible to receive or was receiving benefits, under section 54-52.6-13, is eligible as determined by the board pursuant to the board's rules.

SECTION 8. AMENDMENT. Subsection 2 of section 54-52.6-21 of the North Dakota Century Code is amended and reenacted as follows:

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. For a member who attains age seventy and one-half before January 1, 2020, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment. For a member who attains age seventy and one-half after December 31, 2019, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy-two or terminates employment.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 440

HOUSE BILL NO. 1435

(Representatives Ista, Adams, Guggisberg, Heinert, Lefor, Mock, O'Brien, M. Ruby,
Vetter)
(Senators Bakke, Kreun, Meyer)

AN ACT to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to public employees retirement system health insurance benefits coverage for emergency responders who die in the line of duty; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Emergency responders who die in the line of duty - Health benefits.

1. As used in this section:
 - a. "Correctional facility staff" has the same meaning as provided under section 12-44.1-01.
 - b. "Dies in the line of duty" means a death occurring as a direct and proximate result of a personal injury sustained by an emergency responder while engaged in a line of duty activity or which arose out of and as a result of the individual's performance of a line of duty activity.
 - c. "Emergency responder" means a peace officer, member of a correctional facility staff, emergency medical services personnel, or firefighter, who is employed by the state, a political subdivision of the state, or an institution under the control of the state board of higher education. The term does not include a national guard security officer or national guard firefighter.
 - d. "Line of duty activity" means an employment-related action taken by an emergency responder which is required or authorized by law, rule, regulation, or condition of employment and for which compensation is provided by the employing entity or would have been eligible to have been provided by the employing entity if the emergency responder had been on duty at the time the action in question was taken.
 - e. "Peace officer" has the same meaning as provided under section 12-63-01. The term includes a game warden.
2. At no charge, the board shall offer health insurance benefits coverage, including drug benefits coverage, to the surviving spouse and dependent child of an emergency responder who dies in the line of duty. The provision of health insurance benefits coverage under this section includes coverage of a child of the emergency responder who is born within ten months of the date of the death.

3. The provision of health insurance benefits coverage under this section must continue for the:
 - a. Surviving spouse until the surviving spouse reaches age sixty-five; and
 - b. Dependent child until the dependent child reaches age twenty-six.
4. An employer shall notify the board of the qualifying event of an emergency responder dying in the line of duty.
5. This section does not affect eligibility for benefits under title 65.

SECTION 2. RETROACTIVE APPLICATION. This Act applies retroactively to the qualifying event of an emergency responder dying in the line of duty on or after January 1, 2010; however, the benefits under this Act do not begin before August 1, 2021.

Approved April 19, 2021

Filed April 19, 2021

CHAPTER 441

HOUSE BILL NO. 1029

(Legislative Management)
(Employee Benefits Programs Committee)

AN ACT to amend and reenact section 54-52.1-04.2 of the North Dakota Century Code, relating to public employee uniform group insurance for health benefits; to provide for application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.1-04.2 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-04.2. Self-insurance health plan.

1. This section applies to a self-insurance health plan for:
 - a. Health insurance and prescription drug benefits coverage;
 - b. Health insurance benefits coverage, excluding all or part of prescription drug benefits coverage; or
 - c. All or part of prescription drug benefits coverage.
2. Except for prescription drug coverage under subdivision c of subsection 1, a self-insurance health plan established by the board under this section must be provided under an administrative services only (ASO) contract or a third-party administrator (TPA) contract under the uniform group insurance program. The board may not establish a self-insurance health plan unless the board determines the self-insurance health plan best serves the interests of the state and the state's eligible employees. ~~Except for prescription drug coverage under subdivision c of subsection 1, if~~ the board determines it is in the best interest of the plan, individual stop-loss coverage insured by a carrier authorized to do business in this state may be made part of a self-insurance health plan.

SECTION 2. APPLICATION. This Act applies to self-insurance health plans effective on or after the effective date of this Act.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 442

HOUSE BILL NO. 1042

(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

AN ACT to amend and reenact subsection 3 of section 54-52.1-04.16, relating to the public employees retirement system's uniform group insurance program part D contracts with pharmacy benefit managers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 54-52.1-04.16 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~If Except for Medicare part D, if~~ the board contracts directly with a pharmacy benefits manager or provides prescription drug coverage through a self-insurance plan, the contract must provide the pharmacy benefits manager shall disclose to the board and the board's auditor all rebates and any other fees that provide the pharmacy benefits manager with sources of income under the contract, including under related contracts the pharmacy benefits manager has with third parties, such as drug manufacturers.

Approved March 15, 2021

Filed March 15, 2021

CHAPTER 443

SENATE BILL NO. 2341

(Senators Davison, K. Roers)

AN ACT to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to access to public employees retirement system uniform group insurance data; to amend and reenact section 54-52.1-05.1 of the North Dakota Century Code, relating to access to insured and provider health insurance benefits coverage data; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-05.1. Health insurance benefits coverage - Insured and provider data disclosure.

Except as necessary for treatment, payment, or health care operations, a carrier providing health insurance benefits coverage under this chapter may not disclose identifiable or unidentifiable insured or provider data or information to a related or unrelated health care delivery entity. The board may establish exceptions to the disclosure limitations under this section for the limited purpose of addressing public interest and benefit activities or, for the limited purpose of addressing research, public health, or health care operations; or for the solicitation of bids pursuant to section 54-52.1-04. An exception established by the board under this section may not be more permissive than allowed under state and federal privacy laws.

SECTION 2. A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Health insurance utilization reports.

Upon request by a political subdivision that receives benefits under the uniform group insurance program, the board shall provide that political subdivision with a health insurance utilization report that is substantively the same as a report required under subsection 1 of section 26.1-36.4-09. The board shall provide the report in a manner that is in compliance with the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.].

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 444

HOUSE BILL NO. 1417

(Representatives Louser, Fegley, Jones, Kasper, Mock, Rohr, Schmidt, Toman)
(Senators Burckhard, Kannianen, O. Larsen)

AN ACT to amend and reenact section 54-59-05 of the North Dakota Century Code, relating to the powers and duties of the information technology department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹⁷ **SECTION 1. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is amended and reenacted as follows:

54-59-05. Powers and duties of department. (Effective through July 31, 2023)

The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. With the exception of agreements entered related to the statewide interoperable radio network, an agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the legislative assembly or the budget section if the legislative assembly is not in session before executing a financing agreement. Any request considered by the budget section must comply with section 54-35-02.9. If the legislative assembly or the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. With the exception of financing for the

³¹⁷ Section 54-59-05 was also amended by section 5 of Senate Bill No. 2007, chapter 35, and section 6 of Senate Bill No. 2021, chapter 49.

statewide interoperable radio network, the department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.

5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request and review information, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive branch agency. The department shall present the information to the information technology committee on request of the committee.
8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and five hundred thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.
9. Shall study emerging technology and evaluate its impact on the state's system of information technology.
10. Shall develop guidelines for reports to be provided by each agency of the executive, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, on information technology in those entities.
11. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.
12. Shall perform all other duties necessary to carry out this chapter.
13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private,

charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003.

14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
15. Notwithstanding subsection 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.
16. Shall advise and oversee cybersecurity strategy for all executive branch state agencies, including institutions under the control of the state board of higher education, counties, cities, school districts, or other political subdivisions. For purposes of this subsection, the department shall consult with the attorney general on cybersecurity strategy.
17. Shall advise and consult with the legislative and judicial branches regarding cybersecurity strategy.
18. Notwithstanding chapter 54-40.2, may enter a memorandum of understanding with other state, local, tribal, or territorial governments of the United States for purposes of ensuring the confidentiality, availability, and integrity of state, local, and tribal information systems and data, including consulting, developing cybersecurity strategy, prevention of cybersecurity incidents, and response strategies to cybersecurity incidents. The department may charge an amount equal to the cost of the services rendered by the department to all agencies that receive and expend moneys from other than the general fund.
19. Notwithstanding chapter 54-40.2, may enter a mutual aid agreement with other state, local, tribal, or territorial governments of the United States agreeing to the reciprocal exchange of resources and services for mutual benefit of the parties related to cybersecurity efforts for the purposes of responding to or mitigating active cybersecurity incidents. The department may receive in-kind benefits that reduce cybersecurity risks to information technology or shall charge an amount equal to the cost of the services rendered by the department to all agencies that receive and expend moneys from other than the general fund.

Powers and duties of department. (Effective after July 31, 2023)

The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia

into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.

3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the legislative assembly or the budget section if the legislative assembly is not in session before executing a financing agreement. Any request considered by the budget section must comply with section 54-35-02.9. If the legislative assembly or the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.
5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request and review information, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive branch agency. The department shall present the information to the information technology committee on request of the committee.
8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and five hundred thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.

9. Shall study emerging technology and evaluate its impact on the state's system of information technology.
10. Shall develop guidelines for reports to be provided by each agency of the executive, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, on information technology in those entities.
11. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.
12. Shall perform all other duties necessary to carry out this chapter.
13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003.
14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
15. Notwithstanding subsection 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.
16. Shall advise and oversee cybersecurity strategy for all executive branch state agencies, including institutions under the control of the state board of higher education, counties, cities, school districts, or other political subdivisions. For purposes of this subsection, the department shall consult with the attorney general on cybersecurity strategy.
17. Shall advise and consult with the legislative and judicial branches regarding cybersecurity strategy.
18. Notwithstanding chapter 54-40.2, may enter a memorandum of understanding with other state, local, tribal, or territorial governments of the United States for purposes of ensuring the confidentiality, availability, and integrity of state, local, and tribal information systems and data, including consulting, developing cybersecurity strategy, prevention of cybersecurity incidents, and response strategies to cybersecurity incidents. The department may charge an amount equal to the cost of the services rendered by the department to all agencies that receive and expend moneys from other than the general fund.
19. Notwithstanding chapter 54-40.2, may enter a mutual aid agreement with other state, local, tribal, or territorial governments of the United States agreeing to the reciprocal exchange of resources and services for mutual benefit of the parties related to cybersecurity efforts for the purposes of responding to or mitigating active cybersecurity incidents. The department may receive in-kind benefits that reduce cybersecurity risks to information technology or shall charge an amount equal to the cost of the services

rendered by the department to all agencies that receive and expend moneys from other than the general fund.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 445

HOUSE BILL NO. 1314

(Representatives Mock, Bosch, Dockter, Louser, Roers Jones, Toman, Vigesaa,
Weisz)
(Senators Davison, Piepkorn, Vedaa)

AN ACT to create and enact a new chapter to title 54 of the North Dakota Century Code, relating to cybersecurity incident reporting requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 54 of the North Dakota Century Code is created and enacted as follows:

Definitions.

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

1. "Breach" means unauthorized access or acquisition of computerized data that has not been secured by encryption or other methods or technology that renders electronic files, media, or databases unreadable or unusable. Good-faith acquisitions of personal information by an employee or agent of the employee is not a breach of security of the system if the personal information is not used or subject to further unauthorized disclosure.
2. "Criminal justice information" means private or sensitive information collected by federal, state, or local law enforcement including the following:
 - a. Fingerprints or other biometric information;
 - b. Criminal background and investigation information; and
 - c. Personal information.
3. "Denial of service attack" means an attack against a computer system designed to make the system inaccessible to users.
4. "Department" means the information technology department.
5. "Entity" means an executive branch state agency or a political subdivision within the state.
6. "Financial information" means banking, credit, or other account information that, if accessed without being authorized, may result in potential harm to an individual and includes:
 - a. Account numbers or codes;
 - b. Credit card expiration dates;
 - c. Credit card security codes;

- d. Bank account statements; and
 - e. Records of financial transactions.
7. "Health insurance information" means an individual's health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify an individual.
8. "Identity theft or identity fraud" means all types of crime in which an individual wrongfully obtains and uses another individual's personal data in a way that involves fraud or deception, most commonly for economic gain.
9. "Malware" means software or firmware intended to perform an unauthorized process that will have adverse effect on the confidentiality, integrity, or availability of an information system and includes a virus, worm, trojan horse, spyware, adware, or other code-based system that infects hosts.
10. "Medical information" means an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.
11. "Personal information" means an individual's first name or first initial and last name in combination with the following when names and data are not encrypted, but does not include information available to the public from federal, state, or local government records:
- a. The individual's social security number;
 - b. The operator's license number assigned to an individual under section 39-06-14;
 - c. A nondriver photo identification card number assigned to the individual under section 39-06-03.1;
 - d. The individual's financial institution account number, credit card number, or debit card number in combination with required security codes, access codes, or passwords that permit access to an individual's financial accounts;
 - e. The individual's date of birth;
 - f. The maiden name of the individual's mother;
 - g. Medical information;
 - h. Health insurance information;
 - i. An identification number assigned to the individual by the individual's employer in combination with security codes, access codes, or passwords; or
 - j. The individual's digitized or other electronic signature.
12. "Ransom" means a payment for services or goods to a malicious agent to:
- a. Decrypt data on a computer system;

- b. Retrieve lost or stolen data; or
 - c. Prevent the disclosure and dissemination of information.
13. "Regulated information" means information and information technology resource protection requirements established by the federal government and regulating organizations.
14. "Regulating organizations" means organizations that issue laws, regulations, policies, guidelines, and standards, including the:
- a. Federal bureau of investigation;
 - b. Internal revenue service;
 - c. Social security administration;
 - d. Federal deposit insurance corporation;
 - e. United States department of health and human services;
 - f. Centers for Medicare and Medicaid services; and
 - g. Payment card industry security standards council.
15. "Significant damage" means:
- a. A degradation in or loss of mission capability to an extent and duration that the entity is not able to perform one or more of its primary functions;
 - b. Damages of ten thousand dollars or more to entity assets as estimated by the entity;
 - c. A financial loss of ten thousand dollars or more as estimated by the entity;
or
 - d. Harm to individuals involving loss of life or serious life-threatening injuries.

Immediate disclosure to the department.

An entity shall disclose to the department an identified or suspected cybersecurity incident that affects the confidentiality, integrity, or availability of information systems, data, or services. Disclosure must be made in the most expedient time possible and without unreasonable delay. Cybersecurity incidents required to be reported to the department include:

- 1. Suspected breaches;
- 2. Malware incidents that cause significant damage;
- 3. Denial of service attacks that affect the availability of services;
- 4. Demands for ransom related to a cybersecurity incident or unauthorized disclosure of digital records;

5. Identity theft or identity fraud services hosted by entity information technology systems;
6. Incidents that require response and remediation efforts that will cost more than ten thousand dollars in equipment, software, and labor; and
7. Other incidents the entity deems worthy of communication to the department.

Ongoing disclosure to the department during a cybersecurity incident.

Until a cybersecurity incident is resolved, an entity shall disclose clarifying details regarding a cybersecurity incident to the department, including:

1. The number of potentially exposed records;
2. The type of records potentially exposed, including health insurance information, medical information, criminal justice information, regulated information, financial information, and personal information;
3. Efforts the entity is undertaking to mitigate and remediate the damage of the incident to the entity and other affected entities; and
4. The expected impact of the incident, including:
 - a. The disruption of the entity services;
 - b. The effect on customers and employees that experienced data or service losses;
 - c. The effect on entities receiving wide area network services from the department; and
 - d. Other concerns that could potentially disrupt or degrade the confidentiality, integrity, or availability of information systems, data, or services that may affect the state.

Disclosure to the department - Legislative and judicial branches.

The legislative and judicial branches may disclose to the department cybersecurity incidents that affect the confidentiality, integrity, or availability of information systems, data, or services.

Method of disclosure of cybersecurity incidents.

The department shall establish and make known methods an entity must use to securely disclose cybersecurity incidents to the department.

Statewide cybersecurity incident response.

The department, to the extent possible, shall provide consultation services and other resources to assist entities and the legislative and judicial branches in responding to and remediating cybersecurity incidents.

Disclosure to the legislative management.

The department shall report to the legislative management all disclosed cybersecurity incidents as required by this chapter, including the status of the

cybersecurity incident and any response or remediation to mitigate the cybersecurity incident. The department shall ensure all reports of disclosed cybersecurity incidents are communicated in a manner that protects victims of cybersecurity incidents, prevents unauthorized disclosure of cybersecurity plans and strategies, and adheres to federal and state laws regarding protection of cybersecurity information.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 446

HOUSE BILL NO. 1050

(Industry, Business and Labor Committee)
(At the request of the Bank of North Dakota)

AN ACT to amend and reenact subsection 2 of section 54-60.1-01 of the North Dakota Century Code, relating to definitions relating to business incentives, agreements, and reports.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 54-60.1-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Business incentive" means a state or political subdivision direct cash transfer, loan, or equity investment; contribution of property or infrastructure; reduction or deferral of any tax or any fee; guarantee of any payment under any loan, lease, or other obligation; or preferential use of government facilities given to a business. To be considered a business incentive, the total assistance in all forms must be valued at twenty-five thousand dollars or more committed within a year. Unless specifically provided otherwise, the term does not include:
 - a. Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, or similar criteria.
 - b. Incentives resulting from Bank of North Dakota programs unless the incentive ~~is a direct interest rate buydown or is an investment made pursuant to the North Dakota alternative and venture capital investments and early-stage capital funds program~~requires job creation to fulfill a requirement of the incentive.
 - c. Public improvements to buildings or lands owned by the state or political subdivision which serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made.
 - d. Assistance provided for the sole purpose of renovating old or decaying building stock or bringing such building stock up to code and assistance provided for designated historic preservation districts, provided that the assistance does not exceed seventy-five percent of the total cost.
 - e. Assistance to provide job-readiness and training services if the sole purpose of the assistance is to provide those services.
 - f. Assistance for housing.
 - g. Assistance for pollution control or abatement.
 - h. Assistance for energy conservation.

- i. Tax reductions resulting from conformity with federal tax law.
- j. Benefits derived from regulation.
- k. Indirect benefits derived from assistance to educational institutions.
- l. Assistance for a collaboration between a North Dakota institution of higher education and a business.
- m. Redevelopment if the recipient's investment in the purchase of the site and in site preparation is seventy percent or more of the assessor's current year's estimated market value.
- n. General changes in tax increment financing law and other general tax law changes of a principally technical nature.
- o. Federal assistance provided through the state or a political subdivision until the assistance has been repaid to, and reinvested by, the state or political subdivision.
- p. Federal or state assistance for the lignite research, development, and marketing program under chapter 54-17.5.
- q. Federal or state assistance for the oil and gas research, development, and marketing program under chapter 54-17.6.
- r. Federal or state assistance for the renewable energy program under chapter 54-63.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 447

SENATE BILL NO. 2174

(Senators Meyer, Larson, Sorvaag)
(Representatives K. Koppelman, Satrom)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 and a new section to chapter 54-61 of the North Dakota Century Code, relating to criminal history record checks by the commission on legal counsel for indigents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹⁸ **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The commission on legal counsel for indigents for a volunteer or final applicant for employment, as determined by the director of the commission on legal counsel for indigents.

SECTION 2. A new section to chapter 54-61 of the North Dakota Century Code is created and enacted as follows:

Criminal history record checks.

The commission may require a volunteer or final applicant for employment to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided in section 12-60-24.

Approved March 29, 2021

Filed March 30, 2021

³¹⁸ Section 12-60-24 was also amended by section 1 of House Bill No. 1073, chapter 98, section 2 of House Bill No. 1073, chapter 98, section 18 of House Bill No. 1247, chapter 352, section 1 of House Bill No. 1253, chapter 164, section 1 of Senate Bill No. 2062, chapter 452, section 1 of Senate Bill No. 2110, chapter 218, section 1 of Senate Bill No. 2131, chapter 378, section 1 of Senate Bill No. 2187, chapter 323, and section 1 of Senate Bill No. 2338, chapter 379.

CHAPTER 448

HOUSE BILL NO. 1452

(Representatives Bosch, Delzer, Mitskog, Pollert, Porter)
(Senators Holmberg, Patten, Bell, Wardner)

AN ACT to create and enact a new chapter to title 54 of the North Dakota Century Code, relating to a clean sustainable energy authority and a clean sustainable energy fund; to amend and reenact sections 17-01-01 and 17-07-01 and subsection 5 of section 54-44.4-02 of the North Dakota Century Code, relating to low-emission technology, the energy policy commission, and an exemption from procurement services for energy programs; to provide a continuing appropriation; to provide an appropriation; to provide a transfer; and to provide a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 17-01-01 of the North Dakota Century Code is amended and reenacted as follows:

17-01-01. ~~25x'25 initiative~~Low-emission technology.

The legislative assembly adopts the ~~25x'25~~low-emission technology initiative with the goal that ~~not later than January 1, 2025,~~ the agricultural, forestry, natural resources, and working land of the United States should provide energy from renewable resources not less than twenty-five percent of the total energy consumed in the United States~~low-emission technology~~ and continue to produce safe, abundant, and affordable food, fuel, feed, and fiber. Increasing America's ~~renewable energy~~low-emission technology use will bring new technologies~~advancements~~ to market and save consumers money, reduce the nation's dependence on oil from the Middle East, create good new jobs in rural America, and clean up the air and, reduce urban smog, and address global warming issues. As used in this initiative, renewable energy~~low-emission technology~~ includes biofuels, solar, wind, hydropower, geothermal, carbon recycling, carbon sequestration, use of waste heat, recycling, ~~low-emission technologies that create or use hydrogen, coal, oil, natural gas, and energy efficiency initiatives.~~ The ~~25x'25 initiative will benefit agriculture and forestry, the environment, and national security and provide economic growth~~Investing and acknowledging a commitment to low-emission technology allows the state to use its abundant natural resources for the benefit of current and future generations. This initiative provides North Dakota consumers with affordable, reliable, resilient, and sustainable energy for the benefit of the state's economy and communities.

SECTION 2. AMENDMENT. Section 17-07-01 of the North Dakota Century Code is amended and reenacted as follows:

17-07-01. Energy policy commission.

1. The energy policy commission is composed of:
 - a. The commissioner of commerce, or the commissioner's designee;
 - b. A representative of the agriculture community appointed by the governor;

- c. A representative recommended by the lignite energy council appointed by the governor;
 - d. A representative recommended by the North Dakota petroleum council appointed by the governor;
 - e. A member from the biodiesel or green diesel industry appointed by the governor;
 - f. A member from the biomass industry appointed by the governor;
 - g. A member from the wind industry appointed by the governor;
 - h. A member from the ethanol industry appointed by the governor;
 - i. A representative recommended by the North Dakota petroleum marketers association appointed by the governor;
 - j. A member from the North Dakota investor-owned electric utility industry appointed by the governor;
 - k. A member from the generation and transmission electric cooperative industry appointed by the governor;
 - l. A member from the lignite coal-producing industry appointed by the governor;
 - m. A member from the refining or gas-processing industry appointed by the governor; and
 - n. Additional nonvoting members appointed by the governor.
2. Each member of the commission shall serve for a term of two years, beginning July first, may be reappointed for additional terms, and serves at the pleasure of the governor.
3. The commissioner of commerce, or the commissioner's designee, is chairman of the commission.
4. The commission shall meet at least four times per biennium or as often as the chairman deems necessary. The commission shall hold at least two public hearings per biennium, at which time interested parties may present to receive testimony regarding issues pertinent to the state's comprehensive energy policy and low-emission technology initiative. The department of commerce shall provide staffing for the commission.
5. ~~The legislative assembly shall develop a comprehensive energy policy for the state. The commission shall monitor progress made toward the goals outlined in the energy policy and make recommendations to the energy policy as needed.~~ The commission may identify and make recommendations to the clean sustainable energy authority on technologies related to low-emission advancements. The recommendations may include consideration of advancements or developments that have led to increased economic benefits and positive environmental public health benefits for the citizens and visitors of North Dakota, including cleaner air, soil, and water; improved efficiencies;

reduction of waste; lower carbon-intensive agricultural products or processes; and quantities of energy used. The recommendations also may consider other factors, including environmental, social, and governance policies and the effect on financial or capital markets. The commission shall consider and make recommendations on policies to ensure the availability of affordable, reliable, resilient, and sustainable energy in the state; to expand value-added energy; and to expand the opportunities to diversify the use of North Dakota's natural resources, which may increase state tax revenues. The commission shall study and evaluate critical energy infrastructure and shall make recommendations to ensure the state's comprehensive energy policy supports electrical grid reliability and resiliency and supports sufficient dispatchable generation capacity to avoid brownouts, blackouts, or outages. The commission shall monitor the progress of implementing and achieving environmental benefits through the state's comprehensive energy policy.

6. The legislative assembly shall consider recommendations from the commission to develop a comprehensive energy policy for the state. The commission shall report its recommendations biennially to the legislative management.
- ~~6-7.~~ The members of the commission who are not state employees are entitled to mileage and expenses as provided by law for state officers and employees. Unless otherwise provided in this subsection, the expenses of appointed members are to be paid by the department of commerce. A state employee who is a member of the commission must receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency.

³¹⁹ **SECTION 3.** A new chapter to title 54 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter:

1. "Authority" means the clean sustainable energy authority.
2. "Clean" means a technology or concept that reduces emissions to the air, water, or land and meets or exceeds state and federal environmental regulations.
3. "Commission" means the industrial commission.
4. "Fund" means the clean sustainable energy fund.
5. "Program" means the clean sustainable energy program.
6. "Sustainable" means a technology or concept that allows the use of a natural resource to be maintained or enhanced through increased efficiency and life cycle benefits while either increasing or not adversely impacting energy security, affordability, reliability, resilience, or national security.

³¹⁹ Section 54-63.1-05 was amended by section 28 of House Bill No. 1015, chapter 15; section 54-63.1-07 was amended by section 29 of House Bill No. 1015, chapter 15.

Clean sustainable energy authority - Purpose.

There is created the clean sustainable energy authority to support research, development, and technological advancements through partnerships and financial support for the large scale development and commercialization of projects, processes, activities, and technologies that reduce environmental impacts and increase sustainability of energy production and delivery. The purpose of the financial support is to enhance the production of clean sustainable energy, to make the state a world leader in the production of clean sustainable energy, and to diversify and grow the state's economy.

Clean sustainable energy authority - Membership - Meetings.

1. The clean sustainable energy authority consists of sixteen members, including eight voting members and eight nonvoting technical advisors.
2. The eight voting members consist of:
 - a. One member appointed by the legislative management to serve as chairman;
 - b. Two members appointed by the lignite research council;
 - c. Two members appointed by the oil and gas research council;
 - d. Two members appointed by the renewable energy council; and
 - e. One member appointed by the western Dakota energy association.
3. The eight nonvoting technical advisors consist of:
 - a. One member appointed by the North Dakota outdoor heritage fund advisory board;
 - b. The commissioner of commerce or the commissioner's designee;
 - c. The director of the department of environmental quality or the director's designee;
 - d. The director of mineral resources or the director's designee;
 - e. The director of the North Dakota pipeline authority or the director's designee;
 - f. The director of the North Dakota transmission authority or the director's designee;
 - g. The director of the state energy research center or the director's designee;
 - h. The president of the Bank of North Dakota or the president's designee;
4. The term of office for the chairman is two years. The term of office for the other voting members is four years, and the other voting members may not serve more than two consecutive terms. The terms of office for the voting members commence on July first. The initial terms for the voting members of

the authority must be staggered following a method determined by the authority.

5. The authority shall meet at least semiannually. The chairman shall call a meeting upon written request from three voting members of the authority. Five voting members is a quorum at any meeting.
6. The authority may not forward a recommendation to the commission unless the recommendation fulfills the purposes of this chapter and is approved by a majority of the voting members of the authority.

Clean sustainable energy authority - Duties - Report.

1. The authority shall make recommendations to the commission for program guidelines, including eligibility criteria for entities to receive funding under this chapter.
2. The nonvoting technical advisors shall develop a process to review and evaluate projects to determine the technical merits and feasibility of any application, including potential benefits of the development of low-emission technology, the expansion of the development of the state's natural resources or energy production, and the contribution to the economic diversity in the state.
3. The authority may develop a loan program or a loan guarantee program under the clean sustainable energy fund. The Bank of North Dakota shall administer the loan program or loan guarantee program. The interest rate of a loan under this program may not exceed two percent per year. The maximum term of a loan under this section must be approved by the commission based on a recommendation from the authority. The Bank shall review applications for loans or loan guarantees and shall consider the business plan, financial statements, and other information necessary to evaluate the application. To be eligible for a loan or loan guarantee, an entity shall agree to provide the Bank of North Dakota with information as requested. The Bank of North Dakota may develop policies for loan participation with local financial institutions.
4. The authority shall make recommendations to the commission for grant awards, loan approvals, or other financial assistance to provide funding to support research, development, and technological advancements for the large scale development and commercialization of projects, processes, activities, and technologies that reduce environmental impacts and increase sustainability of energy production and delivery in accordance with this chapter. Any projects, processes, activities, and technologies selected by the commission for funding must have been recommended by the authority, must demonstrate feasibility based on a technical review conducted by the nonvoting technical advisors of the authority, must have other sources of financial support, and must achieve the priorities and purposes of the program. At the request of the authority, the Bank of North Dakota shall provide a recommendation regarding the economic feasibility of a project, process, activity, or technology under consideration by the authority. The Bank shall review the business plan, financial statements, and other information necessary to provide a recommendation.
5. The authority may consult with any other state agency necessary to carry out the purposes under this chapter.

6. Each biennium, the authority shall provide a written report to the legislative management regarding its activities and the program's financial impact on state revenues and the state's economy.

Clean sustainable energy program - Powers and duties of the commission.

1. The commission is granted all the powers necessary to carry out the purposes of this chapter, including the power to:
 - a. Provide grants, loans, or other forms of financial assistance to qualified entities for the research, demonstration, development, and commercialization of projects, processes, activities, and technologies that reduce environmental impacts and use energy sources derived from within the state. Other forms of financial assistance include venture capital investments and interest rate buydowns. The commission must require an entity to provide assurance of financial and other types of support that demonstrate a commitment to the project, process, activity, or technology. The commission may develop policies for the approval of loans or loan guarantees issued from the clean sustainable energy fund.
 - b. Enter into contracts or agreements to carry out the purposes of this chapter, including contracting for the administration of the program.
 - c. Keep accurate records of all financial transactions performed under this chapter.
 - d. Cooperate with any private, local, state, or national organization to make contracts and agreements for programs that advance the mission of the program.
 - e. Accept loan repayments, donations, grants, contributions, or gifts from any public or private source to carry out the purposes of this chapter, which must be deposited in the clean sustainable energy fund.
 - f. Make guidelines necessary to carry out the purposes of this chapter, including guidelines relating to the ownership of intellectual property.
2. The commission may acquire, purchase, hold, use, lease, license, sell, transfer, or dispose of any interest in an asset necessary for clean sustainable energy technology development to facilitate the production, transportation, distribution, or delivery of clean energy commodities produced in the state as a purchases of last resort.
3. The commission shall provide administrative support to the authority for the operation of the program, including the preparation of forms, review of applications, and ongoing review of any contracts. The commission may contract with a public or private entity to provide technical assistance necessary to implement the purposes of this chapter.
4. The commission is not subject to the reporting requirements under chapter 54-60.1.

Clean sustainable energy program - Access to records.

1. To the extent the commission or authority determines the materials or data consist of trade secrets or commercial, financial, or proprietary information of

individuals or entities applying to or contracting with the commission or receiving commission services under this chapter, materials and data submitted to, made by, or received by the commission or authority, are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota, and are subject to section 44-04-18.4.

2. A person or entity may file a request with the commission to have material designated as confidential under subsection 1. The request must contain any information required by the commission and must include at least the following:
 - a. A general description of the nature of the information sought to be protected.
 - b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.
 - c. An explanation of why the information is not readily ascertainable by proper means of other persons.
 - d. A general description of any person that may obtain economic value from disclosure or use of the information, and how the person may obtain this value.
 - e. A description of the efforts used to maintain the secrecy of the information.
3. Any request under subsection 2 is confidential. The commission shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the commission determines the information is either not relevant or not a trade secret, the commission shall notify the requester and the requester may ask for the return of the information and the request within ten days of the notice. If no return is sought, the information and request are public record.
4. The names or identities of independent technical reviewers on a project or program are confidential, may not be disclosed by the commission, and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota.

Clean sustainable energy fund - Continuing appropriation - Loans - Repayments.

1. There is created in the state treasury the clean sustainable energy fund. The fund consists of all moneys transferred to the fund by the legislative assembly; interest upon moneys in the fund; principal and interest payments to the fund; and donations, grants, and other contributions received by the commission for deposit in the fund. All moneys in the fund are appropriated to the commission on a continuing basis to provide grants, loans, and other financial assistance and for administrative and operating costs of the authority and program pursuant to the provisions under this chapter.
2. Any bond proceeds deposited in the fund must be used for loans or loan guarantees. The Bank of North Dakota shall deposit in the fund all principal and interest paid on the loans made from the fund. The Bank may use a portion of the interest paid on the outstanding loans as a servicing fee to pay

for administrative costs, not to exceed one-half of one percent of the amount of the interest payment. The Bank shall contract with a certified public accounting firm to audit the fund annually if the fund has any outstanding loans. The cost of the audit must be paid from the fund.

³²⁰ **SECTION 4. AMENDMENT.** Subsection 5 of section 54-44.4-02 of the North Dakota Century Code is amended and reenacted as follows:

5. Procurements by the industrial commission for energy-related programs under chapters 17-05, 54-17.5, 54-17.6, 54-17.7, section 3 of this Act, and 54-63 and under those statutes in title 38 authorizing the industrial commission to perform well and hole pluggings, reclamation work, equipment removal, leak prevention, and similar work.

SECTION 5. APPROPRIATION - TRANSFER - CLEAN SUSTAINABLE ENERGY FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$25,000,000, which the office of management and budget shall transfer to the clean sustainable energy fund, during the biennium beginning July 1, 2021, and ending June 30, 2023.

Approved April 26, 2021

Filed April 26, 2021

³²⁰ Section 54-44.4-02 was also amended by section 2 of Senate Bill No. 2162, chapter 437.

CHAPTER 449

HOUSE BILL NO. 1043

(Judiciary Committee)
(At the request of the Ethics Commission)

AN ACT to create and enact two new sections to chapter 54-66 of the North Dakota Century Code, relating to the ethics commission delegation of duties and advisory opinions; to amend and reenact subsection 2 of section 54-66-01 and sections 54-66-05, 54-66-06, 54-66-07, 54-66-08, 54-66-09, and 54-66-12 of the North Dakota Century Code, relating to ethics commission complaint procedures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 54-66-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Complainant" means ~~an individual~~ a North Dakota resident who, in writing or verbally, submits a complaint to the commission.

SECTION 2. AMENDMENT. Section 54-66-05 of the North Dakota Century Code is amended and reenacted as follows:

54-66-05. Making a complaint - Summary dismissal of complaint.

1. A complaint may be made to the commission orally or in writing. If a complainant does not provide the complainant's name, address, and telephone number with the complaint, the ethics commission may not investigate, ~~refer,~~ or take other action regarding the complaint. The commission shall summarize each oral complaint in writing unless the complaint must be disregarded under this section.
2. Upon receipt of a complaint or information regarding a violation, the commission may summarily dismiss the complaint or decline to proceed with a complaint if the alleged violation does not fall within the commission's jurisdiction, is insufficient to identify a possible violation, or fails to comply with rules adopted by the commission. In lieu of summary dismissal, the commission may refer the matter under section 54-66-08.
3. If a complainant would like the complainant's identity to remain confidential, the commission may not release the complainant's name and address to the accused individual without the authorization of the complainant. If the complainant does not authorize release of the complainant's name and address to the accused individual, the statement of the complainant may not be used as evidence of a violation.
4. If the commission receives an anonymous complaint that contains documentary or real evidence of possible criminal conduct, the commission may refer the matter to the appropriate law enforcement agency as provided under section 54-66-08, and may not otherwise divulge the documentary or real evidence.

SECTION 3. AMENDMENT. Section 54-66-06 of the North Dakota Century Code is amended and reenacted as follows:

54-66-06. Informing the accused individual - Written response permitted.

The commission shall inform an accused individual by registered mail of the identity of the complainant who made the allegation against the accused individual complaint and include the written complaint or written summary of the oral complaint, witness statements, and other documentary evidence considered as soon as reasonably possible but no later than twenty calendar days after the commission receives the complaint. The accused individual may respond to the complaint in writing within twenty calendar days of receipt of the complaint or summary of the complaint.

SECTION 4. AMENDMENT. Section 54-66-07 of the North Dakota Century Code is amended and reenacted as follows:

54-66-07. Informal resolution.

The commission shall attempt to negotiate or mediate an informal resolution between the accused individual and the complainant unless the commission disregards summarily dismissed the complaint pursuant to under section 54-66-05 or for any other reason. The accused individual may be accompanied by legal counsel in a negotiation or mediation.

SECTION 5. AMENDMENT. Section 54-66-08 of the North Dakota Century Code is amended and reenacted as follows:

54-66-08. Investigations - Referrals.

1. If an informal resolution is not reached under section 54-66-07, the ethics commission may:
 - a. DisregardDismiss the complaint;
 - b. Require ethics commission staff to investigate the allegations in the complaint; or
 - c. Engage an outside investigator to investigate allegations in the complaint.
2. If the commission believes a complaint contains allegations of criminal conduct, the ethics commission shall refer the allegations of criminal conduct to the bureau of criminal investigations or other law enforcement agency and may not take further action on the referred allegations. The commission shall inform the accused individual by registered mail of a referral under this section and the nature of the referred allegations as soon as reasonably possible. matter must be coordinated with the appropriate law enforcement agency with jurisdiction over the offense. If the law enforcement agency agrees to accept a referral for possible criminal prosecution, the commission may not take further action on the complaint until the law enforcement agency informs the commission law enforcement proceedings regarding the complaint are complete. If the law enforcement agency declines a referral for prosecution, the commission may investigate the complaint under the rules adopted by the commission. Unless the agency accepting the referral objects, the commission shall inform the complainant and respondent as soon as reasonably possible of a referral and the nature of the referred allegations.

3. The commission may require the testimony of a witness or the production of a book, record, document, data, or other object at any of the commission's investigator interviews or proceedings held in connection with the investigation of a complaint.

SECTION 6. AMENDMENT. Section 54-66-09 of the North Dakota Century Code is amended and reenacted as follows:

54-66-09. Investigation findings - Ethics commission determinations.

1. An investigator, other than a law enforcement agency, of a complaint shall provide written findings of the investigation to the ethics commission within a reasonable amount of time. The ethics commission shall provide copies of the written findings and evidence considered to the accused individual, who may respond to the commission in person or in writing within a reasonable time. If the accused individual responds in person, no fewer than three members of the commission shall meet in a closed meeting with the accused individual. An accused individual may be accompanied by legal counsel when responding to the commission in person.
2. After providing a reasonable time for an accused individual to respond to the investigation findings and considering any response to the findings, the ethics commission shall determine whether a violation of article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying occurred, and inform the accused individual of the determination. If the commission determined a violation occurred, the commission may impose a penalty authorized by law for the violation or refer the matter to the agency with enforcement authority over the violation.
3. The commission may not terminate the employment of a public official or otherwise remove a public official from the public official's public office.
4. The ethics commission may not reconsider, invalidate, or overturn a decision, ruling, recommended finding of fact, recommended conclusion of law, finding of fact, conclusion of law, or order by a hearing officer under chapter 28-32 on the grounds the hearing officer failed to grant a request for disqualification under section 28-32-27 or failed to comply with subsection 5 of section 2 of article XIV of the Constitution of North Dakota.

SECTION 7. AMENDMENT. Section 54-66-12 of the North Dakota Century Code is amended and reenacted as follows:

54-66-12. Confidential information.

1. The following information is a confidential record as defined in section 44-04-17.1, unless the commission has determined the accused individual violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying, and a court affirmed the determination if appealed, except the information may be disclosed as required by law or as necessary to conduct an investigation arising from a complaint:
 - a. Information revealing the contents of a complaint;

- b. Information that reasonably may be used to identify an accused individual; and
 - c. Information relating to or created as part of an investigation of a complaint.
- 2. If a complaint is informally resolved under section 54-66-07, the following information is a confidential record as defined in section 44-04-17.1:
 - a. Information revealing the contents of the complaint;
 - b. Information that reasonably may be used to identify the accused individual;
 - c. Information relating to or created as part of the process leading to the informal resolution; and
 - d. Information revealing the informal resolution.
- 3. Information that reasonably may be used to identify the complainant is confidential unless the complainant waives confidentiality, authorizes its disclosure, or divulges information that reasonably would identify the complainant. ~~However, the ethics commission shall notify an accused individual of the identity of the complainant who made an allegation against the accused individual, and the information~~ Information, including evidence under consideration by the investigator or commission, deemed confidential under this subsection may be disclosed as required by law or as necessary to conduct an investigation arising from a complaint to include disclosure of evidence being considered to an accused individual.
- 4. The information deemed confidential in subsections 1 and 2 may be disclosed by the ethics commission if the accused individual agrees to the disclosure.

SECTION 8. A new section to chapter 54-66 of the North Dakota Century Code is created and enacted as follows:

Commission delegation of duties.

The commission may delegate duties to the commission's executive director as necessary to assure the efficient administration of the commission's responsibilities. Delegation of duties to the executive director must be made through rules adopted by the commission at a public meeting. The commission may reconsider, modify, or reverse actions taken by the executive director pursuant to a delegated duty.

³²¹ **SECTION 9.** A new section to chapter 54-66 of the North Dakota Century Code is created and enacted as follows:

Advisory opinions - Authority - Effect.

- 1. In response to a request from a public official, candidate for elected office, or lobbyist, the ethics commission may provide a written advisory opinion regarding the application of the following to specified hypothetical facts or prospective conduct:
 - a. Article XIV of the Constitution of North Dakota; or

³²¹ Section 54-66-04.2 was also created by section 1 of Senate Bill No. 2034, chapter 451.

- b. State statutes and ethics commission rules related to transparency, corruption, elections, and lobbying.
- 2. Within fourteen days after receiving a request for a written advisory opinion, the ethics commission shall notify the requester whether the commission will provide an opinion.
- 3. Within ninety days after notifying a requester a written advisory opinion will be provided, the ethics commission shall issue the opinion.
- 4. Criminal and civil penalties may not be imposed upon an individual for an action taken in accordance with an opinion issued under this section if:
 - a. The individual acts in good faith; and
 - b. The material facts surrounding the action taken are substantially the same as the conduct presented in the opinion.
- 5. Opinions and requests for opinions under this section are open records, except names of persons in the opinions and requests are exempt records.
- 6. The ethics commission shall publish all written advisory opinions issued under this section on a website that is accessible to the public.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 450

HOUSE BILL NO. 1295

(Representatives Roers Jones, Jones, Klemm, Satrom)
(Senator Dwyer)

AN ACT to amend and reenact sections 16.1-08.1-04.1, 54-66-03, and 54-66-15 of the North Dakota Century Code, relating to authority of the secretary of state and the ethics commission; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-08.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-04.1. Personal use of contributions prohibited.

1. A candidate may not use any contribution received by the candidate, the candidate's candidate committee, or a multicandidate political committee to:
 - a. Give a personal benefit to the candidate or another person;
 - b. Make a loan to another person;
 - c. Knowingly pay more than the fair market value for goods or services purchased for the campaign; or
 - d. Pay a criminal fine or civil penalty.
2. ~~The~~ if the secretary of state ~~shall assess a civil penalty upon~~ has substantial reason to believe any person ~~that knowingly violates~~ violated this section:
 - a. ~~If the contribution used in violation of this section has a value of two thousand five hundred dollars or more, the civil penalty must be two times the value of the contribution.~~
 - b. ~~If the contribution used in violation of this section has a value of less than two thousand five hundred dollars, the civil penalty must be at least two times the value of the contribution and may be up to five thousand dollars.~~
3. ~~The assessment of a civil penalty may be appealed to the district court of the county where the candidate resides, the secretary shall arrange for an audit as authorized by section 16.1-08.1-05.~~

SECTION 2. AMENDMENT. Section 54-66-03 of the North Dakota Century Code is amended and reenacted as follows:

54-66-03. Lobbyist gifts - Penalty. (Effective after January 4, 2021)

1. A lobbyist may not give, offer, solicit, initiate, or facilitate a gift knowingly to a public official, and a public official may not accept a gift from a lobbyist knowingly.

2. The prohibition in subsection 1 does not apply when a lobbyist gives, offers, solicits, initiates, or facilitates, or a public official accepts a gift to or from a family member.
3. The ~~secretary of state~~commission ~~shall~~may assess a civil penalty upon any individual who violates this section.
 - a. If the gift has a value of five hundred dollars or more, the civil penalty ~~must~~may be up to two times the value of the gift.
 - b. If the gift has a value of less than five hundred dollars, the civil penalty ~~must~~may be ~~no less than~~ two times the value of the gift and may be up to one thousand dollars.

SECTION 3. AMENDMENT. Section 54-66-15 of the North Dakota Century Code is amended and reenacted as follows:

54-66-15. Prohibition on delivering campaign contributions - Penalty.

A lobbyist may not deliver knowingly a campaign contribution made by another person in violation of subsection 3 of section 2 of article XIV of the Constitution of North Dakota. For a first violation, the ~~secretary of state~~commission ~~shall~~may assess a civil penalty of five hundred dollars upon any individual who knowingly violates this section. For a second and subsequent knowing violation of this section, the person is guilty of a class B misdemeanor, and, if the lobbyist is a registered lobbyist and the secretary of state is notified of the violation by the commission, a state's attorney, or a court, the secretary of state ~~may~~shall revoke the lobbyist's registration. For purposes of this section, "deliver" means to transport, transfer, or otherwise transmit, either physically or electronically. This prohibition does not apply to an individual who delivers a campaign contribution to the individual's own campaign or to the campaign of the individual's immediate family member. This prohibition may not be interpreted to prohibit any person from making a campaign contribution, encouraging others to make a campaign contribution, or otherwise supporting or opposing a candidate.

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

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 451

SENATE BILL NO. 2034

(Legislative Management)
(Judiciary Committee)

AN ACT to create and enact a new section to chapter 54-66 of the North Dakota Century Code, relating to written advisory opinions regarding ethics.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³²² **SECTION 1.** A new section to chapter 54-66 of the North Dakota Century Code is created and enacted as follows:

Advisory opinions - Authority - Effect.

1. In response to a request from a public official, candidate for elected office, or lobbyist, the ethics commission may provide a written advisory opinion regarding the application of the following to specified hypothetical facts or prospective conduct:
 - a. Article XIV of the Constitution of North Dakota; or
 - b. State statutes and ethics commission rules related to transparency, corruption, elections, and lobbying.
2. Within fourteen days after receiving a request for a written advisory opinion, the ethics commission shall notify the requester whether an opinion will be provided.
3. Within ninety days after notifying a requester that a written advisory opinion will be issued, the ethics commission shall issue the opinion.
4. Criminal and civil penalties may not be imposed upon an individual for an action taken in accordance with an opinion issued under this section if:
 - a. The individual acts in good faith; and
 - b. The material facts surrounding the action taken are substantially the same as the conduct presented in the opinion.
5. Opinions and requests for opinions under this section are open records, except names of persons in the opinions and requests are exempt records.
6. The ethics commission shall publish all written advisory opinions issued under this section on a website that is accessible to the public.

Approved April 12, 2021

³²² Section 54-66-04.2 was also created by section 9 of House Bill No. 1043, chapter 449.

Filed April 13, 2021

STATE HISTORICAL SOCIETY AND STATE PARKS

CHAPTER 452

SENATE BILL NO. 2062

(Government and Veterans Affairs Committee)
(At the request of the State Historical Society)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 and section 55-01-12 of the North Dakota Century Code, relating to criminal history record checks by the state historical society for volunteers and final applicants for employment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³²³ **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The state historical society for volunteers and final applicants for employment, except that criminal history record checks need not be made unless requested by the society.

SECTION 2. Section 55-01-12 of the North Dakota Century Code is created and enacted as follows:

55-01-12. Criminal history record checks.

The state historical society may require any volunteer or final applicant for employment to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24.

Approved March 23, 2021

Filed March 24, 2021

³²³ Section 12-60-24 was also amended by section 1 of House Bill No. 1073, chapter 98, section 2 of House Bill No. 1073, chapter 98, section 18 of House Bill No. 1247, chapter 352 section 1 of House Bill No. 1253, chapter 164, section 1 of Senate Bill No. 2110, chapter 218, section 1 of Senate Bill No. 2131, chapter 378, section 1 of Senate Bill No. 2174, chapter 447, section 1 of Senate Bill No. 2187, chapter 323, and section 1 of Senate Bill No. 2338, chapter 379.

CHAPTER 453

HOUSE BILL NO. 1285

(Representatives Boschee, P. Anderson, Dobervich, Kasper, M. Ruby)
(Senators Dever, Marcellais, Oban)

AN ACT to create and enact two new sections to chapter 55-01 of the North Dakota Century Code, relating to a commission for the commemoration of the two hundred fifty years since America's founding; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 55-01 of the North Dakota Century Code is created and enacted as follows:

America 250 commission.

1. The America 250 commission within the state historical society is comprised of members appointed under this subsection. The head of each of the following departments and entities shall select one member to represent the department or entity, and the state historical society may invite other persons to join the America 250 commission or select representatives to join the commission:
 - a. State historical society;
 - b. Department of veterans' affairs;
 - c. Department of public instruction;
 - d. Indian affairs commission;
 - e. State library;
 - f. North Dakota council on the arts;
 - g. North Dakota humanities council;
 - h. North Dakota state society daughters of the American revolution;
 - i. North Dakota tourism division of the department of commerce;
 - j. Parks and recreation department;
 - k. Office of the governor;
 - l. Office of each United States senator representing North Dakota; and
 - m. Office of the United States representative representing North Dakota.

2. The representative of the state historical society shall serve as the chairman of the commission, and the state historical society shall provide staff support for the commission.

SECTION 2. A new section to chapter 55-01 of the North Dakota Century Code is created and enacted as follows:

Powers and duties of the commission - Continuing appropriation.

1. The America 250 commission has exclusive authority to represent this state in official dealings with the America 250 foundation and the United States semiquincentennial commission.
2. The commission may accept gifts, grants, and donations from public and nonpublic sources and may expend or invest any funds the commission receives. Any funds accepted by the commission are appropriated to the state historical society on a continuing basis for the purpose of supporting the commission's lawful activities.
3. The commission may coordinate and engage in semiquincentennial initiatives proposed or undertaken by any public or nonpublic person and may initiate or propose semiquincentennial activities in or for this state.
4. The commission shall:
 - a. Develop and promote plans for statewide recognition of the two hundred fifty years since America's founding;
 - b. Identify statewide and local community partners to provide local opportunities for public discussion regarding the founding of our nation and the subsequent two hundred fifty years; and
 - c. Identify prominent locations to display a replica of the liberty bell.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 454

SENATE BILL NO. 2093

(Government and Veterans Affairs Committee)
(At the request of the Parks and Recreation Department)

AN ACT to amend and reenact section 55-08-05 of the North Dakota Century Code, relating to parks and recreation charges for services; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 55-08-05 of the North Dakota Century Code is amended and reenacted as follows:

55-08-05. Charges for services.

The director may provide special services within state parks, state campgrounds, state recreation areas, and reserves; provide special technical assistance services; and make rules for the use of those services. The director shall establish and cause to be collected charges, fees, and rentals for the use of all special services, and shall revise the same, when necessary, in the manner that the revenue derived will be sufficient to pay the cost of providing each service and to pay the principal of and interest on all bonds issued for projects furnishing the facilities for the services, and to maintain a reserve for the security of the bonds. The director may waive the collection of charges, fees, and rentals for the use of special services by health care-related charitable organizations conducting group camp activities without charge to participants. However, the director shall waive the collection of charges, fees, and rentals for the use of all special services by any care-related charitable organization sponsoring or conducting summer group camp activities without charge for fourteen days for children from age eight through age fourteen who have diabetes. Nothing in this section requires the director to provide camp services if the camp facilities are otherwise closed due to adverse administrative or fiscal impacts upon the department. Specifically, the director may:

1. Provide special parking space for automobiles or other motor-driven vehicles in any state park or state recreation area.
2. Provide special parking spurs and campgrounds for automobiles and sites for tent camping and special auto trailer coach parking spaces for the use of the individual charged for the space according to the daily rate which must be determined and fixed by the director consistent with the type of facility provided for the accommodation of visitors in any particular park and with similar facilities offered for tourist camping in the area.
3. Charge a fee for entrance to any pageant grounds created in any state park, state recreation area, or reserve for the purpose of having historical or other pageants conducted by the agent of any authorized agency.
4. Provide water, sewer, and electric service to trailer or tent campsites and buildings and structures included in projects authorized by the legislative assembly.

5. Provide facilities and allow for the sale to the public of food, nonintoxicating beverages, ~~except~~ beer and wine sales as provided in ~~subsection~~subsection 6 and 7, and other merchandise and personal services of a suitable nature, and make buildings, structures, and other recreational facilities available for use and occupancy by the public, or contract for the use of food vendors or the lease of the buildings, structures, and facilities to a concessionaire to be operated on the terms and compensation basis as the director determines to be in the best interest of the state. The duration of a concession agreement may not exceed twenty years. A bond must be required of each concessionaire in the amount the director determines, conditioned upon the faithful performance of all duties under the lease and proper accounting for all funds.
6. Allow the sale of beer and wine by operating concessionaires on property ~~leased to the department by the United States department of the army, corps of engineers under the management of the director, if the concessionaire also obtains~~holds the appropriate local and state retail licenses or an event permit required or authorized by ~~section 5-02-01~~chapter 5-02.
- ~~7. Allow the sale of on-sale beer and wine by operating, liquor-licensed concessionaires for fourteen events per year on property under the management of the director which borders the Missouri River and which is within fifteen miles [24.14 kilometers] of a city with a population in excess of twenty thousand, if the concessionaire also obtains the appropriate local and state licenses required by section 5-02-01.~~
8. Charge and collect motor vehicle permit fees in the amounts prescribed by the legislative assembly, which fees are and must be imposed for the sole purposes of paying capital costs of projects required to provide the special services herein described and referred to, and of meeting the principal and interest and reserve requirements of bonds issued to finance such projects.
- ~~9-8.~~ Charge a fee for providing special technical assistance to groups requesting information from the natural heritage inventory database.
- ~~10-9.~~ Allow the sale of advertising in parks and recreation publications. The director may make rules regarding advertisement contracts and charges, space availability, and content.

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

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 455

HOUSE BILL NO. 1357

(Representative Paulson)

AN ACT to amend and reenact sections 55-08-06 and 55-08-07 of the North Dakota Century Code, relating to permits for entry to state parks; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 55-08-06 of the North Dakota Century Code is amended and reenacted as follows:

55-08-06. Permits for motor vehicles.

1. Unless authorized by the director, a motor vehicle may not enter or be permitted to enter any state park, state recreational area, or reserve unless the operator of the motor vehicle displays upon request a permit issued as provided in this chapter. Permits must be of a size, form, and character as the director prescribes, and the director shall procure permits for each calendar year which by appropriate language must grant permission to use any state park, state recreational area, or reserve.
2. Permits for each calendar year must be provided and placed on sale on or before November first next preceding and used on or at any time after that date until May first of the year following the calendar year for which issued. Permits in each category must be numbered consecutively for each year of issue. ~~Except for senior citizen discounts, a~~
3. ~~A fee of thirty-five;~~
 - a. ~~Thirty-five dollars must be charged for each the first annual permit issued to a permitholder under subsection 2, except that permits;~~
 - (1) ~~Permits~~ of appropriate special design may be sold individually at a maximum of seven dollars per permit covering the use of state parks, state recreational areas, or reserves under such conditions as the director may prescribe for a designated period of not more than three days. ~~The; and~~
 - (2) ~~The~~ director may authorize a discount on the sale of annual permits to any resident of North Dakota who is sixty-five years of age or older and who applies for a discount.
 - b. ~~Twenty dollars must be charged for a second annual permit issued to a permitholder under subsection 2, which only may be used by members of the permitholder's household, except the director may authorize a discount on the sale of a second or subsequent annual permit to any resident of North Dakota who is sixty-five years of age or older and who applies for a discount.~~

4. The fees collected must be deposited in the state park operating fund in the state treasury, unless authorized by the director as follows:
 1. a. The director may allow other agencies or organizations that have leased state parks, state recreational areas, reserves, or facilities to retain entrance and special permit fees collected by the lessee.
 2. b. The director may exempt all or any part of any state park, state recreational area, or reserve from the requirement of the motor vehicle permit and fee, for any activity or period, when in the director's judgment it is desirable to do so; provided, however, that no further exceptions may be made after state park revenue bonds are issued and while the bonds are outstanding.

SECTION 2. AMENDMENT. Section 55-08-07 of the North Dakota Century Code is amended and reenacted as follows:

55-08-07. State park fund - Appropriation.

All revenues collected as permit fees, admissions, use charges, rentals, compensation for concession agreements, or otherwise, with the exception of revenue from bequests, trusts, or gifts, and with the exceptions noted in ~~subsections 4 and 2~~ subdivisions a and b of subsection 4 of section 55-08-06, must be placed in the state park fund, together with all proceeds of bonds issued pursuant to section 55-08-08. This fund must be maintained by the state treasurer as a special trust fund and is irrevocably appropriated and must be used and disbursed solely for the following purposes:

1. To pay the current cost of furnishing each special service provided in accordance with this chapter. For this purpose the charges, fees, and rentals for each service must be credited to a special operating account, from which must be paid only the current, reasonable, and necessary cost of operating that service, determined in accordance with accepted accounting practice, including the purchase price of merchandise and utilities sold and the compensation of employees necessarily attributable to the furnishing of that service. The director may incur no operating cost for any building, structure, or facility leased, and the leases must provide for the payment of the costs by the lessee and for the payment of a net rental in addition to the costs. No lease rentals and no motor vehicle permit fees may be credited to operating accounts.
2. To provide for the payment and security of the principal and interest when due on any state park revenue bonds issued under section 55-08-08. For this purpose the treasurer shall credit to a special service account within the state park fund, as received, all bond proceeds, all motor vehicle permit fees and all rental payments by lessees, and all net income remaining in the operating account for each special service at the end of each month, in excess of the costs of operation thereof which are then payable or are to become due and payable within one month, and shall transfer from this fund and account to the revenue bond fund described in section 55-08-09, whenever necessary, so much of the revenues then on hand as may be required to produce a balance in the revenue bond fund equal to the interest due and to become due within eighteen months plus the principal due and to become due within twenty-four months thereafter on all outstanding series of the bonds.

3. To finance the acquisition, construction, reconstruction, improvement, betterment, or extension of the department's properties, for projects within state parks, state campgrounds, state recreation areas, and reserves including the acquisition of land and water, the erection of buildings and structures, and the improvement of properties held in trust for or leased by the state, as authorized by the legislative assembly. For this purpose the director shall authorize the disbursement of bond proceeds and revenues received in the fund. However, a disbursement may not be made in excess of the amounts of revenue bonds issued and other funds granted or appropriated and received for this purpose, and no disbursements may be made at any time when the balance in the revenue bond fund is less than specified in subsection 2.
4. For any other purpose for which funds have been appropriated by the legislative assembly to the parks and recreation department. A disbursement may not be made at any time when the balance in the revenue bond fund is less than specified in subsection 2.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 456

HOUSE BILL NO. 1097

(Government and Veterans Affairs Committee)
(At the request of the Parks and Recreation Department)

AN ACT to amend and reenact section 55-08-07.2 of the North Dakota Century Code, relating to the state parks gift fund; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 55-08-07.2 of the North Dakota Century Code is amended and reenacted as follows:

55-08-07.2. State parks gift fund - Fund use - Continuing appropriation - Emergency commission and budget section approval.

There is established in the state treasury a special fund designated as the state parks gift fund. The director may seek and accept any gift, private grant, trust, bequest of money, or donation of funds to the gift fund for the purpose of furthering the objectives of the parks and recreation department. All donations to the parks and recreation department in the form of gifts, private grants, trusts, and bequests of money that would cause the department to exceed its appropriated spending authority, or donation of funds, and any interest accruing thereon, must be placed in the state parks gift fund and is hereby appropriated to the department on a continuing basis. The fund may be used and disbursed by the parks and recreation department, with the approval of the state emergency commission, in accordance with the terms of the donation as determined by the director, except any expenditure in excess of fifty thousand dollars from funds the donor has not designated or conditioned the use of for a specific purpose is subject to approval by the emergency commission and the legislative assembly or the budget section if the legislative assembly is not in session. Any request considered by the budget section must comply with section 54-35-02.9. The department shall notify the office of management and budget biennially regarding the current amount of moneys in the fund and any expenditures from the fund in the past biennium.

Approved March 9, 2021

Filed March 10, 2021

TAXATION

CHAPTER 457

HOUSE BILL NO. 1099

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact subsection 3 of section 5-01-01, subsection 3 of section 5-03-09, section 57-01-06, and subsection 5 of section 57-39.2-23 of the North Dakota Century Code, relating to the definition of beer; the authority of the tax commissioner to waive penalties for late or nonfiled alcoholic beverage tax returns; sales, market, and productivity studies for property tax purposes; and disclosure of county lodging taxes and county lodging and restaurant taxes information to a county governing body; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 5-01-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Beer" means any malt beverage containing one-half of one percent or more of alcohol by volume and includes an alcoholic beverage made by the fermentation of malt substitutes, including rice, grain of any kind, glucose, sugar, or molasses, which has not undergone distillation.

SECTION 2. AMENDMENT. Subsection 3 of section 5-03-09 of the North Dakota Century Code is amended and reenacted as follows:

3. If a supplier fails to file the required report as required by this section, there is imposed a penalty of twenty-five dollars per month for each calendar month or fraction of a month during which the delinquency continues beginning with the month during which the report was due. Any assessed penalty may be waived by the tax commissioner for good cause upon request by the supplier.

SECTION 3. AMENDMENT. Section 57-01-06 of the North Dakota Century Code is amended and reenacted as follows:

57-01-06. Sales, market, and productivity study - Contents not to be included.

Any sales, market, and productivity study which may be made by the state tax commissioner may not include the following:

1. Property owned or used by public utilities.
2. Property classified as personal property.
3. A sale when the grantor and the grantee are of the same family or corporate affiliate, if known.

4. A sale which resulted as a settlement of an estate.
5. ~~All sales to or from a government or governmental agency.~~
6. All forced sales, mortgage foreclosures, and tax sales.
- ~~7-6.~~ All sales to or from religious, charitable, or nonprofit organizations.
- ~~8-7.~~ All sales where there is an indicated change of use by the new owner.
- ~~9-8.~~ All transfer of ownership of property for which is given a quitclaim deed.
- ~~10-9.~~ Sales of property not assessable by law.
- ~~11-10.~~ Agricultural lands of less than eighty acres [32.37 hectares].

³²⁴ **SECTION 4. AMENDMENT.** Subsection 5 of section 57-39.2-23 of the North Dakota Century Code is amended and reenacted as follows:

5. The commissioner may make information pertaining to county lodging taxes, county lodging and restaurant taxes, city lodging taxes, city lodging and restaurant taxes, or city or county sales and use taxes, contained in tax returns, reports, related schedules and documents, and reports of an audit or investigation available upon request to no more than two duly elected or appointed members of the governing body of a city or county for which collection and administration of the tax is required by statute or a tax collection agreement administered under section 57-01-02.1. The governing body of the city or county or its members may not divulge or make known in any manner the business affairs, operations, or other information acquired from the commissioner under this subsection concerning any person, corporation, limited liability company, or other entity unless the disclosure is by judicial order and for tax administration purposes only.

SECTION 5. EFFECTIVE DATE. Section 1 of this Act is effective for taxable periods beginning after June 30, 2021.

Approved April 19, 2021

Filed April 20, 2021

³²⁴ Section 57-39.2-23 was also amended by section 20 of Senate Bill No. 2048, chapter 337.

CHAPTER 458

HOUSE BILL NO. 1471

(Representatives K. Koppelman, Bellew, Fisher, Hagert, Kading, Karls, Schauer,
Toman)
(Senators Clemens, Kannianen)

AN ACT to amend and reenact subsection 9 of section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for property of churches; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³²⁵ **SECTION 1. AMENDMENT.** Subsection 9 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

9. a. All buildingsThe land and any buildings on a parcel on which a church building is located, and which is owned by anya religious corporation or organization and used predominantly for the religious purposes of the organization, and if on the same parcel, dwellings with usual outbuildings, intended and ordinarily used for the residence of the bishop, priest, rector, or other minister in charge of services, land directly under and within the perimeter of those buildings, improved off-street parking or reasonable landscaping or sidewalk area adjoining the main church building, and up to a maximum of five additional acres [2.02 hectares] must be deemed to be property used exclusively for religious purposes, and exempt from taxation, whether the real property consists of one tract or more. The land and any buildings on a parcel contiguous to the parcel on which a church building is located, which is owned by a religious corporation or organization, is exempt from taxation if any building located on the parcel is used predominantly for religious purposes.
- b. If the parsonage and residence of the bishop, priest, rector, or other minister, or other clergy in charge of services is located on property owned by the religious corporation or organization, which is not adjacent to the church, that residence, with usual outbuildings and land on which it is located, up to two acres [.81 hectare], must be deemed to be property used exclusively for religious purposes and is exempt from taxation.
- b-c. Up to twenty acres of undeveloped land owned by a religious corporation or organization for the purpose of a future church building or buildings is exempt from taxation. This exemption expires ten years after the taxable year in which the property was acquired by the religious corporation or organization if construction improvements to accommodate a church building have not commenced.
- d. The exemption for a building used for the religious purposes of the owner continues to be in effect if the building in whole, or in part, is rented to

³²⁵ Section 57-02-08 was also amended by section 1 of Senate Bill No. 2041, chapter 459, and section 1 of Senate Bill No. 2202, chapter 460.

another otherwise tax-exempt corporation or organization, provided no profit is realized from the rent.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2020.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 459

SENATE BILL NO. 2041

(Senator Myrdal)

(Representatives Damschen, D. Johnson, Monson)

AN ACT to amend and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to income eligibility for purposes of the farm residence property tax exemption; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³²⁶ **SECTION 1. AMENDMENT.** Subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

- b. It is the intent of the legislative assembly that this exemption as applied to a residence must be strictly construed and interpreted to exempt only a residence that is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption may not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:
 - (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years.
 - (2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming in such products' unmanufactured state and has received annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years. For purposes of this paragraph, "farmer" includes a:
 - (a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the two preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the two preceding calendar years.

³²⁶ Section 57-02-08 was also amended by section 1 of House Bill No. 1471, chapter 458, and section 1 of Senate Bill No. 2202, chapter 460.

- (b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.
- (c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.
- (3) "Gross income" means gross income as defined under the federal Internal Revenue Code and does not include a gain from the sale or exchange of farm machinery as computed for federal income tax purposes. For purposes of this paragraph, "farm machinery" means all vehicular implements and attachment units designed and sold for direct use in planting, cultivating, or harvesting farm products or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, which are operated, drawn, or propelled by motor or animal power. "Farm machinery" does not include vehicular implements operated wholly by hand or a motor vehicle that is required to be registered under chapter 57-40.3.
- (4) "Gross income from farming activities" means gross income from farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].
- (5) When exemption is claimed under this subdivision for a residence, the occupant of the residence who it is claimed is a farmer shall provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that sixty-six percent or more of the gross income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, gross income from farming activities. The individual claiming the exemption also shall provide to the assessor, on a form prescribed by the tax commissioner, the necessary income information to demonstrate eligibility. Any income information provided to the assessor regarding eligibility for an exemption claimed under this subdivision is a confidential record.
- (6) For purposes of this ~~section~~subsection, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.
- (7) A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption under this section for that residence if the farmer and the residence would qualify for exemption under this section except for the use of the residence as a bed and breakfast facility.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX EXEMPTION FOR AGRICULTURAL PRODUCTS STORAGE. During the 2021-22 interim, the legislative management shall consider studying the provision of a property tax exemption for elevators, warehouses, and other farm structures classified as commercial property, which are privately owned and used to store agricultural products produced by the owner or an individual related to the owner as defined in section 10-06.1-12. The study must include consideration of the definition of agricultural property and the impact of an exemption on city and county property tax revenues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 3. EFFECTIVE DATE. Section 1 of this Act is effective for taxable years beginning after December 31, 2021.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 460

SENATE BILL NO. 2202

(Senators Heitkamp, Poolman, Sorvaag)
(Representatives Magrum, Skroch, Steiner)

AN ACT to amend and reenact subsection 36 of section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for property leased for the provision of early childhood or adult day care services; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³²⁷ **SECTION 1. AMENDMENT.** Subsection 36 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

36. The governing body of the city, for property within city limits, or of the county, for property outside city limits, may grant a property tax exemption for the portion of fixtures, buildings, and improvements, used primarily to provide early childhood services by a corporation, limited liability company, or organization licensed under chapter 50-11.1 or used primarily as an adult day care center. The exemption applies regardless of whether the early childhood or adult day care service provider owns the property. However, this exemption is not available for property used as a residence.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2020.

Approved April 21, 2021

Filed April 22, 2021

³²⁷ Section 57-02-08 was also amended by section 1 of House Bill No. 1471, chapter 458, and section 1 of Senate Bill No. 2041, chapter 459.

CHAPTER 461

SENATE BILL NO. 2213

(Senators Dever, Marcellais)
(Representatives Bellew, Heinert)

AN ACT to amend and reenact section 57-02-08.8 of the North Dakota Century Code, relating to the property tax credit for disabled veterans; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-02-08.8 of the North Dakota Century Code is amended and reenacted as follows:

57-02-08.8. Property tax credit for disabled veterans - Certification - Distribution.

1. A disabled veteran of the United States armed forces with an armed forces service-connected disability of fifty percent or greater or a disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, who was discharged under honorable conditions or who has been retired from the armed forces of the United States, or the unremarried surviving spouse if the disabled veteran is deceased, is eligible for a credit applied against the first ~~six thousand seven hundred fiftyeight thousand one hundred~~ six thousand seven hundred fiftyeight thousand one hundred dollars of taxable valuation of the homestead owned and occupied by the disabled veteran or unremarried surviving spouse equal to the percentage of the disabled veteran's disability compensation rating for service-connected disabilities as certified by the department of veterans' affairs for the purpose of applying for a property tax credit. An unremarried surviving spouse who is receiving department of veterans' affairs dependency and indemnity compensation receives a one hundred percent credit as described in this subsection.
2. If two disabled veterans are married to each other and living together, their combined credits may not exceed one hundred percent of ~~six thousand seven hundred fiftyeight thousand one hundred~~ six thousand seven hundred fiftyeight thousand one hundred dollars of taxable valuation of the homestead. If a disabled veteran co-owns the homestead property with someone other than the disabled veteran's spouse, the credit is limited to that disabled veteran's interest in the homestead, to a maximum amount calculated by multiplying ~~six thousand seven hundred fiftyeight thousand one hundred~~ six thousand seven hundred fiftyeight thousand one hundred dollars of taxable valuation by the disabled veteran's percentage of interest in the homestead property and multiplying the result by the applicant's certified disability percentage.
3. A disabled veteran or unremarried surviving spouse claiming a credit under this section for the first time shall file with the county auditor an affidavit showing the facts ~~herein~~ under this section, a description of the property, and a certificate from the United States department of veterans' affairs, or its successor, certifying to the amount of the disability. The affidavit and certificate must be open for public inspection. A person shall thereafter

furnish to the assessor or other assessment officials, when requested to do so, any information which ~~is believed will support~~supports the claim for credit for any subsequent year.

4. For purposes of this section, and except as otherwise provided in this section, "homestead" has the meaning provided in section 47-18-01 except that it also applies to a person who otherwise qualifies under the provisions of this section whether the person is the head of the family.
5. This section does not reduce the liability of a person for special assessments levied upon property.
6. A credit under this section terminates at the end of the taxable year of the death of the applicant.
7. The board of county commissioners may cancel the portion of unpaid taxes that represents the credit calculated in accordance with this section for any year in which the qualifying owner has held title to the homestead property. Cancellation of taxes for any year before enactment of this section must be based on the law that was in effect for that tax year.
8. Before the first of March of each year, the county auditor of each county shall certify to the tax commissioner on forms prescribed by the tax commissioner the name and address of each person for whom the property tax credit for homesteads of disabled veterans was allowed for the preceding year, the amount of credit allowed, the total of the tax mill rates of all taxing districts, exclusive of any state mill rates, that was applied to other real estate in the taxing districts for the preceding year, and such other information as may be prescribed by the tax commissioner.
9. On or before the first of June of each year, the tax commissioner shall audit the certifications, make the required corrections, and certify to the state treasurer for payment to each county the sum of the amounts computed by multiplying the credit allowed for each homestead of a disabled veteran in the county by the total of the tax mill rates, exclusive of any state mill rates that were applied to other real estate in the taxing districts for the preceding year.
10. The county treasurer upon receipt of the payment from the state treasurer shall apportion and distribute the payment without delay to the county and to the local taxing districts of the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.
11. On or before the first day of June of each year, the tax commissioner shall certify to the state treasurer the amount computed by multiplying the property tax credit allowed under this section for homesteads of disabled veterans in the state for the preceding year by one mill for deposit in the state medical center fund.
12. Supplemental certifications by the county auditor and by the tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed in this section to make such corrections as may be necessary because of errors or because of approval of an application for abatement filed by a person because the credit provided for the homestead of a disabled veteran was not allowed in whole or in part.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2020.

Approved April 28, 2021

Filed April 29, 2021

I, _____, assessor of _____, swear that the book to which this is attached contains a full list of all property subject to taxation in _____ so far as I have been able to ascertain, and that the assessed value set down in the columns opposite the several kinds and descriptions of property in each case is fifty percent of the true and full value of the property, to the best of my knowledge and belief, except where and as corrected by the township board of equalization, and that the footings of the several columns in the book, and the tabular statement returned herewith, are correct, as I verily believe.

Assessor

Subscribed and sworn to before me on _____, _____.

Auditor of _____

County, North Dakota

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 463

HOUSE BILL NO. 1028

(Legislative Management)
(Education Funding Formula Review Committee)

AN ACT to amend and reenact section 57-15-17 of the North Dakota Century Code, relating to the ability of a school district to temporarily transfer excess funds accruing as a result of the COVID-19 pandemic between the general fund and the building fund of the school district; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-15-17 of the North Dakota Century Code is amended and reenacted as follows:

57-15-17. Disposition of building fund tax.

1. a. All revenue accruing from appropriations or tax levies for a school district building fund, together with any amount as may be realized for building purposes from all other sources, must be placed in a separate fund known as a building fund and must:
 - (1) Be deposited, held, or invested in the same manner as the sinking funds of such school district; or
 - (2) Be used for the purchase of shares or securities of federal or state-chartered savings and loan associations, within the limits of federal insurance.
- b. Moneys in the building fund may only be used for:
 - (1) The construction of school district buildings and facilities;
 - (2) The renovation, repair, or expansion of school district buildings and facilities;
 - (3) The improvement of school district buildings, facilities, and real property;
 - (4) The leasing of buildings and facilities;
 - (5) The payment of rentals upon contracts with the state board of public school education;
 - (6) The payment of rentals upon contracts with municipalities for career and technical education facilities financed pursuant to chapter 40-57; and
 - (7) The payment of principal, premiums, and interest on bonds issued in accordance with subsection 7 of section 21-03-07.

- c. The custodian of the funds may pay out the funds only upon order of the school board, signed by the president and the business manager of the school district. The order must recite upon its face the purpose for which payment is made.
2. Any moneys remaining in a building fund after the completion of payments for any school building project that has cost seventy-five percent or more of the amount in the building fund at the time of letting the contracts, must be returned to the general fund of the school district, upon the order of the school board.
3. The board of a school district may pay into the general fund of the school district any moneys that have remained in the building fund for ten years or more and any moneys transferred from the general fund of the school district into the building fund after March 13, 2020, and before July 1, 2020. The board may include ~~this amount~~ these amounts as part of its cash on hand in making up its budget for the ensuing year. In determining what amounts have remained in the fund for ten years or more, all payments that have been made from the building fund for building purposes must be considered as having been paid from the funds first acquired. Any moneys transferred from the general fund of the school district into the building fund after March 13, 2020, and before July 1, 2020, may be transferred back into the general fund of the school district through June 30, 2021.
4. a. If collections from the taxes levied for the current budget and other income are insufficient to meet the requirements for general operating expenses, the board of a school district may transfer unobligated funds from the building fund into the general fund of the school district, provided the school district has issued certificates of indebtedness equal to fifty percent of the outstanding uncollected general fund property tax.
 - b. A board may not transfer funds from the building fund into the general fund for more than two years.

SECTION 2. EXPIRATION DATE. Section 1 of this Act is effective through June 30, 2021, and after that date is ineffective.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 464

HOUSE BILL NO. 1157

(Representatives Headland, Pollert)
(Senator Wanzek)

AN ACT to create and enact section 57-15-19.7 of the North Dakota Century Code, relating to township excess levies for emergency purposes; and to amend and reenact section 57-15-20.2 of the North Dakota Century Code, relating to exceptions to tax levy limitations in townships; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 57-15-19.7 of the North Dakota Century Code is created and enacted as follows:

57-15-19.7. Township levy for emergency purposes.

1. Upon approval of a majority of electors of the township voting on the question, a township may levy the number of mills necessary for the purpose of addressing natural disasters or other emergency conditions.
2. The levy under this section may be made only if notice of the question of the approval of the levy has been included with the notice of the annual or special meeting provided in chapter 58-04.
3. Approval by the electors of increased levy authority under this section may not be effective for more than five taxable years.

SECTION 2. AMENDMENT. Section 57-15-20.2 of the North Dakota Century Code is amended and reenacted as follows:

57-15-20.2. Exceptions to tax levy limitations in townships.

1. The tax levy limitations specified in section 57-15-20 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the township:
 4. a. A township levying a tax for the purpose of cooperating with the county in constructing and maintaining roads and bridges that are part of the county road system and located within the township in accordance with section 57-15-19.4 may levy a tax not exceeding five mills.
 2. b. A township levying a tax for airport purposes in accordance with section 2-06-15 may levy a tax not exceeding four mills.
 3. c. A township levying a tax for special assessment districts in accordance with chapter 58-18.
 - d. A township levying tax for emergency purposes in accordance with section 57-15-19.7.

2. Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2020.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 465

SENATE BILL NO. 2280

(Senators Elkin, Larson)
(Representatives Devlin, Dockter, Lefor, Louser)

AN ACT to amend and reenact sections 57-28-11, 57-28-17, and 57-28-18 of the North Dakota Century Code, relating to permitting reappraisal of property acquired by a county by tax deed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-28-11 of the North Dakota Century Code is amended and reenacted as follows:

57-28-11. Hearing on appraisal or reappraisal.

After making thean appraisal or reappraisal of property acquired by tax deed, the board of county commissioners shall set a date for hearing objections to the minimum sale price determined. At least ten days before the hearing, the county auditor shall mail to the auditor of any city, or the clerk of the board of supervisors of any township, in which appraised property is located a written notice stating the time when objections to the established minimum sale price will be heard. Any member or representative of the governing body of any taxing district may appear at the hearing with reference to the fair market value of appraised property, and the board may make appropriate changes in the minimum sale price of property.

SECTION 2. AMENDMENT. Section 57-28-17 of the North Dakota Century Code is amended and reenacted as follows:

57-28-17. Sale between annual sales - Reappraisal.

1. If the county continues to retain the property acquired by tax deed after the initial appraisal is conducted and the annual sale is held, the board may reappraise the value of the property at any time deemed necessary by the board. The reappraisal of the property must be completed at least thirty days before a subsequent annual sale under this chapter. Any property not sold at the annual November sale may be sold by the county auditor at private sale before the next annual November sale for not less than the property's minimum sale price. A parcel of real estate against which an unpaid special assessment continues as a lien under section 57-28-09 may be sold by the county auditor free of the lien if the governing body of the city in which the property is located finds that the sum of the minimum sale price and the unpaid special assessment exceeds the market value of the property. If the governing body of the city makes this finding, it may cancel all or part of the special assessment lien against the property to reduce the lien to an amount which, when added to the minimum sale price, will be equal to the market value of the property. The action of the governing body shall be certified by the city auditor or clerk to the county auditor. The county auditor may then sell the property at private sale before the next annual November sale for not less than the resulting amount. The purchaser acquires the property free from any part of any lien for special assessment which was canceled by the governing

body of the city, and the county auditor shall remove from the record any canceled special assessments.

2. Notwithstanding the provisions of this section or other provisions of law, any property acquired by the county which is subject to a special assessment lien for improvements made by a city may be sold to that city for cash at any price agreed upon by the board of county commissioners and the governing body of the city.

SECTION 3. AMENDMENT. Section 57-28-18 of the North Dakota Century Code is amended and reenacted as follows:

57-28-18. Terms of private sale and distribution of proceeds.

1. Any private sale of real property made between the annual November sales must be made upon the same terms and conditions as a sale may be made at the November sale, unless the board of county commissioners has had the property reappraised and has consented, by majority, to value the property at the reappraised price. The sale of farmland acquired by the county by tax deed is subject to any existing lease of the property for the year of the sale. If the farmland is to be sold by private sale to any person other than the former owner or other interested person, a deed or contract for deed may not be delivered to the purchaser until thirty days after service by certified mail upon the former owner or other interested party of the pending sale, the date when the sale will become final, and the amount required to repurchase the property. For the purposes of this section, "other interested party" means the executor, administrator, parent, spouse, or child of the former owner who has notified the county auditor in writing of that status, the address at which service may be made, and that the person should be notified of the expiration of the period of repurchase in connection with any private sale of the property.
2. In case of the sale, contract for sale, or repurchase by the former owner of tax deed property during January, the property must be assessed and taxed for that year, and the purchaser or repurchaser is entitled to the rental and landlord's share of crops on the property for the year. In case of the sale, contract for sale, or repurchase by the former owner of tax deed land after January, the property ~~must~~may not be assessed and taxed for that year, and the county is entitled to the rental and landlord's share of the crops on the property for the year. The proceeds realized from a sale between annual November sales must be apportioned in the same manner as the proceeds of the annual November sale.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 466

HOUSE BILL NO. 1199

(Representatives K. Koppelman, Ista, Jones, B. Koppelman, Paur, Satrom, Steiner)
(Senators Clemens, Luick, Wobbema)

AN ACT to amend and reenact section 57-28-20 of the North Dakota Century Code, relating to the disposition of proceeds from tax lien foreclosures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-28-20 of the North Dakota Century Code is amended and reenacted as follows:

57-28-20. Disposition of proceeds of sales.

All proceeds from the public or private sale of property under this chapter must be apportioned as regular tax payments are apportioned among and within taxing districts in which the property is located, as follows:

1. The county treasurer shall issue a regular tax receipt in the name of the county, beginning with the earliest year for which the taxes are delinquent. Tax receipts must be written for the ~~original~~ amount of the tax, ~~without~~with penalty and interest. If the property was sold for an amount sufficient to cover all outstanding taxes ~~and~~, special assessments, ~~penalties, interest, and costs associated with selling the property.~~ tax receipts must be written for all such years, and any remaining amount must be ~~credited to the general fund of the county retained by the county for ninety days following the date of the sale.~~ After the ninety-day retention period, any excess proceeds must be distributed:
 - a. To the owner of the record title of the real estate listed in the notice of foreclosure of tax lien if the owner of record submitted an undisputed claim for the excess proceeds within the ninety-day retention period;
 - b. To the clerk of the district court in the county in which all or a majority of the property is located if a disputed claim or multiple claims for the excess proceeds were submitted within the ninety-day retention period; or
 - c. To the unclaimed property administrator under chapter 47-30.1 if a claim for the excess proceeds was not submitted within the ninety-day retention period.
2. If the property is sold under a contract, the county treasurer shall issue tax receipts, beginning with the earliest year for which taxes or special assessments are delinquent, ~~without~~with penalty and interest, and all subsequent payments made on the contract must be applied to the earliest remaining unpaid taxes or special assessments. Any payment under the contract after all taxes ~~and~~, special assessments, ~~penalties, interest, and costs associated with selling the property~~ are paid ~~must be credited to the county general fund retained by the county for ninety days following the date of~~

the sale. After the ninety-day retention period, any excess proceeds must be distributed in the manner provided in subsection 1.

3. If the property is sold for less than the total amount of the taxes due, the treasurer shall write tax receipts beginning with the earliest year and for as many subsequent years as the proceeds realized from the sale will satisfy, and the remainder of any unpaid general taxes or special assessments must be canceled by the board of county commissioners.
4. A city or county that acquires a tax deed to property shall make reasonable efforts to sell the property for the amount necessary to satisfy the outstanding taxes, penalties, and interest owed on the property and shall distribute any remaining sale proceeds in the manner provided in this chapter.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 467

HOUSE BILL NO. 1214

(Representatives Schreiber-Beck, M. Johnson, Nathe, Owens, Steiner)
(Senators Bekkedahl, Krebsbach)

AN ACT to amend and reenact section 57-32-01 of the North Dakota Century Code, relating to taxes imposed on air carrier transportation companies; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-32-01 of the North Dakota Century Code is amended and reenacted as follows:

57-32-01. Applicability of public utility laws.

All of the

1. ~~The provisions of chapter 57-06 are made applicable, insofar as the same may be consistent with the provisions of not in conflict with this chapter; apply to the assessment of express companies and air transportation companies.~~
2. For purposes of this chapter, an "air carrier transportation company" or "air transportation company" includes any other certified air carrier that:
 - a. Shares a flight designator code with the air carrier transportation company;
 - b. Operates under the same trade name as the air carrier transportation company; or
 - c. Operates under the same livery as the air carrier transportation company.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2020.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 468

HOUSE BILL NO. 1137

(Representatives Nathe, Bosch, Dockter, Lefor, Martinson, Nehring)
(Senators Hogue, Patten, J. Roers)

AN ACT to amend and reenact section 57-38-01.7 of the North Dakota Century Code, relating to an individual income tax credit for charitable contributions; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-01.7 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.7. Income tax credit for charitable contributions - Limitation.
(Effective for taxable years beginning after December 31, 2020)

1. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 ~~or, in the case of contributions by a passthrough entity, under section 57-38-30.3~~ for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~twenty~~**fifty** percent of the taxpayer's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.
2. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 ~~or, in the case of contributions by a passthrough entity, under section 57-38-30.3~~ for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of secondary education, located within the state. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~twenty~~**fifty** percent of the taxpayer's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.
3. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 ~~or, in the case of contributions by a passthrough entity, under section 57-38-30.3~~ for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of primary education, located within the state. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~twenty~~**fifty** percent of the taxpayer's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.

4. A passthrough entity entitled to a credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.
5. For purposes of this section, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through the twelfth grades. The term "nonprofit private institution of primary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in kindergarten through eighth grade.
6. For purposes of this section, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed in section 57-38-34 for filing the return for that taxable year, including extensions granted by the commissioner.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2020.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 469

HOUSE BILL NO. 1405

(Representatives Steiner, Dockter, Mitskog, Simons, Skroch)
(Senators Hogan, Meyer)

AN ACT to create and enact a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to an income tax credit for the employment of individuals with developmental disabilities or severe mental illness; to amend and reenact section 57-38-01.16 of the North Dakota Century Code, relating to an income tax credit for the employment of individuals with developmental disabilities or severe mental illness; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-01.16 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.16. Income tax credit for employment of individuals with developmental disabilities or chronically mentally ill personssevere mental illness.

1. A taxpayer filing an income tax return under this chapter may claim a credit against the tax liability imposed under section 57-38-30 or section 57-38-30.3 for a portion of the wages paid to an employee with a developmental disability or a chronically mentally ill employeesevere mental illness.
2. The credit allowed under this section equals five percent of up to six thousand dollars in wages paid during the first twelve months of employment by the taxpayer for each employee with a developmental disability or chronically mentally ill employee of the taxpayertwenty-five percent of up to six thousand dollars in wages paid annually by the taxpayer for each employee with a developmental disability or severe mental illness, if the department of human services' vocational rehabilitation division determines the individual has a most significant disability, is eligible for services, and requires customized employment or supported employment in order to obtain competitive integrated employment.
3. Only wages actually paid during the taxpayer's taxable year may be considered for purposes of this section. An employee of a subcontractor is considered an employee of the contractor to the extent of any wages paid under the contract.
4. The total of credits allowed under this section may not exceed fifty percent of the taxpayer's liability under this chapter.
5. A taxpayer shall apply, on a form and in the manner prescribed by the department of human services' vocational rehabilitation division, for a determination of whether an employee meets the requirements under subsection 2. If an employee meets the requirements, a letter of certification containing the names of the taxpayer and the qualifying employee must be

issued to the taxpayer. No more than one hundred employees may be certified as qualifying under this section. Applications must be processed in the order the applications are received.

6. A taxpayer claiming a credit under this section shall include a copy of the certification letter received from the department of human services' vocational rehabilitation division with the taxpayer's return filed under this chapter for each taxable year the credit is claimed.
7. A 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 section against the individual's state income tax liability under section 57-38-30.3.

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

Income tax credit for employment of individuals with developmental disabilities or severe mental illness under section 57-38-01.16.

SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for the first two taxable years beginning after December 31, 2020, and is thereafter ineffective.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 470

HOUSE BILL NO. 1082

(Representative Dockter)

AN ACT to create and enact a new subsection to section 57-38-42 of the North Dakota Century Code, relating to electronic filing and payment of information returns; to amend and reenact section 57-38-60 of the North Dakota Century Code, relating to electronic filing and payment of income tax withholding returns; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-38-42 of the North Dakota Century Code is created and enacted as follows:

Any person required to file an information return under subsection 1, and any passthrough entity with ten or more partners, shareholders, members, or owners shall file the return by electronic data interchange or other electronic media as determined by the tax commissioner. The tax commissioner may waive, upon a showing of good cause, the requirement to file the return or pay the tax due electronically.

SECTION 2. AMENDMENT. Section 57-38-60 of the North Dakota Century Code is amended and reenacted as follows:

57-38-60. Employer's returns and remittances.

1. Every employer shall, on or before the last day of April, July, October, and January, pay over to the tax commissioner the amount required to be deducted and withheld from wages paid to all employees during the preceding calendar quarter under section 57-38-59. If the amount required to be deducted and withheld from wages paid to all of an employer's employees during the previous calendar year was less than ~~five hundred~~ one thousand dollars, the employer may file an annual return. The tax commissioner may alter the time or period for making reports and payment when in the tax commissioner's opinion, the tax is in jeopardy, or may prescribe the use of any other time or period as will facilitate the collection and payment of the tax by the employer.
2. Every employer shall file a return on forms prescribed by the tax commissioner with each payment made to the tax commissioner under this section which shows the amount of tax imposed under this chapter which was deducted and withheld during the period covered by the return, and such other information as the tax commissioner may require. If the amount required to be deducted and withheld from wages paid to all an employer's employees during the previous calendar year is one thousand dollars or more, the employer shall file the return and pay any tax due by electronic data interchange or other electronic media as determined by the tax commissioner. The tax commissioner may waive, upon a showing of good cause, the requirement to pay the tax due electronically.

3. Every employer required to withhold state income tax shall make an annual return to the tax commissioner on forms provided and approved by the tax commissioner, summarizing the total compensation paid, the federal income tax deducted and withheld, and the state income tax deducted and withheld during the calendar year. The annual return must be accompanied by a statement of the compensation paid, the federal income tax deducted and withheld, and the state income tax deducted and withheld for each employee. The annual return and accompanying statements must be filed with the tax commissioner on or before the due date for filing similar returns with the internal revenue service.
4. Every employer not required to withhold state income tax shall provide to the tax commissioner a statement of the compensation paid and the federal income tax deducted and withheld for each employee. The statement must be filed on or before the due date for filing similar returns with the internal revenue service.
5. In case of failure to timely file an information statement as required by subsections 3 and 4, and after thirty days' notice to file is given by the tax commissioner, the tax commissioner may assess a penalty of ten dollars for each failure to file, not to exceed two thousand dollars.
6. Every employer shall also, in accordance with rules adopted by the tax commissioner, provide each employee from whom state income tax has been withheld, with a statement of the amounts of total compensation paid and the amounts deducted and withheld for the employee during the preceding calendar year in accordance with section 57-38-59. The statement must be made available to the employee on or before January thirty-first of the year following that for which the report is made.
7. The employer shall be liable to the tax commissioner for the payment of the tax required to be deducted and withheld under section 57-38-59, and the employee shall not thereafter be liable for the amount of any such payment, nor shall the employer be liable to any person or to any employee for the amount of any such payment. For the purpose of making penalty provisions of this chapter applicable, any amount deducted or required to be deducted and remitted to the tax commissioner under this section shall be considered to be the tax of the employer and with respect to such amounts the employer is considered the taxpayer.
8. Every employer who deducts and withholds any amounts under section 57-38-59 shall hold the same in trust for the state of North Dakota for payment thereof to the tax commissioner in the manner and at the time provided for in this section, and the state of North Dakota shall have a lien on the property of the employer to secure the payment of any amounts withheld and not remitted as provided herein, which lien shall attach at the time prescribed and to the property described in section 57-38-48 and shall be subject to the provisions of sections 57-38-49, 57-38-50, and 57-38-51.
9. An employer, at the discretion of the tax commissioner, may be required to either make a cash deposit or post with the tax commissioner a bond or undertaking executed by a surety company authorized to do business in this state in an amount reasonably calculated to ensure the payment to the state of taxes deducted and withheld from wages.

10. An employer is not subject to this section or section 57-38-59 for wages paid to any employee solely for agricultural labor, as defined in section 3121(g) of the Internal Revenue Code [26 U.S.C. 3121(g)].
11. A payroll service provider authorized under the provisions of this chapter to file and remit withholding taxes on behalf of an employer shall file the return required by subsection 2 and pay any tax due, by electronic data interchange or other electronic media as determined by the tax commissioner. As used in this subsection, a "payroll service provider" means a person that, for federal tax purposes, electronically processes and transmits an employer's withholding returns and taxes, including wage information returns. The tax commissioner may waive, upon a showing of good cause, the requirement to file a return or pay the tax electronically.
12. Any person required to file ~~ten or more~~ an information ~~returns~~ return under ~~subsection 3 of section 57-38-42, or subsection 3 or 4 of this section;~~ shall file the ~~returns~~ return by electronic data interchange or other electronic media as determined by the tax commissioner. The tax commissioner may waive, upon a showing of good cause, the requirement to file the ~~returns~~ return electronically.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2021.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 471

SENATE BILL NO. 2152

(Senator Bell)
(Representative Headland)

AN ACT to amend and reenact subsection 49 of section 57-39.2-04 and subsection 24 of section 57-40.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for carbon dioxide used for secure geologic storage; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³²⁸ **SECTION 1. AMENDMENT.** Subsection 49 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

49. Gross receipts from sales of carbon dioxide used for enhanced recovery of oil or natural gas or secure geologic storage.

³²⁹ **SECTION 2. AMENDMENT.** Subsection 24 of section 57-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

24. Gross receipts from sales of carbon dioxide used for enhanced recovery of oil or natural gas or secure geologic storage.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2021.

Approved March 22, 2021

Filed March 23, 2021

³²⁸ Section 57-39.2-04 was also amended by section 1 of House Bill No. 1351, chapter 472, section 503 of House Bill No. 1247, chapter 352, and section 4 of Senate Bill No. 2226, chapter 199.

³²⁹ Section 57-40.2-04 was also amended by section 2 of House Bill No. 1351, chapter 472.

CHAPTER 472

HOUSE BILL NO. 1351

(Representatives Richter, Dockter, Hatlestad, Magrum)
(Senator Kannianen)

AN ACT to create and enact a new subsection to section 57-39.2-04 and a new subsection to section 57-40.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for sales made to a senior citizen organization; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

330 SECTION 1. A new subsection to section 57-39.2-04 of the North Dakota Century Code is created and enacted as follows:

Gross receipts from sales to a senior citizen organization that provides informational, health, welfare, counseling, and referral services for senior citizens in this state if the senior citizen organization:

- a. Is recognized by the internal revenue service as having exempt status under 26 U.S.C. 501(c)(3);
- b. Is recognized by the secretary of state as a charitable organization; and
- c. Either:
 - (1) Provides services through the aging services division of the department of human services; or
 - (2) Receives grant funds through the department of transportation under the federal transit administration's enhanced mobility of seniors and individuals with disabilities program [49 U.S.C. 5310].

331 SECTION 2. A new subsection to section 57-40.2-04 of the North Dakota Century Code is created and enacted as follows:

Gross receipts from sales to a senior citizen organization that provides informational, health, welfare, counseling, and referral services for senior citizens in this state if the senior citizen organization:

- a. Is recognized by the internal revenue service as having exempt status under 26 U.S.C. 501(c)(3);
- b. Is recognized by the secretary of state as a charitable organization; and

330 Section 57-39.2-04 was also amended by section 503 of House Bill No. 1247, chapter 352, section 1 of Senate Bill No. 2152, chapter 471, and section 4 of Senate Bill No. 2226, chapter 199.

331 Section 57-40.2-04 was also amended by section 2 of Senate Bill No. 2152, chapter 471.

c. Either:

- (1) Provides services through the aging services division of the department of human services; or
- (2) Receives grant funds through the department of transportation under the federal transit administration's enhanced mobility of seniors and individuals with disabilities program [49 U.S.C. 5310].

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2021.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 473

SENATE BILL NO. 2137

(Senators Myrdal, Oehlke, Patten)
(Representatives Damschen, Mock, Monson)

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales and use tax exemption for enterprise information technology equipment and computer software purchased for use in a qualified data center; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for enterprise information technology equipment and computer software used in a qualified data center.

1. Gross receipts from sales of enterprise information technology equipment and computer software purchased for use by a qualifying business in a qualified data center are exempt from the tax imposed by this chapter. To qualify for the exemption, the enterprise information technology equipment or computer software must be incorporated into or physically located within the qualified data center. Purchases of upgraded or replacement enterprise information technology equipment and computer software for use in a qualified data center also are exempt.
2. The future owner of a proposed data center shall apply to the tax commissioner to be certified as a qualified data center. An applicant shall respond to a request for additional information from the tax commissioner within thirty days of the request or the application may no longer be considered.
3. To receive the exemption at the time of purchase, the qualified business shall obtain from the tax commissioner a certificate that the enterprise information technology equipment or computer software the qualified business intends to purchase qualifies for the exemption. If a certificate is not received before the purchase, the qualified business shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
4. If the enterprise information technology equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the qualified business may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section. Application for a refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.
5. For purposes of this section:

- a. "Computer software" includes software used or loaded at a qualified data center, software maintenance, software licensing, and software customization.
- b. "Data center" means a centralized repository for the storage, management, and dissemination of electronic data and information organized around a particular body or bodies of knowledge.
- c. "Enterprise information technology equipment" includes:
 - (1) Computer hardware, servers, routers, cooling systems, and cooling towers.
 - (2) Temperature control infrastructure and power infrastructure used for transformation, distribution, or management of electricity used for the maintenance and operation of a qualified data center.
 - (3) Exterior dedicated business-owned substations, backup power generation systems, battery systems, or other related infrastructure.
 - (4) Racking systems, raised flooring, cabling, or trays necessary for the maintenance and operation of a qualified data center.
- d. "Qualified business" means the owner, operator, or tenants of a qualified data center.
- e. "Qualified data center" means a newly constructed or substantially refurbished facility located in this state:
 - (1) Comprised of one or more buildings, the primary purpose of which is to contain a data center, consisting of an aggregate amount of fifteen thousand square feet [1394 square meters] or more, no fewer than fifty percent of which is used for data processing;
 - (2) Located on a single parcel or on contiguous parcels;
 - (3) On which construction is completed or which is substantially refurbished after December 31, 2020;
 - (4) Having the following attributes:
 - (a) Sophisticated fire suppression and prevention systems; and
 - (b) Enhanced security with security features including video camera surveillance; an electronic system requiring pass codes, key cards, or biometric scans such as hand scans or retinal or fingerprint recognition to restrict access to selected personnel; or other similar security features; and
 - (5) Certified by the tax commissioner as a qualified data center.
- f. "Substantially refurbished" means a data center used to house enterprise information technology equipment in which fifteen thousand square feet [1394 square meters] or more has been rebuilt, modified, or improved through methods including energy efficiency improvements, building

- improvements, and the installation of enterprise information technology equipment, environmental controls, and computer software.
6. In determining the total square footage of a qualified data center, the square footage of office space, meeting space, mechanical space, and other support facility spaces must be included if those spaces are used to support the operation of enterprise information technology equipment.
 7. Qualified data center owners that intend to collocate operators or tenants within the center shall provide the operators or tenants with documentation from the tax commissioner that the center meets the definition of a qualified data center under this section. Operators or tenants shall obtain and submit a copy of the documentation with all applications for sales tax exemption on information technology equipment and computer software purchased for use in the qualified data center.
 8. By January thirty-first of each year, a qualified data center owner shall file with the tax commissioner, on forms and in the manner prescribed by the tax commissioner, a report showing for the previous calendar year:
 - a. The amount of the exemption claimed under this section;
 - b. The number of jobs created or retained by the qualified data center; and
 - c. The type and value of any local incentives provided to the qualified data center.
 9. Upon receipt of a written request from the chairman of the legislative management or the chairman of a standing committee of the legislative assembly, the tax commissioner shall disclose any information described under subsection 8. This subsection does not authorize disclosure of the qualified data center owner's name, social security number, federal employer identification number, address, or any other information prohibited from disclosure under chapter 57-38.

SECTION 2. RETROACTIVE APPLICATION. This Act applies retroactively to purchases made after December 31, 2020.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 474

HOUSE BILL NO. 1195

(Representatives Bellev, Louser, D. Ruby, M. Ruby)
(Senator Hogue)

AN ACT to amend and reenact section 57-39.2-10.1 of the North Dakota Century Code, relating to sales tax special events.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.2-10.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-10.1. Responsibilities of special events promoters - Penalty.

1. A promoter or organizer of a special event at which ~~twenty-five~~ or more special event vendors participate shall, within twenty days following a special event, provide to the tax commissioner a list identifying each participating special event vendor. The list must be in the form and manner prescribed by the tax commissioner and must contain the name and sales tax permit number of each special vendor. Records must be retained by the promoter or organizer to the same extent as all transactions involving sales or use tax as provided in section 57-39.2-10. For purposes of this section:
 - a. "Promoter" or "organizer" means a person or entity that organizes or promotes a special event that results in the rental, occupation, or use of a structure, lot, tract of land, motor vehicle, sample or display case, table, or any other similar items for the provision of displays, promotional activities, or sale of tangible personal property or services by special event vendors.
 - b. "Special event" means an entertainment, amusement, recreation, or marketing event that occurs at a single location on a recurring or irregular basis and where sales, displays, or promotional activities occur. Special events include auto shows, boat shows, gun shows, sport shows, knife shows, home shows, craft shows, flea markets, carnivals, circuses, bazaars, fairs, and art or other merchandise displays or exhibits.
 - c. "Special event vendor" means a person or entity making sales, providing displays, or otherwise engaging in promotional activities at a special event.
2. A special event does not include an event that is organized for the exclusive benefit of a nonprofit organization if all of the net proceeds of the retail sales of all vendors at the event inure to the benefit of a nonprofit organization.
3. A promoter or organizer of a special event who fails or refuses to comply with this section may be subject to a penalty of two hundred fifty dollars per event, which amount may be waived by the tax commissioner for good cause shown.
4. Except as otherwise provided in subsection 1, if a promoter or organizer includes a special event vendor in a list previously submitted to the tax commissioner under subsection 1, the promoter or organizer is not required to

include the same special event vendor in a list submitted to the tax commissioner for a subsequent special event held within six months of the first event.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 475

HOUSE BILL NO. 1379

(Representative Marschall)

AN ACT to amend and reenact section 57-39.2-26.1 of the North Dakota Century Code, relating to the timing of state aid distribution fund allocations among political subdivisions; to provide a continuing appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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
State aid distribution fund - State treasurer - Continuing appropriation.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to 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~~appropriated to the state treasurer on a continuing basis and must be allocated monthly 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.

3. The state treasurer, for the purpose of making revenue allocations to counties and cities for each month of the fiscal year under this section, shall determine the population of counties and cities before the first day of the fiscal year using the most recent actual or estimated census data published by the United States census bureau.

SECTION 2. EFFECTIVE DATE. This Act is effective for net sales, gross receipts, use, and motor vehicle excise tax collections deposited in the state aid distribution fund after June 30, 2021.

Approved April 1, 2021

Filed April 1, 2021

CHAPTER 476

HOUSE BILL NO. 1449

(Representatives J. Nelson, Boe, Schmidt)
(Senators Marcellais, Oehlke)

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a county aid distribution fund; to provide a continuing appropriation; to provide for application; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

County aid distribution fund - State treasurer - Continuing appropriation.

1. There is created in the state treasury the county aid distribution fund. The fund consists of all moneys transferred to the fund under subsection 2. All moneys in the fund are appropriated to the state treasurer on a continuing basis for the purpose of providing allocations to an eligible county.
2. Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to one-fourth of one 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 county aid distribution fund. The 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 county aid distribution fund as determined under this subsection.
3. At least quarterly, the state treasurer shall allocate the moneys in the fund to the county with the lowest ratio of taxable property values per capita and a population of more than ten thousand.
4. The county treasurer shall deposit all revenues received under this section in the county general fund.
5. For purposes of determining taxable property values under this section, the state treasurer shall use the most recent data published by the tax commissioner in the tax levy report.
6. For purposes of determining the county's population under this section, the state treasurer shall use the most recent actual or estimated census data published by the United States census bureau.

SECTION 2. APPLICATION. This Act applies to net sales, gross receipts, use, and motor vehicle excise tax collections received by the tax commissioner after June 30, 2021.

SECTION 3. EXPIRATION DATE. This Act is effective through June 30, 2023, and after that date is ineffective.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 477

HOUSE BILL NO. 1309

(Representatives B. Koppelman, Delzer, Dockter, Ertelt, Hatlestad, Headland, Kasper,
Kempenich, Schmidt)
(Senators Clemens, Kannianen)

AN ACT to amend and reenact section 57-40.2-03.3 of the North Dakota Century Code, relating to payment of use tax by contractors; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-40.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

57-40.2-03.3. Use tax on contractors.

1. When a contractor or subcontractor uses tangible personal property in the performance of that person's contract, or to fulfill contract or subcontract obligations, whether the title to ~~such~~the property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of ~~such~~the property would be subject to pay the sales or use tax, ~~such~~the contractor or subcontractor shall pay a use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price or fair market value of such property, whichever is greater, unless ~~such~~the property has been previously subjected to a sales tax or use tax by this state, and the tax due ~~thereon~~ has been paid. This section does not apply to a contractor or subcontractor that does not enter a contract for the purchase of the tangible personal property.
2. The provisions of this chapter pertaining to the administration of the tax imposed by section 57-40.2-02.1, not in conflict with the provisions of this section, govern the administration of the tax levied by this section.
3. ~~The tax imposed by this section does not apply to medical equipment purchased as tangible personal property by a hospital or by a long-term care facility as defined in section 50-10.1-01 and subsequently installed by a contractor into such hospital or facility.~~
4. The tax imposed by this section does not apply to:
 - a. Production equipment or tangible personal property as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.2;
 - b. Machinery, equipment, or other tangible personal property used to construct an agricultural commodity processing facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;

- c. Tangible personal property used to construct or expand a system used to compress, process, gather, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas-processing facility in this state as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.5;
- d. Tangible personal property used to construct or expand a qualifying oil refinery as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.6;
- e. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.10;
- f. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.11;
- g. Materials used in compressing, gathering, collecting, storing, transporting, or injecting carbon dioxide for use in enhanced recovery of oil or natural gas as provided in section 57-39.2-04.14; or
- h. Tangible personal property used to construct a qualifying fertilizer or chemical processing facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.15.
- i. Tangible personal property used to construct a qualified straddle plant, a qualified fractionator, or qualified associated infrastructure as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.16.

SECTION 2. EFFECTIVE DATE. This Act is effective for contracts entered after June 30, 2021.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 478

SENATE BILL NO. 2277

(Senators Rust, Oban, Sorvaag)
(Representatives B. Anderson, M. Johnson, Meier)

AN ACT to create and enact a new subsection to section 57-40.3-04 of the North Dakota Century Code, relating to a motor vehicle excise tax exemption for motor vehicles transferred under a divorce decree; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-40.3-04 of the North Dakota Century Code is created and enacted as follows:

Any motor vehicle transferred from an individual to a former spouse of the individual if the transfer is the result of a divorce decree. A transfer of a motor vehicle is the result of a divorce if the transfer occurs within one year after the date the divorce became final.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2021.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 479

HOUSE BILL NO. 1206

(Representatives Mock, Bosch, Dockter, Roers Jones, Vigesaa, Weisz)
(Senators Davison, Piepkorn, Vedaa, Wanzek)

AN ACT to amend and reenact sections 57-40.6-01, 57-40.6-05, and 57-40.6-06, subsection 3 of section 57-40.6-07, subsections 3 and 4 of section 57-40.6-10, sections 57-40.6-12 and 57-40.6-13, and subdivision c of subsection 8 of section 57-40.6-14 of the North Dakota Century Code, relating to emergency services communication systems.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-40.6-01 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "911 system" means a set of networks, software applications, databases, call answering components, and operations and management procedures required to provide 911 services.
2. "911 system service provider" means an entity that provides the systems and support necessary to enable 911 calling for one or more public safety answering points in a specific geographic area. A 911 system service provider may provide the systems and support for either enhanced 911 or next generation 9-1-1.
3. "Assessed communications service" means a software service, communication connection, cable or broadband transport facilities, or a combination of these facilities, between a billed retail end user and a service provider's network that provides the end user, upon contacting 911, access to a public safety answering point through a permissible interconnection to the dedicated 911 network. The term includes telephone exchange access service, wireless service, and voice over internet protocol service.
- ~~3-4.~~ "Automated notification system" means that portion of a telecommunications system that provides rapid notice of emergency situations to the public.
- ~~4-5.~~ "Commissioner" means the state tax commissioner.
- ~~5-6.~~ "Communication connection" means a telephone access line, wireless access line, unique voice over internet protocol service connection, or functional equivalent uniquely identifiable by a number, internet address, or other designation.
- ~~6-7.~~ "Consumer" means a person who purchases prepaid wireless service in a retail transaction.

- 7-8. "Emergency services communication system" means a comprehensive statewide or countywide system, which provides rapid public access for coordinated dispatching of public safety services. The system includes a 911 system or radio system.
- 8-9. "FCC order" means federal communications commission order 94-102 [961 Federal Register 40348] and any other FCC order that affects the provision of wireless enhanced 911 service.
- 9-10. "Prepaid wireless emergency 911 fee" means the fee that is required to be collected by a seller from a consumer in the amount established under section 57-40.6-14.
- 10-11. "Prepaid wireless service" means any telecommunications service that provides the right to use a mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which are paid for in advance and sold in predetermined units or dollars which decline with use in a known amount.
- 11-12. "Prepaid wireless service provider" means any person that provides prepaid wireless telecommunications service pursuant to a license issued by the federal communications commission.
- 12-13. "Public safety answering point" or "PSAP" means a communications facility or combination of facilities which first receives 911 calls from persons in a 911 service area and which, as appropriate, may directly dispatch public safety services or extend, transfer, or relay 911 calls to appropriate public safety agencies.
- 13-14. "Public safety answering point service area" means the geographic area for which a public safety answering point has dispatch and emergency communications responsibility.
- 14-15. "Public safety services" means personnel, equipment, and facilities used by law enforcement, fire, medical, or other supporting services used in providing a public safety response to an incident.
- 15-16. "Public safety telecommunicator" means an individual whose primary full-time or part-time duties are receiving, processing, and transmitting public safety information received through an emergency services communication system.
- 16-17. "Radio system" means a set of networks, software applications, databases, radio components and infrastructure, and operations and management procedures required to provide communication services.
- 17-18. "Retail transaction" means the purchase of prepaid wireless service from a seller for any purpose other than resale.
- 18-19. "Seller" means a person who sells prepaid wireless services to a consumer.
- 19-20. "Subscriber service address" means, for purposes of ~~wire-line~~telephone exchange access service and voice over internet protocol service subscribers, the address where the telephone subscriber's ~~wire-line~~telephone communication device is used and, for purposes of wireless

subscribers, the place of primary use, as that term is defined in section 57-34.1-02.

- 20-21. "Telephone access line" means the principal access to the telephone company's switched network, including an outward dialed trunk or access register.
- 21-22. "Telephone exchange access service" means service to any wire line telephone access line identified by a unique telephone number that provides local wire line access to the telecommunications network to a service subscriber and which enables the subscriber to access the emergency services communications system by dialing the digits 9-1-1 on the subscriber's telephone device.
- 22-23. "Unpublished" means information that is not published or available from directory assistance.
- 23-24. "Voice over internet protocol service" means a service that enables real-time two-way voice communications; requires a broadband connection from the user's location; requires internet protocol-compatible customer premises equipment; and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.
- 24-25. "Wireless access line" means each active wireless and prepaid wireless telephone number assigned to a commercial mobile radio service subscriber, including end users of resellers.
- 25-26. "Wireless enhanced 911 service" means the service required to be provided by wireless service providers pursuant to the FCC order.
- 26-27. "Wireless service" means commercial mobile radio service as defined in 47 U.S.C. 332(d)(1) and includes:
- a. Services commonly referred to as wireless; and
 - b. Services provided by any wireless real-time two-way voice communication device, including radio-telephone communications used in:
 - (1) Cellular telephone service;
 - (2) Personal communications service; or
 - (3) The functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, personal communications service, or a network radio access line.
- 27-28. "Wireless service provider" means any entity authorized by the federal communications commission to provide wireless service within this state.

SECTION 2. AMENDMENT. Section 57-40.6-05 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-05. Restriction on use of fee proceeds.

The governing body ~~may~~ shall use the proceeds of the fee imposed under section 57-40.6-02 solely for implementing, maintaining, or operating the emergency services communication system and may enter into agreements to effectuate the same in accordance with guidelines established by the emergency services communications coordinating committee under duties identified in section 57-40.6-12. The governing body or its designee shall deposit the fee proceeds in a separate fund and keep records to show all expenditures from the fee proceeds.

SECTION 3. AMENDMENT. Section 57-40.6-06 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-06. Database.

Any telephone exchange access ~~assessed~~ communications service provider providing emergency 911 service and whose subscriber's service addresses are provided to a public safety answering point upon delivery of a 911 call shall provide current customer names, addresses, and telephone numbers to each emergency services communication system coordinator, the coordinator's designee, or public safety answering point within each 911 system. Information provided under this section must be provided in accordance with the transactional record disclosure requirements of the federal Electronics Communications Privacy Act of 1986, 18 U.S.C. 2703(c)(1)(B)(iii), and in a manner that identifies the names and telephone numbers that are unpublished. The provider shall report database information regarding new service or a change of service within two business days of the actual service change unless a longer period is permitted by the jurisdiction. The provider shall report database information regarding dropped service at least monthly.

SECTION 4. AMENDMENT. Subsection 3 of section 57-40.6-07 of the North Dakota Century Code is amended and reenacted as follows:

3. A record obtained by a public safety answering point for the purpose of providing services in an emergency which reveals personal information or the identity, address/location, or telephone number of a person requesting emergency service or reporting an emergency is exempt from section 44-04-18 and may be redacted from the record before it is released.

³³² **SECTION 5. AMENDMENT.** Subsection 3 of section 57-40.6-10 of the North Dakota Century Code is amended and reenacted as follows:

3. An emergency services communication system coordinator shall:
 - a. Ensure that address and mapping data is updated in the emergency services communication system database and mapping system within thirty days of receipt of notice or request for change;
 - b. Provide for a complete annual review of the emergency services communication system ~~land line~~ 911 database by obtaining current records from the appropriate ~~telecommunications companies~~ 911 system service provider;
 - c. Maintain the law enforcement, fire, and emergency medical service response boundaries for the public safety answering point service area; and

³³² Section 57-40.6-10 was also amended by section 6 of House Bill No. 1206, chapter 479, and section 504 of House Bill No. 1247, chapter 352.

- d. Ensure that the dispatch protocols for emergency service notifications are documented and communicated with all law enforcement, fire, and emergency medical services.

³³³ **SECTION 6. AMENDMENT.** Subsection 4 of section 57-40.6-10 of the North Dakota Century Code is amended and reenacted as follows:

4. A public safety answering point must:

- a. Be operational twenty-four hours a day seven days a week or be capable of transferring emergency calls to another public safety answering point meeting the requirements of this section during times of nonoperation.
- b. Be staffed continuously with at least one public safety telecommunicator who is on duty at all times of operation and who has primary responsibility for handling the communications of the public safety answering point.
- c. Have the capability to dispatch public safety services to calls for service in the public safety answering point's service area.
- d. Have two-way communication with all public safety services in the public safety answering point's service area.
- e. ~~As authorized by the governing committee, access~~Access and dispatch poison control, suicide prevention, emergency management, and other public or private services but may not accept one-way private call-in alarms or devices as 911 calls.
- f. ~~Dispatch the emergency medical service that has been determined to be, when available, the quickest to arrive to the scene of medical emergencies regardless of city, county, or district boundaries.~~emergency medical service to arrive to the scene as predetermined by the emergency services communications system coordinator, with the approval of the state department of health. If the predetermined emergency medical service is not available, the public safety answering point shall dispatch a secondary emergency medical service, based on the best available information at the time. The state department of health shall provide public safety answering points with the physical locations of the emergency medical services necessary for the implementation of this subdivision.
- g. Be capable of providing emergency medical dispatch prearrival instructions on all emergency medical calls. Prearrival instructions must be offered by a public safety telecommunicator who has completed an emergency medical dispatch course approved by the division of emergency health services. Prearrival medical instructions may be given through a mutual aid agreement.
- h. Have security measures in place to prevent direct physical public access to on-duty public safety telecommunicators and to prevent direct physical public access to any room or location where public safety answering point equipment and systems are located.

³³³ Section 57-40.6-10 was also amended by section 5 of House Bill No. 1206, chapter 479, and section 504 of House Bill No. 1247, chapter 352.

- i. Have an alternative source of electrical power that is sufficient to ensure at least six hours of continued operation of emergency communication equipment in the event of a commercial power failure. A public safety answering point also must have equipment to protect critical equipment and systems from irregular power conditions, such as power spikes, lightning, and brownouts. Documented testing of backup equipment must be performed each quarter under load.
- j. Maintain a written policy for computer system security and preservation of data.
- k. Have the capability of recording and immediate playback of recorded emergency calls and radio traffic.
- l. Employ a mechanism to differentiate emergency calls from other calls.
- m. Provide assistance for investigating false or prank calls.
- n. Have an alternative method of answering inbound emergency calls at the public safety answering point when its primary emergency services communication system equipment is inoperable.
- o. ~~No later than July 1, 2015, have~~Have a written policy, appropriate agreements, and the capability to directly answer emergency calls and dispatch responders from a separate, independent location other than the main public safety answering point or another public safety answering point meeting the requirements of this section, within sixty minutes of an event that renders the main public safety answering point inoperative. This alternative location must have independent access to the public safety answering point's ~~land-line~~911 system database. The capability of transferring emergency calls to this alternative location must be tested and documented annually.
- p. Remain responsible for all emergency calls received, even if ~~aduring the~~initial transfer of the call is made to a second public safety answering point. The initial public safety answering point may not disconnect from the three-way call unless mutually agreed by the two public safety telecommunicators. Upon this agreement, the secondary public safety answering point becomes responsible for the call.
- q. Employ the necessary telecommunications network and electronic equipment consistent with the minimum technical standards recommended by the national emergency number association to securely receive and respond to emergency communications.
- r. ~~After July 1, 2015, maintain~~Maintain current, up-to-date mapping of its service area and have the ability to use longitude and latitude to direct responders.
- s. Secure two sets of fingerprints from a law enforcement agency or any other agency authorized to take fingerprints and all other information necessary to obtain state criminal history record information and a nationwide background check under federal law for all public safety telecommunicators.

- t. Have policies to ensure that all public safety telecommunicators:
 - (1) Do not have a felony conviction, at a minimum consistent with the national crime information center standards;
 - (2) Complete pre-employment screening for illegal substance use and hearing;
 - (3) Meet and maintain the minimum qualifications and required certifications as established by the emergency services communications coordinating committee;
 - (4) Can prioritize appropriately all calls for service; and
 - (5) Can determine the appropriate resources to be used in response to all calls for public safety services.
- u. Have written policies establishing procedures for recording and documenting relevant information of every request for service, including:
 - (1) Date and time of request for service;
 - (2) Name and address of requester, if available;
 - (3) Type of incident reported;
 - (4) Location of incident reported;
 - (5) Description of resources assigned, if any;
 - (6) Time of dispatch;
 - (7) Time of resource arrival; and
 - (8) Time of incident conclusion.
- v. Have written policies establishing dispatch procedures and provide initial and periodic training of public safety telecommunicators on those procedures, including procedures for:
 - (1) Standardized call taking and dispatch procedures;
 - (2) The prompt handling and appropriate routing of misdirected emergency calls;
 - (3) The handling of hang-up emergency calls;
 - (4) The handling of calls from non-English speaking callers; ~~and~~
 - (5) The handling of calls from callers with hearing or speech impairments; and
 - (6) The handling of text-initiated communications.

SECTION 7. AMENDMENT. Section 57-40.6-12 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-12. Emergency services communications coordinating committee - Membership - Duties.

1. The governing body of a city or county, which adopted a fee on assessed communications services under this chapter, shall make ~~an annual~~ report of the income, expenditures, and status of its emergency services communication system. The ~~annual~~ report must be submitted to the emergency services communications coordinating committee in the format requested by the committee. The committee is composed of four members, one appointed by the North Dakota 911 association, one appointed by the North Dakota association of counties, one appointed by the chief information officer of the state, and one appointed by the adjutant general to represent the division of state radio.
2. The committee shall:
 - a. Recommend to the legislative management changes to the operating standards for emergency services communications, including training or certification standards for dispatchers;
 - b. Develop guidelines regarding the allowable uses of the fee revenue collected under this chapter;
 - c. ~~Request. Biennially. request.~~ receive, and compile reports from each governing body on the use of the proceeds of the fee imposed under this chapter, analyze the reports with respect to the guidelines, file its report with the legislative council by November first of each even-numbered year regarding the use of the fee revenue, and recommend to the legislative assembly the appropriate maximum fee allowed by section 57-40.6-02;
 - d. Periodically evaluate chapter 57-40.6 and recommend changes to the legislative management; and
 - e. Serve as the governmental body to coordinate plans for implementing emergency 911 services and internet protocol enabled emergency applications for 911.
3. The committee may initiate and administer statewide agreements among the governing bodies of the local governmental units with jurisdiction over an emergency 911 telephone system to coordinate the procurement of equipment and services, fund the research, administration, and activities of the committee, and contract for the necessary staff support for committee activities.

SECTION 8. AMENDMENT. Section 57-40.6-13 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-13. Provision of call location information by wireless service provider or prepaid wireless service provider or seller to law enforcement.

1. Upon request of a law enforcement agency or a public safety answering point on behalf of a law enforcement agency, a wireless service provider shall provide call location information concerning the telecommunications device of a user to the requesting law enforcement agency or public safety answering point. A prepaid wireless service provider or seller shall provide such call location information if available. A law enforcement agency or public safety

answering point may not request information under this section unless for the purposes of responding to a call for emergency services or in an emergency situation that involves the risk of death or serious physical harm.

2. A wireless service provider or prepaid wireless service provider or seller may establish protocols by which the carrier voluntarily discloses call location information.
3. A claim for relief may not be brought in any court against any wireless service provider, prepaid wireless service provider or seller, or any other person for providing call location information if acting in good faith and under this section.
4. ~~The bureau of criminal investigation shall obtain contact information from all wireless service providers authorized to do business in this state to facilitate a request from a law enforcement agency or a public safety answering point on behalf of a law enforcement agency for call location information under this section. The bureau shall disseminate the contact information to each public safety answering point in this state.~~

SECTION 9. AMENDMENT. Subdivision c of subsection 8 of section 57-40.6-14 of the North Dakota Century Code is amended and reenacted as follows:

- c. The seller required to collect, report, and remit the prepaid wireless emergency 911 fee imposed under this section ~~shall retain one hundred percent of the amount of fee due to cover the cost of collecting and transmitting the fee to the commissioner beginning with the first three months the seller begins selling prepaid wireless service, or for the first three months after January 1, 2014, if the seller is making retail sales of prepaid wireless services prior to January 1, 2014, and shall thereafter~~may retain three percent of the fee.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 480

HOUSE BILL NO. 1179

(Representatives Dockter, Headland)
(Senator Bell)

AN ACT to amend and reenact section 57-51-15 of the North Dakota Century Code and section 12 of chapter 471 of the 2013 Session Laws, relating to reporting requirements for schools, counties, and hub cities receiving oil and gas gross production tax allocations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

57-51-15. Gross production tax allocation.

The gross production tax must be allocated monthly as follows:

1. The tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer. The state treasurer shall allocate the funding in the following order:
 - a. Eight percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding twenty million dollars per fiscal year.
 - b. Four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding seven million five hundred thousand dollars per fiscal year and not in an amount that would bring the balance in the fund to more than fifty million dollars.
 - c. Any remaining revenues pursuant to subsection 3.
 - d. For purposes of this subsection, "fiscal year" means the period beginning September first and ending August thirty-first of the following calendar year.
2. The tax revenue collected under this chapter equal to four percent of the gross value at the well of the oil and four-fifths of the tax on gas must be deposited with the state treasurer. The state treasurer shall allocate the funding in the following order:
 - a. The first five million dollars of collections received from a county each fiscal year is allocated to the county.
 - b. The remaining revenue collections received from a county each fiscal year are allocated thirty percent to the county and seventy percent as follows:

- (1) Monthly amounts to the hub city funding pool to provide fifteen million four hundred thousand dollars per fiscal year for the allocations under paragraph 2 of subdivision a of subsection 5.
 - (2) Monthly amounts to the hub city school district funding pool to provide two million one hundred thousand dollars per fiscal year for the allocations under paragraph 3 of subdivision a of subsection 5.
 - (3) Monthly amounts to the supplemental school district funding pool to provide seventy percent of the total amount needed for the allocations under paragraph 4 of subdivision a of subsection 5.
 - (4) Any remaining revenue collections to the state for the state's allocations pursuant to subsection 3.
- c. For purposes of this subsection, "fiscal year" means the period beginning September first and ending August thirty-first of the following calendar year.
3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.
 4. For a county that received less than five million dollars of allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, revenues allocated to that county must be distributed by the state treasurer as follows:
 - a. Forty-five percent must be distributed to the county treasurer and credited to the county general fund. However, the distribution to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - b. Thirty-five percent must be distributed proportionally to school districts within the county on the average daily attendance distribution basis for kindergarten through grade twelve students residing within the county, as certified to the state treasurer by the county superintendent of schools. However, a hub city school district must be omitted from distributions under this subdivision.
 - c. Twenty percent must be distributed to the incorporated cities of the county. A hub city must be omitted from distributions under this subdivision. Distributions among cities under this subsection must be proportional based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent

- seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.
- d. For purposes of this subsection, "fiscal year" means the period beginning September first and ending August thirty-first of the following calendar year.
5. For a county that received five million dollars or more of allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, revenues allocated to that county must be distributed by the state treasurer as follows:
- a. A portion of the revenues from each county must be distributed to a hub city funding pool, a hub city school district funding pool, and a supplemental school district funding pool as follows:
- (1) The amount distributed from each county to the funding pools under this subdivision must be proportional to each county's monthly oil and gas gross production tax revenue collections relative to the combined total monthly oil and gas gross production tax revenue collections from all the counties that receive allocations under this subsection.
 - (2) The state treasurer shall distribute, to the hub city funding pool, the monthly amount needed from each county to provide six million six hundred thousand dollars per fiscal year for the allocations under this paragraph.
 - (a) The state treasurer shall allocate monthly amounts from the hub city funding pool to provide a combined total of twenty-two million dollars per fiscal year to all the hub cities, which includes the fifteen million four hundred thousand dollars under paragraph 1 of subdivision b of subsection 2 and the six million six hundred thousand dollars under this paragraph. The monthly allocation to each hub city must be proportional to each hub city's impact percentage score, including fractional percentage points rounded to the nearest tenth of a percent, relative to the combined total of all the hub cities' impact percentage scores.
 - (b) The state treasurer shall calculate the impact percentage score for each hub city by summing the following:
 - [1] The percentage of mining, quarrying, and oil and gas extraction employment relative to the total employment of all industries in the county in which the hub city is located, based on the most recent annual data for all ownership types compiled by job service North Dakota in the quarterly census of employment and wages, multiplied by forty-five hundredths;
 - [2] The average of the percentage of mining, quarrying, and oil and gas extraction employment relative to the total employment of all industries in each county for all the counties in the human service region in which the hub city is located, based on the most recent annual data for all ownership types compiled by job service North Dakota in the quarterly census of employment and wages, multiplied by fifteen hundredths;

- [3] The percentage of establishments engaged in mining, quarrying, and oil and gas extraction relative to the total establishments of all industries in the county in which the hub city is located, based on the most recent annual data for all ownership types compiled by job service North Dakota in the quarterly census of employment and wages, multiplied by one-tenth;
 - [4] The percentage of oil production in the human service region in which the hub city is located relative to the total oil production in all the human service regions with hub cities, based on the most recently available calendar year data compiled by the industrial commission in a report on the historical barrels of oil produced by county, multiplied by one-tenth;
 - [5] The percentage change in population from five years prior for the hub city, based on the most recent actual or estimated census data published by the United States census bureau, multiplied by one-tenth; and
 - [6] The percentage change in population from five years prior for the county in which the hub city is located, based on the most recent actual or estimated census data published by the United States census bureau, multiplied by one-tenth.
- (c) For purposes of this paragraph, "human service region" means the areas designated by the governor's executive order 1978-12 dated October 5, 1978.
- (3) The state treasurer shall distribute, to the hub city school district funding pool, the monthly amount needed from each county to provide nine hundred thousand dollars per fiscal year for the allocations under this paragraph.
- (a) The state treasurer shall allocate monthly amounts from the hub city school district funding pool to provide a combined total of three million dollars per fiscal year to all the hub city school districts, which includes the two million one hundred thousand dollars under paragraph 2 of subdivision b of subsection 2 and the nine hundred thousand dollars under this paragraph. The monthly allocation to each hub city school districts must be proportional to each hub city school district's impact percentage score, including fractional percentage points rounded to the nearest tenth of a percent, relative to the combined total of all the hub cities' impact percentage scores.
 - (b) For the purpose of determining the impact percentage score for each hub city school district, the state treasurer shall use the same impact percentage score as the corresponding score calculated for each hub city in paragraph 2.
- (4) The state treasurer shall distribute, to the supplemental school district funding pool, the monthly amount needed from each county to provide for thirty percent of the total allocations under this paragraph. To each county that received more than five million dollars but less than thirty

million dollars of total allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, the state treasurer shall allocate a monthly amount from the supplemental school district funding pool which will be added to the distributions to school districts under paragraph 2 of subdivision b, as follows:

- (a) To each county that received more than five million dollars but not exceeding ten million dollars of total allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, the state treasurer shall allocate a monthly amount that will provide a total allocation of one million five hundred thousand dollars per fiscal year. The allocation must be distributed to school districts within the county pursuant to paragraph 2 of subdivision b.
 - (b) To each county that received more than ten million dollars but not exceeding fifteen million dollars of total allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, the state treasurer shall allocate a monthly amount that will provide a total allocation of one million two hundred fifty thousand dollars per fiscal year. The allocation must be distributed to school districts within the county pursuant to paragraph 2 of subdivision b.
 - (c) To each county that received more than fifteen million dollars but not exceeding twenty million dollars of total allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, the state treasurer shall allocate a monthly amount that will provide a total allocation of one million dollars per fiscal year. The allocation must be distributed to school districts within the county pursuant to paragraph 2 of subdivision b.
 - (d) To each county that received more than twenty million dollars but not exceeding twenty-five million dollars of total allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, the state treasurer shall allocate a monthly amount that will provide a total allocation of seven hundred fifty thousand dollars per fiscal year. The allocation must be distributed to school districts within the county pursuant to paragraph 2 of subdivision b.
 - (e) To each county that received more than twenty-five million dollars but not exceeding thirty million dollars of total allocations under subsection 2 in the most recently completed even-numbered fiscal year before the start of the biennium, the state treasurer shall allocate a monthly amount that will provide a total allocation of five hundred thousand dollars per fiscal year. The allocation must be distributed to school districts within the county pursuant to paragraph 2 of subdivision b.
- b. After the distributions in subdivision a, each county's remaining revenues must be distributed as follows:

- (1) Sixty percent must be distributed to the county treasurer and credited to the county general fund. However, the distribution to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - (2) Five percent must be distributed proportionally to school districts within the county on the average daily attendance distribution basis for kindergarten through grade twelve students residing within the county, as certified to the state treasurer by the county superintendent of schools. However, a hub city school district must be omitted from distributions under this subdivision.
 - (3) Twenty percent must be distributed to the incorporated cities of the county. A hub city must be omitted from distributions under this subdivision. Distributions among cities under this subsection must be proportional based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.
 - (4) Four percent must be allocated among the organized and unorganized townships of the county. The state treasurer shall allocate the funds available under this subdivision among townships in proportion to each township's road miles relative to the total township road miles in the county. The amount allocated to unorganized townships under this subdivision must be distributed to the county treasurer and credited to a special fund for unorganized township roads, which the board of county commissioners shall use for the maintenance and improvement of roads in unorganized townships.
 - (5) Nine percent must be distributed among hub cities. The state treasurer shall distribute the funds available under this subdivision in proportion to the amounts the hub cities receive under paragraph 2 of subdivision a.
 - (6) Two percent must be distributed among hub city school districts. The state treasurer shall distribute the funds available under this subdivision in proportion to the amounts the hub city school districts receive under paragraph 3 of subdivision a.
 - (7) For purposes of this subsection, "fiscal year" means the period beginning September first and ending August thirty-first of the following calendar year.
6. ~~Within thirty days after the end of each calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the calendar year with the commissioner, in a format prescribed by the commissioner, including:~~
- a. ~~The county's statement of revenues and expenditures;~~

- b. ~~The county's ending fund balances;~~
- c. ~~The amounts allocated under this section to the county's general fund, the amounts expended from these allocations, and the purposes of the expenditures; and~~
- d. ~~The amounts allocated under this section to or for the benefit of townships within the county, the amounts expended from these allocations, and the purposes of the expenditures.~~

~~Within fifteen days after the time when reports under this subsection are due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.~~

- 7. ~~Within thirty days after the end of each fiscal year ended June thirtieth, each school district that has received an allocation under this section shall file a report for the fiscal year ended June thirtieth with the commissioner, in a format prescribed by the commissioner, including:~~
 - a. ~~The school district's statement of revenue and expenditures;~~
 - b. ~~The school district's ending fund balances; and~~
 - c. ~~The amounts allocated under this section to the school district, the amounts expended from these allocations, and the purposes of the expenditures.~~

~~Within fifteen days after the time when reports under this subsection are due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.~~

SECTION 2. AMENDMENT. Section 12 of chapter 471 of the 2013 Session Laws is amended and reenacted as follows:

SECTION 12. HUB CITIES - REPORT TO BUDGET SECTION. A representative of a hub city as defined in section 57-51-01 shall report to the budget section annually on the use of funding received from allocations under section 57-51-15 for the period beginning July 1, 2013, and ending June 30, 2021.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 481

SENATE BILL NO. 2328

(Senators Patten, J. Roers, Schaible)
(Representatives Howe, Mock)

AN ACT to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to a credit for oil produced from a well site using an onsite flare mitigation system; to provide for application; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Temporary exemption - Oil extraction tax credit for gas flaring mitigation.

1. As used in this section:

- a. "Flare mitigation" means the quantity in millions of British thermal units of heat content of gas used by an onsite flare mitigation system. The term does not include the heat content of any gas flared before, during, or after intake by a flare mitigation system.
- b. "Onsite flare mitigation system" means a system at a well site which intakes gas and natural gas liquids from a well, separating and collecting or utilizing over fifty percent of the propane and heavier hydrocarbons, to achieve a reduction of flared thermal intensity through beneficial consumption by:
 - (1) Compressing or liquifying gas for use as fuel or transport to a processing facility;
 - (2) Production of petrochemicals or fertilizer;
 - (3) Conversion to liquid fuels;
 - (4) Conversion to electricity for onsite use or supply to the electrical grid;
 - (5) Conversion to computational power; or
 - (6) Other value-added processes as approved by the industrial commission.
- c. "Qualifying well" means a well on which:
 - (1) If a well site already is connected to a pipeline and pipeline capacity is unavailable on the existing pipeline, the producer and the pipeline operator jointly have filed a sundry with the industrial commission attesting to the lack of existing pipeline takeaway capacity;

- (2) If the producer's well is not connected to an existing pipeline but the producer's lands, leases, wells, or gas are dedicated contractually to a pipeline operator, the producer and the pipeline operator to which the lands, leases, wells, or gas are dedicated jointly have filed a sundry with the industrial commission attesting it is either technically or commercially unfeasible to connect a pipeline to the producer's well; or
 - (3) If the producer's well is not already connected to an existing pipeline and the producer's lands, leases, wells, or gas are not dedicated contractually, the producer unilaterally has filed a sundry with the industrial commission attesting to these facts.
- 2. A system that otherwise meets the definition of onsite flare mitigation system as defined in this section is not an "onsite flare mitigation system" if it is:
 - a. Installed on a stripper well as defined by subsection 8 of section 57-51.1-01;
 - b. Installed before July 1, 2021;
 - c. Installed on a well connected to or is technically and commercially feasible to connect to a gas pipeline with capacity;
 - d. A system that supports the normal production operations of a well, consumes gas as part of the routine oil and gas production process, such as a heater treater, separator, or electrical dissipation through a load bank, or any system or application traditionally considered as on-pad use.
- 3. A producer is entitled to a credit against the tax liability determined under chapter 57-51.1 equal to seventy-five cents per one million British thermal units of flare mitigation resulting from the operation of an onsite flare mitigation system on a qualifying well.
- 4. The credit may be claimed for up to twelve months per well and may not exceed six thousand dollars per well per month.
- 5. To qualify for the credit:
 - a. The industrial commission shall certify the well of a producer as a qualifying well and the producer shall submit a copy of the certification to the tax commissioner.
 - b. On or before the fifteenth day of the month succeeding the month of production, the owner or operator of the onsite flare mitigation system shall file a monthly report with the tax commissioner and the producer certifying the amount of flare mitigation per qualifying well during the month of production.
 - c. The credit for flare mitigation must be claimed by the producer against the oil extraction tax due on a per well basis for the production month following the month in which the mitigation occurred.
 - d. The producer shall file the return required under this chapter for the duration of the credit and pay any oil taxes due. After the exemption period ends, the purchaser shall pay the oil taxes due.

6. The tax commissioner may audit the records of the producer and operator of the onsite flare mitigation system to administer this section. The credit allowed may not exceed the liability of the tax under this section.

SECTION 2. APPLICATION. The credit in section 1 of this Act only applies to production from wells located outside the exterior boundaries of the Fort Berthold Reservation unless the Three Affiliated Tribes, through the tribal chair, notifies the tax commissioner in writing that the Three Affiliated Tribes desires to include production from wells from within the boundaries of the exterior boundaries of the Fort Berthold Indian Reservation without altering the provisions of the compact on oil and gas production taxes within the Fort Berthold Reservation. This Act applies to flare mitigation from a qualifying well on which a flare mitigation system is installed between June 30, 2021, and July 1, 2023.

SECTION 3. EXPIRATION DATE. This Act is effective through June 30, 2023, and after that date is ineffective.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 482

SENATE BILL NO. 2249

(Senators Heitkamp, Heckaman)
(Representatives Ertelt, Louser, Skroch)

AN ACT to amend and reenact section 57-51.1-07.5 of the North Dakota Century Code, relating to deposits of the state's share of oil and gas taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³³⁴ **SECTION 1. AMENDMENT.** Section 57-51.1-07.5 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-07.5. State share of oil and gas taxes - Deposits.

From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium in the following order:

1. The first two hundred million dollars into the state general fund;
2. The next two hundred million dollars into the tax relief fund;
3. The next seventy-five million dollars into the budget stabilization fund, but not in an amount that would bring the balance in the fund to more than the limit in section 54-27.2-01;
4. The next two hundred million dollars into the state general fund;
5. The next ten million dollars into the lignite research fund;
6. The next ~~fifteen~~twenty million dollars into the state disaster relief fund, but not in an amount that would bring the unobligated balance in the fund to more than ~~fifteen~~twenty million dollars;
7. The next thirty million three hundred seventy-five thousand dollars, or the amount necessary to provide for the distributions under subsection 2 of section 57-51.1-07.7, into the municipal infrastructure fund;
8. The next four hundred million dollars into the strategic investment and improvements fund;
9. An amount equal to the deposit under subsection 7 into the county and township infrastructure fund;
10. The next one hundred sixty-nine million two hundred fifty thousand dollars or the amount necessary to provide a total of two hundred thirty million dollars

³³⁴ Section 57-51.1-07.5 was also amended by section 35 of House Bill No. 1015, chapter 15.

into the funds designated for infrastructure development in non-oil-producing counties under sections 57-51.1-07.7 and 57-51.1-07.8 with fifty percent deposited into the municipal infrastructure fund and fifty percent deposited into the county and township infrastructure fund;

11. The next twenty million dollars into the airport infrastructure fund; and
12. Any additional revenues into the strategic investment and improvements fund.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2021.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 483

SENATE BILL NO. 2319

(Senator Kannianen)

AN ACT to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution.

1. By August 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation trust lands acreage ratio and the on-reservation nontrust lands acreage ratio for each reservation with on-reservation spacing unit acreage. For each reservation, the on-reservation trust lands acreage ratio is calculated by dividing the on-reservation spacing unit acreage consisting of trust lands by the total spacing unit acreage. For each reservation, the on-reservation nontrust lands acreage ratio is calculated by dividing the on-reservation spacing unit acreage consisting of nontrust lands by the total spacing unit acreage. The on-reservation acreage ratios for each reservation are effective for taxable production each fiscal year beginning July first. By August 1, 2021, and on or before June first of each subsequent fiscal year, the tax commissioner shall publish the on-reservation acreage ratios for each reservation.
2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells drilled before July 1, 2019, by reservation, and the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells drilled on or after July 1, 2019, by reservation. Before allocation of the state's share of oil and gas tax revenues under section 57-51.1-07.5, the state treasurer shall allocate monthly to the governing body of a tribe associated with a reservation that has on-reservation spacing unit acreage, an amount equal to:
 - a. Fifty percent of the taxes certified under this section for wells drilled before July 1, 2019, multiplied by the on-reservation trust lands acreage ratio calculated under subsection 1 for that reservation;
 - b. Fifty percent of the taxes certified under this section for wells drilled before July 1, 2019, multiplied by the on-reservation nontrust lands acreage ratio calculated under subsection 1 for that reservation;
 - c. Eighty percent of the taxes certified under this section for wells drilled on or after July 1, 2019, multiplied by the on-reservation trust lands acreage ratio calculated under subsection 1 for that reservation; and

- d. Twenty percent of the taxes certified under this section for wells drilled on or after July 1, 2019, multiplied by the on-reservation nontrust lands acreage ratio calculated under subsection 1 for that reservation.
3. For purposes of this section:
- a. "On-reservation spacing unit acreage" means the mineral acreage located within the exterior boundaries of a reservation in this state from all spacing units with one or more straddle wells.
 - b. "Straddle well" means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.
 - c. "Total spacing unit acreage" means the total mineral acreage from all spacing units with one or more straddle wells.
4. Upon accepting a payment under this section, if a tribe assesses any tax or fee or imposes any regulation on any current or future straddle well, or assesses an additional tax on any well subject to an agreement under chapter 57-51.2, the agreement under chapter 57-51.2 is void and the state treasurer may not distribute any funds to the tribe under this section or chapter 57-51.2.

SECTION 2. APPLICATION. This Act applies to oil and gas tax revenue collections allocated by the state treasurer after September 1, 2021.

Approved April 28, 2021

Filed April 28, 2021

CHAPTER 484

HOUSE BILL NO. 1412

(Representatives Delzer, Headland, Pollert)
(Senators Bell, Wardner)

AN ACT to create and enact a new section to chapter 57-60 of the North Dakota Century Code, relating to an exemption from the coal conversion facilities privilege tax and the imposition of a lignite research tax; to amend and reenact section 57-60-02, subsection 1 of section 57-60-14, and section 57-61-01 of the North Dakota Century Code, relating to an exemption from the coal conversion facilities tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-60-02 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02. Imposition of taxes.

There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. The board of county commissioners may, by resolution, grant to the operator of an electrical generating plant located within the county partial or complete exemption from the remaining fifteen percent of the tax imposed by this subsection for a period not exceeding five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a board of county commissioners grants a partial or complete exemption for a specific coal conversion facility under this subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that subsection relates to revenue from the specific unit of the coal conversion facility for which the partial or complete exemption has been granted. Notwithstanding section 57-60-14, any tax collected from a unit subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15. If a unit is incapable of generating electricity for eighteen

consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.
4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.
5. a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

b. ~~The board of county commissioners may, by resolution, grant to the operator of a coal conversion facility, other than an electrical generating plant, located within the county a partial or complete exemption from the remaining fifteen percent of tax imposed by this section for a period not exceeding five years from the date of the first taxable production from the facility. Notwithstanding the provisions of section 57-60-14, any tax collected which is based upon the production of a facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.~~
6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the preceding month, whichever amount is greater. Any amount of beneficiated coal produced in excess of eighty percent of the design capacity of the coal beneficiation plant or produced for use within a coal conversion facility is exempt from such tax.
7. With the exception of the tax imposed under subsection 3, the board of county commissioners, by resolution, may grant the operator of a plant or facility located within the county a partial or complete exemption from up to fifteen percent of the tax imposed under this section for a period not to extend past June 30, 2026. If a board of county commissioners grants a partial or complete exemption for a specific plant or facility under this subsection, subsection 2 of section 57-60-14 does not apply. Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.

SECTION 2. A new section to chapter 57-60 of the North Dakota Century Code is created and enacted as follows:

Coal conversion facility tax - Exemption - Lignite research tax - Imposition.

1. Excluding the generation tax imposed under subsection 3 of section 57-60-02, a coal conversion facility is exempt from eighty-five percent of the tax imposed under section 57-60-02 and instead shall pay a lignite research tax equal to eighty-five percent of the tax imposed under section 57-60-02 multiplied by five percent.
2. An electrical generating plant is exempt from the generation tax imposed under subsection 3 of section 57-60-02 and instead shall pay a lignite research tax equal to the tax imposed under subsection 3 of section 57-60-02 multiplied by five percent.

SECTION 3. AMENDMENT. Subsection 1 of section 57-60-14 of the North Dakota Century Code is amended and reenacted as follows:

1. TheAt least quarterly, the state treasurer shall no less than quarterly allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter, fifteen percent to the county and eighty-five percent to the state general fund, except moneys received from the tax imposed by subsection 3 of section 57-60-02, which must be deposited in the state general fund. Five percent of all funds allocated to the state general fund pursuant to this chapter must be allocated to the:
 - a. The lignite research tax collections under section 1 of this Act to the lignite research fund for the purposes under section 57-61-01.5.
 - b. The remaining coal conversion tax collections under section 57-60-02 to the county lignite research fund, for the purposes defined in section 57-61-01.5.

SECTION 4. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01. Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner.

1. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.
2. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is mined a partial or complete exemption from up to seventy percent of the tax imposed under this section for a period not to extend past June 30, 2026. Any tax revenue exceeding thirty percent of the tax imposed under this subsection must be allocated to the county under subsection 3 of section 57-62-02.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable production beginning after June 30, 2021.

SECTION 6. EXPIRATION DATE. This Act is effective through June 30, 2026, and after that date is ineffective.

Approved April 22, 2021

Filed April 22, 2021

TOWNSHIPS

CHAPTER 485

SENATE BILL NO. 2216

(Senators Luick, Klein, Lemm, Myrdal)
(Representatives D. Johnson, Trottier)

AN ACT to amend and reenact subdivision d of subsection 1 of section 58-03-11.1 of the North Dakota Century Code, relating to the definition of location for animal feeding operations; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision d of subsection 1 of section 58-03-11.1 of the North Dakota Century Code is amended and reenacted as follows:

- d. "Location" means the setback distance between a structure, fence, or other boundary enclosing an animal feeding operation, including its animal waste collection system, and the nearest occupied residence, the nearest buildings used for nonfarm or nonranch purposes, or the nearest land zoned ~~for as a~~ residential, recreational, or commercial purposes zoning district. The term does not include the setback distance for the application of manure or for the application of other recycled agricultural material under a nutrient management plan approved by the department of environmental quality.

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

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 486

HOUSE BILL NO. 1170

(Representatives Nehring, Hagert)

AN ACT to create and enact section 58-04-02.2 of the North Dakota Century Code, relating to the removal of township officers; and to amend and reenact subsection 1 of section 44-08-21 and section 58-04-02 of the North Dakota Century Code, relating to the removal of township officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 44-08-21 of the North Dakota Century Code is amended and reenacted as follows:

1. An elected official of a political subdivision, except a township officer or an official subject to recall under section 10 of article III of the Constitution of North Dakota, is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the official sought to be recalled was on the ballot, not including other recall elections. An official who was appointed to fill a vacancy is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections. The provisions of section 16.1-01-09.1, as they relate to signing and circulating recall petitions, apply to petitions under this section.

SECTION 2. AMENDMENT. Section 58-04-02 of the North Dakota Century Code is amended and reenacted as follows:

58-04-02. Special meetings - When held.

A special township meeting may be held for the purpose of electing:

1. Electing township officers to fill vacancies that occur; ~~to authorize;~~
2. Authorizing expansion of the board of township supervisors from three to five members; ~~or for the purpose of transacting;~~
3. Removing an elected township officer;
4. Transacting other lawful township business whenever the supervisors or township clerk, or any two of them, or twenty percent of the freeholders of the township, shall file in the office of the township clerk a written statement that a special meeting is necessary; ~~or whenever~~
5. Whenever a special meeting is required by any other provision of the laws of this state.

SECTION 3. Section 58-04-02.2 of the North Dakota Century Code is created and enacted as follows:

58-04-02.2. Removal of township officers - Special meeting.

An elected township officer may be removed from office upon an affirmative vote of the majority of votes cast at a special meeting of the township which is called for the purpose of removing an elected township officer. If an officer is removed from office at the special meeting, the voters shall elect a replacement officer at the same meeting.

Approved March 15, 2021

Filed March 15, 2021

WAREHOUSING AND DEPOSITS

CHAPTER 487

HOUSE BILL NO. 1026

(Legislative Management)
(Agriculture and Transportation Committee)

AN ACT to create and enact a new section to chapter 60-02, three new sections to chapter 60-02.1, and a new section to chapter 60-04 of the North Dakota Century Code, relating to financial criteria for grain buyer, grain broker, grain processor, and warehousemen licenses, and licensing and bonding for grain brokers and grain processors; to amend and reenact sections 60-02-01, 60-02-07, 60-02-09, 60-02-11, 60-02-12, 60-02-19.1, 60-02-24, 60-02.1-01, 60-02.1-07, 60-02.1-08, 60-02.1-10, 60-02.1-11, 60-02.1-13, 60-02.1-14, 60-02.1-15, 60-02.1-17, 60-02.1-19, 60-02.1-21, 60-02.1-23, 60-02.1-29, 60-02.1-32, and 60-02.1-41, subsection 2 of section 60-04-01, and sections 60-04-03 and 60-10-16 of the North Dakota Century Code, relating to definitions of grain brokers and processors, the duties and powers of the commissioner, confidentiality records, scale ticket contents, credit-sale contracts, reports, annual licenses, fees, and bonds for grain buyers, grain brokers, grain processors, and warehousemen; to repeal sections 60-02.1-06, 60-02.1-07.1, 60-02.1-26, 60-02.1-27, 60-04-09, and 60-10-15; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 60-02-01 of the North Dakota Century Code is amended and reenacted as follows:

60-02-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Commissioner" means the agriculture commissioner.
2. "Credit-sale contract" means a written contract for the sale of grain pursuant to which the sale price is to be paid or may be paid more than thirty days after the delivery or release of the grain for sale and which contains the notice provided in ~~subsection 7 of~~ section 60-02-19.1. If a part of the sale price of a contract for the sale of grain is to be paid or may be paid more than thirty days after the delivery or release of the grain for sale, only such part of the contract is a credit-sale contract.
3. "Deferred-payment contract" means a credit-sale contract for which the amount owed for the sale of grain has been established, but the payment is postponed until a later date.
4. "Grain" means wheat, durum, oats, rye, barley, buckwheat, flaxseed, speltz, safflower, sunflower seeds, tame mustard, peas, beans, soybeans, corn, clover, millet, alfalfa, and any other commercially grown grain or grass seed.

"Grain" as defined in this chapter shall not include grain or grass seeds owned by or in the possession of the warehouseman ~~that~~which have been cleaned, processed, and specifically identified for an intended use of planting for reproduction and for which a warehouse receipt has not been issued.

- 4-5. "Noncredit-sale contract" means a contract for the sale of grain other than a credit-sale contract.
- 5-6. "Public warehouse" means any elevator, mill, warehouse, subterminal, grain warehouse, terminal warehouse, or other structure ~~or facility not licensed under the United States Warehouse Act [7 U.S.C. 241-273]~~ in which grain is received for storing, buying, selling, shipping, or processing for compensation. Provided, however, that nothing in this chapter shall be construed to require a processor to receive, store, or purchase any lot or kind of grain at said facility.
- 6-7. "Public warehouseman" means the person operating a public warehouse that is located or doing business within this state, whether or not such owner or operator resides within this state. The term does not include a person ~~who~~that is permitted to sell seed under chapter 4.1-53, if that person does not store grain for the public and buys grain only for processing and subsequent resale as seed, or an authorized dealer or agent of a seed company holding a permit in accordance with section 4.1-53-38.
- 7-8. "Receipts" means grain warehouse receipts, scale tickets, checks, or other memoranda given by a public warehouseman for, or as evidence of, the receipt, storage, or sale of grain except when such memoranda was received as a result of a credit-sale contract.
- 8-9. "Receiving station" means any facility other than an individually licensed warehouse that is used by a licensed public warehouseman to receive and temporarily store grain prior to transferring the grain to the warehouseman's primary licensed warehouse location or delivering it directly to market.

SECTION 2. AMENDMENT. Section 60-02-07 of the North Dakota Century Code is amended and reenacted as follows:

60-02-07. Public warehouse license - Fee - Financial statement.

A license must be obtained from the commissioner for each public warehouse in operation in this state.

1. a. All licenses issued under this section must be for a period of ~~two years~~one year and terminate on the thirty-first day of July in the year of expiration.
- b. ~~(1) Notwithstanding the provisions of subdivision a, the commissioner shall license a warehouse annually, for the first six years of the warehouse's operation.~~

(2) An initial annual license application that becomes effective on or after June first does not expire until July thirty-first of the following calendar year.
2. ~~No~~A license may not describe more than one public warehouse nor grant permission to operate any public warehouse other than the one described.
3. a. The annual license fee for a public warehouse is:

- (1) ~~Four hundred dollars for a warehouse having a maximum capacity of two hundred thousand bushels [7047.8 cubic meters] that purchased up to one million dollars worth of grain during the previous licensing period, or intends to purchase up to one million dollars worth of grain during the first year of operation;~~
 - (2) ~~Five~~Eight hundred fifty dollars for a warehouse having a capacity of ~~that purchased more than two hundred thousand bushels [7047.8 cubic meters]~~one million dollars worth of grain but not more than five hundred thousand bushels ~~[17619.54 cubic meters]~~ten million dollars worth of grain during the previous licensing period, or intends to purchase more than one million dollars worth of grain but not more than ten million dollars worth of grain during the first year of operation; and
 - (3) ~~Six~~One thousand two hundred fifty dollars for a warehouse having a capacity of more than five hundred thousand bushels ~~[17619.54 cubic meters]~~.
- b. The biennial license fee for a public warehouse is:
- (1) ~~Seven hundred dollars for a warehouse having a maximum capacity of two hundred thousand bushels [7047.8 cubic meters];~~
 - (2) ~~One thousand dollars for a warehouse having a capacity of more than two hundred thousand bushels [7047.8 cubic meters] but not more than five hundred thousand bushels [17619.54 cubic meters]; and~~
 - (3) ~~One thousand two hundred dollars for a warehouse having a capacity of more than five hundred thousand bushels [17619.54 cubic meters] that purchased more than ten million dollars worth of grain during the previous licensing period, or intends to purchase more than ten million dollars worth of grain during the first year of operation.~~
- e-b. ~~An application for an annual license renewal that is received after July fifteenth must include an additional one hundred dollar fee per warehouse. An application for a biennial license renewal that is received after July fifteenth must include an additional two hundred dollar fee per warehouse.~~
4. If a public warehouseman operates two or more warehouses in the same city or siding, in conjunction with each other and with the same working force, and keeps one set of books and records for all such warehouses, and issues one series of scale tickets, warehouse receipts, checks, and credit-sale contracts for the grain stored and purchased therein, only one license is required for the operation of all such warehouses. When two or more warehouses are operated under one license, the license fee is based upon the combined ~~bushel capacity of value of the grain purchased by the warehouses during the previous licensing period.~~
 5. ~~If required to obtain United States department of agriculture approval of the commissioner's warehouse inspection program, the commissioner may require the applicant submit a current financial statement prepared in accordance with generally accepted accounting principles. A financial statement furnished under this subsection is a confidential trade secret and is not a public record.~~

SECTION 3. A new section to chapter 60-02 of the North Dakota Century Code is created and enacted as follows:

Public warehouse license - Financial criteria to be met.

1. To be eligible to receive an annual license under section 60-02-07, an applicant shall submit current financial documentation to the commissioner verifying the applicant has satisfactory net worth and working capital, as determined by the commissioner.
2. A licensed public warehouseman or an applicant for initial licensure shall report balance sheets and income statements to the commissioner annually at the time of application for initial licensure or license renewal if the applicant purchased up to ten million dollars worth of grain during the previous licensing period, or intends to purchase up to ten million dollars worth of grain during the first year of operation.
3. As a condition of licensure under section 60-02-07, an applicant shall provide to the commissioner, upon request, any financial record or bank verification release the commissioner deems relevant for the purpose of verifying the financial information of an applicant pursuant to the requirements of this section.
4. As a condition of licensure under section 60-02-07, a new applicant must:
 - a. Pass a criminal background check;
 - b. Have a satisfactory credit score, as determined by the commissioner; and
 - c. Be a responsible person with a good business reputation, as determined by the commissioner, who:
 - (1) Is in the public warehouse business;
 - (2) Has knowledge of, and experience with, generally accepted grain warehousing and handling practices;
 - (3) Is competent and willing to operate a public warehouse in accordance with state and federal regulations; and
 - (4) Has not committed fraud or a criminal offense indicating a lack of business integrity or honesty that undermines the person's responsibility as a warehouse operator.

SECTION 4. AMENDMENT. Section 60-02-09 of the North Dakota Century Code is amended and reenacted as follows:

60-02-09. Bond filed by public warehouseman.

1. Before any license is effective for any public warehouseman under this chapter, the applicant for the license shall file a bond with the commissioner which must:
 - a. Be in a sum not less than ~~five~~one hundred thousand dollars for any one warehouse.

2. b. Be continuous, unless the corporate surety by certified mail notifies the licensee and the commissioner the surety bond will be canceled ninety days after receipt of the notice of cancellation.
3. c. Run to the state of North Dakota for the benefit of all persons storing or selling grain in that warehouse.
4. d. Be conditioned:
 - a. (1) For the faithful performance of the licensee's duties as a public warehouseman.
 - b. (2) For compliance with the provisions of law and the rules of the commissioner relating to the storage and purchase of grain by such warehouseman.
5. e. Specify the location of each public warehouse intended to be covered by such bond.
6. f. Be for the specific purpose of:
 - a. (1) Protecting the holders of outstanding receipts.
 - b. (2) Covering the costs incurred by the commissioner in the administration of chapter 60-04 in the event of the licensee's insolvency.
7. g. Not accrue to the benefit of any person entering into a credit-sale contract with a public warehouseman.
- 8-2. The aggregate liability of the surety under a bond does not accumulate for each successive annual license renewal period during which the bond is in force but, for losses during any annual license renewal period, is limited in the aggregate to the bond amount stated or changed by appropriate endorsement or rider.
3. The commissioner shall set the amount of the bond and may require an increase in the amount of any bond, ~~from time to time~~, as the commissioner deems necessary to accomplish the purposes of this section. The amount of the bond must be:
 - a. Based on the dollar value of the grain purchased; and
 - b. Calculated using the value of the amount of grain intended to be purchased by a new licensee during the first year of operation, or the three-year rolling annual average of the value of grain purchased at the time of license renewal.
4. The surety on the bond must be a corporate surety company, approved by the commissioner, and authorized to do business within the state. The commissioner may accept cash, a negotiable instrument, or a bond executed by personal sureties in lieu of a surety bond if, in the commissioner's judgment, the cash, negotiable instrument, or personal surety bond properly will protect the holders of outstanding receipts. One bond only may be given for any line of elevators, mills, or warehouses, owned, controlled, or operated by one individual, firm, corporation, or limited liability company, and the bond

must be construed to cover the elevators, mills, or warehouses, as a whole and not a specific amount for each.

SECTION 5. AMENDMENT. Section 60-02-11 of the North Dakota Century Code is amended and reenacted as follows:

60-02-11. Scale ticket - Contents - Conversion.

1. a. Every public warehouseman, upon receiving grain into the warehouse, shall issue a uniform scale ticket for each load of grain received. The scale tickets must be numbered consecutively, and one copy of each ticket must be retained and remain as a permanent record. The original ticket must be delivered to the person from ~~whom~~which the grain is received, upon receipt of each load of grain.
- b. All scale tickets must be converted into cash, noncredit-sale contracts, credit-sale contracts, or warehouse receipts, within ~~forty-five~~thirty days after the grain is delivered to the warehouse, ~~unless:~~
 - (1) ~~The person to whom the scale ticket is issued signs a form waiving all rights to trust benefits under section 60-04-03.1;~~
 - (2) ~~The form identifies by number each scale ticket to which the waiver applies; and~~
 - (3) ~~The form is signed by the warehouseman.~~
- c. ~~The commissioner shall prepare the waiver form required by subdivision b and make the form available to each warehouse.~~
- d. ~~The warehouseman shall keep one copy of the signed waiver form with the records of the warehouse, provide one copy to the person who was issued the scale ticket and signed the form, and file one copy with the commissioner.~~
2. Nothing in this chapter requires a warehouseman to receive grain for storage. A warehouseman shall publish and post, in a conspicuous place in the warehouse, a publication identifying whether storage will be available to patrons or whether grain will be accepted via cash or a credit-sale contract arrangement.
3. A producer that fails to convert a scale ticket in accordance with subdivision b of subsection 1 forfeits any trust fund or credit-sale contract indemnity fund protection provided under sections 60-02-09, 60-02-19.1, and 60-04-03.1, and chapter 60-10.

SECTION 6. AMENDMENT. Section 60-02-12 of the North Dakota Century Code is amended and reenacted as follows:

60-02-12. ~~Penalty~~Violations of chapter - Criminal penalty - Civil penalty.

1. Any person ~~who shall violate~~violating any of the provisions of this chapter or any rule adopted pursuant to this chapter, if punishment is not specifically provided for, ~~shall be guilty is:~~
 - a. Guilty of an infraction; and

- b. Subject to a civil penalty in an amount not to exceed five thousand dollars for each violation.
2. The civil penalty may be adjudicated by a court or by the agriculture commissioner through an administrative hearing.

SECTION 7. AMENDMENT. Section 60-02-19.1 of the North Dakota Century Code is amended and reenacted as follows:

60-02-19.1. Credit-sale contracts.

1. A warehouseman shall may not purchase grain by a credit-sale contract except as provided in this section. All credit-sale contracts must be in writing and must be consecutively numbered at the time of printing the contract. The warehouseman shall maintain an accurate record of all credit-sale contract numbers, including the disposition of each numbered form, whether by execution, destruction, or otherwise. Each credit-sale contract must contain or provide for all of the following:
 - 1- a. The seller's name and address.
 - 2- b. The conditions of delivery.
 - 3- c. The amount and kind of grain delivered.
 - 4- d. The price per unit or basis of value.
 - 5- e. The date payment is to be made.
 - 6- f. The duration of the credit-sale contract.
 - 7- g. Notice in a clear and prominent manner that the sale is not protected by the bond coverage provided for in section 60-02-09. However, if the warehouseman has obtained bond coverage in addition to that required by section 60-02-09 and such coverage extends to the benefit of credit-sale contracts, the warehouseman may state the same in the credit-sale contract along with the extent of such coverage.
2. The contract must be signed by both parties and executed in duplicate. An electronic signature satisfies the requirement. An unsigned contract must be considered an unconverted scale ticket in accordance with section 60-02-11. One copy shall be retained by the warehouseman and one copy shall be delivered to the seller. Upon revocation, termination, or cancellation of a warehouseman's license, the payment date for all credit-sale contracts shall, at the seller's option, be advanced to a date not later than thirty days after the effective date of the revocation, termination, or cancellation, and the purchase price for all unpriced grain shall be determined as of the effective date of revocation, termination, or cancellation in accordance with all other provisions of the contract. When a public warehouse is transferred under this chapter, credit-sale contracts may be assigned to another licensed public warehouseman or facility-based grain buyer.
3. A warehouseman that uses deferred-payment contracts shall offer bond protection to producers.

SECTION 8. AMENDMENT. Section 60-02-24 of the North Dakota Century Code is amended and reenacted as follows:

60-02-24. Reports to be made by public warehouseman - Penalty for failure.

1. Each licensed and bonded public warehouseman shall:
 - 1- a. Prepare for each month a report giving facts and information called for on the form of report prepared by the commissioner. The report must contain or be verified by a written declaration the report is made under the penalties of perjury. The report may be called for more frequently if the commissioner deems necessary. Information pertaining to the volume of grain handled is a confidential trade secret and is not a public record. The commissioner may make the information available for use by other governmental entities, but the commissioner may not release the information in a manner that jeopardizes the confidentiality of individual licensees.
 - 2- b. File the report with the commissioner not later than the last day of the following month, and failure to file this report promptly will be considered cause for revoking the warehouse license after due notice and hearing.
 - 3- c. Keep a separate account of the grain business, if the warehouseman is engaged in handling or selling any other commodity, and under no circumstances may the grain account and other accounts be mixed.
 - d. Submit additional information requested by the commissioner pursuant to a report or an inspection within five business days.
2. The commissioner may refuse to renew a license to any public warehouseman ~~whethat~~ fails to make a required report.

SECTION 9. AMENDMENT. Section 60-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Commissioner" means the agriculture commissioner.
2. "Credit-sale contract" means a written contract for the sale of grain pursuant to which the sale price is to be paid or may be paid more than thirty days after the delivery or release of the grain for sale and which contains the notice provided in ~~subsection 7 of~~ section 60-02.1-14. If a part of the sale price of a contract for the sale of grain is to be paid or may be paid more than thirty days after the delivery or release of the grain for sale, only such part of the contract is a credit-sale contract.
3. "Deferred-payment contract" means a credit-sale contract for which the amount owed for the sale of grain has been established, but the payment is postponed until a later date.
4. "Facility" means a structure in which grain purchased by a grain buyer is received or held.

4. ~~"Facility-based grain buyer" means a grain buyer who operates a facility licensed under the United States Warehouse Act [7 U.S.C. 241-273] where grain is received.~~
5. "Grain" means wheat, durum, oats, rye, barley, buckwheat, flaxseed, speltz, safflower, sunflower seeds, tame mustard, peas, beans, soybeans, corn, clover, millet, alfalfa, and any other commercially grown grain or grass seed. "Grain" does not include grain or grass seeds owned by or in the possession of the grain buyer which have been cleaned, processed, and specifically identified for an intended use of planting for reproduction and for which a warehouse receipt has not been issued.
6. "Grain broker" means a person that:
 - a. Is involved in the negotiation of grain transactions in the state;
 - b. Receives compensation from at least one party to the transaction; and
 - c. Does not take title to the grain and is not under any financial or contractual obligation related to the transaction.
7. "Grain buyer" means any person, other than a public warehouseman as defined in chapter 60-02, ~~whethat~~ purchases or otherwise merchandises grain for compensation. The term ~~includes roving grain buyers, grain brokers, and grain processors. The term~~ does not include:
 - a. A producer of grain ~~whethat~~ purchases grain from other producers to complete a carload or truckload in which the greater portion of the load is grain grown by the producer or on-farm feedlot operations in which at least fifty percent of the livestock is owned by the owner of the farm.
 - b. A person ~~whethat~~ is permitted to sell seed under chapter 4.1-53, if that person buys grain only for processing and subsequent resale as seed.
 - c. A person ~~whethat~~ is an authorized dealer or agent of a seed company holding a permit in accordance with section 4.1-53-38.
- 7-8. "Grain processor" means an entity that purchases grain to process into end products of a substantially different makeup or nature than the original grain.
9. "Noncredit-sale contract" means a contract for the sale of grain other than a credit-sale contract.
- 8-10. "Receipts" means scale tickets, checks, or other memoranda given by a grain buyer for, or as evidence of, the receipt or sale of grain except when such memoranda was received as a result of a credit-sale contract.
- 9-11. "Roving grain buyer" means a grain buyer ~~whethat~~ does not operate a facility where grain is received.

SECTION 10. AMENDMENT. Section 60-02.1-07 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-07. Grain buyer license - How obtained - Fee - ~~Financial statement.~~

1. Grain buyers that purchase, solicit, merchandise, or take possession of grain in this state shall obtain an annual license from the commissioner. Except as provided in this section, each license expires on July thirty-first of each year. If a licensee's initial license is issued effective after May thirty-first, that license expires on July thirty-first of the following year. A facility-based grain buyer shall obtain a license for each receiving location operated in the state. If a grain buyer operates two or more facilities in the same city or siding, in conjunction with each other and with the same working force, and where but one set of books and records is kept for all such facilities, and scale tickets and checks of but one series are issued for the grain, purchased, only one license is required for the operation of all such facilities. The annual license fee for a facility-based grain buyer is four:
 - a. Four hundred dollars for a grain buyer that purchased up to one million dollars worth of grain during the previous licensing period, or intends to purchase up to one million dollars worth of grain during the first year of operation;
 - b. Eight hundred dollars for a grain buyer that purchased more than one million dollars worth of grain but not more than ten million dollars worth of grain during the previous licensing period, or intends to purchase more than one million dollars worth of grain but not more than ten million dollars worth of grain during the first year of operation; and a
 - c. One thousand two hundred dollars for a grain buyer that purchased more than ten million dollars worth of grain during the previous licensing period, or intends to purchase more than ten million dollars worth of grain during the first year of operation.
2. A license renewal application that is received after July fifteenth must be assessed an additional one hundred dollar fee per receiving location.

If required to obtain United States department of agriculture approval of the commissioner's grain buyer inspection program, the commissioner may require grain buyers submit a current financial statement prepared in accordance with generally-accepted accounting principles. A financial statement furnished under this section is a confidential trade secret and is not a public record.

3. A license issued under this section is not transferable.
4. The commissioner may refuse to issue, renew, or may revoke a license:
 - a. If the licensee or applicant has been convicted of a criminal offense;
 - b. If the licensee or applicant has failed to comply with the requirements of this section;
 - c. If the commissioner has evidence the licensee negotiated in bad faith; or
 - d. For any other reason determined by the commissioner.
5. A licensed grain buyer shall submit a monthly report to the commissioner by the tenth day of each month. The report must include the total volume of each commodity brokered in the preceding month.

6. A licensed grain buyer shall notify each potential commodity seller of the identity of the potential commodity buyer before the final confirmation of the transaction.
7. Before a license is effective for a grain buyer under this section, the licensee or applicant shall file a bond with the commissioner for not less than one hundred thousand dollars.

SECTION 11. A new section to chapter 60-02.1 of the North Dakota Century Code is created and enacted as follows:

Commissioner's authority - Grain buyer - Trust assets.

Upon the commissioner's determination that continued operation of a grain buyer is likely to result in probable loss of assets to receiptholders, the commissioner immediately may suspend, close, or take control of the assets held in a trust fund described in section 60-02.1-30, or take any combination of these actions as the commissioner deems necessary to begin an orderly liquidation of those trust fund assets as provided in this chapter.

SECTION 12. A new section to chapter 60-02.1 of the North Dakota Century Code is created and enacted as follows:

Grain buyer license - Financial criteria to be met.

1. To be eligible to receive an annual license under section 60-02.1-07, an applicant shall submit current financial documentation to the commissioner verifying the applicant has satisfactory net worth and working capital, as determined by the commissioner.
2. A licensed grain buyer or an applicant for initial licensure shall report balance sheets and income statements to the commissioner annually at the time of application for initial licensure or license renewal if the applicant purchased up to ten million dollars worth of grain during the previous licensing period, or intends to purchase up to ten million dollars worth of grain during the first year of operation.
3. As a condition of licensure under section 60-02.1-07, an applicant shall provide to the commissioner, upon request, any financial record or bank verification release the commissioner deems relevant for the purpose of verifying the financial information of an applicant pursuant to the requirements of this section.
4. As a condition of licensure under section 60-02.1-07, a new applicant must:
 - a. Pass a criminal background check;
 - b. Have a satisfactory credit score, as determined by the commissioner; and
 - c. Be a responsible individual with a good business reputation, as determined by the commissioner, who:
 - (1) Is in the grain buying business;
 - (2) Has knowledge of, and experience with, generally accepted grain buying and handling practices;

(3) Is competent and willing to operate as a grain buyer in accordance with state and federal regulations; and

(4) Has not committed fraud or a criminal offense indicating a lack of business integrity or honesty that undermines the person's responsibility as a grain buyer.

SECTION 13. AMENDMENT. Section 60-02.1-08 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-08. Bond filed by grain buyer.

1. Before any license is effective for any grain buyer under this chapter, the applicant for the license shall file a bond with the commissioner which must:
 - a. Be in a sum not less than ~~ten~~one hundred thousand dollars.
 - b. Be continuous, unless the corporate surety by certified mail notifies the licensee and the commissioner the surety bond will be canceled ninety days after receipt of the notice of cancellation.
 - c. Run to the state of North Dakota for the benefit of all persons selling grain to or through the grain buyer.
 - d. Be conditioned:
 - (1) For the faithful performance of the licensee's duties as a grain buyer.
 - (2) For compliance with the provisions of law and the rules of the commissioner relating to the purchase of grain by such grain buyer.
 - e. ~~For facility-based grain buyers, specify the location of each facility intended to be covered by the bond.~~
6. Be for the specific purpose of:
 - (1) Protecting the sellers of grain.
 - (2) Covering the costs incurred by the commissioner in the administration of the licensee's insolvency.
7. ~~f.~~ Not accrue to the benefit of any person entering a credit-sale contract with a grain buyer.
- ~~8-2.~~ The aggregate liability of the surety under a bond does not accumulate for each successive annual license renewal period during which the bond is in force but, for losses during any annual license renewal period, is limited in the aggregate to the bond amount stated or changed by appropriate endorsement or rider.
3. The commissioner ~~shall set the amount of the bond and~~ may require an increase in the amount of any bond as the commissioner deems necessary to accomplish the purposes of this section.
4. The amount of the bond for a grain buyer must be based on the dollar value of the grain purchased, solicited, or merchandised.

5. A grain buyer shall report purchases, solicitations, and merchandising agreements to the commissioner monthly.
6. The surety on the bond must be a corporate surety company, approved by the commissioner, and authorized to do business within the state. The commissioner may accept cash, a negotiable instrument, or a bond executed by personal sureties in lieu of a surety bond when, in the commissioner's judgment, cash, a negotiable instrument, or a personal surety bond properly will protect the holders of outstanding receipts. ~~Only one bond may be required for any series of facilities operated by a facility-based grain buyer, and the bond must be construed to cover those facilities as a whole and not a specific amount for each.~~

SECTION 14. AMENDMENT. Section 60-02.1-10 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-10. Grain buyer license to be posted or carried - Penalty.

~~The license obtained by a facility-based grain buyer shall be posted in a conspicuous place in the buyer's facility. A roving grain buyer shall have the buyer's license in possession at all times. A grain buyer who that transacts business without first procuring a license and giving a bond is guilty of a class B misdemeanor.~~

SECTION 15. AMENDMENT. Section 60-02.1-11 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-11. Revocation and suspension.

The commissioner may suspend or revoke the license of any grain buyer for cause upon notice and hearing. Notwithstanding any other provisions of this chapter, the license of a grain buyer must automatically be suspended for failure at any time to have or to maintain either a bond or insurance policy in the amount and type required. ~~During a suspension of a license a facility-based grain buyer, upon the commissioner's approval, may operate its facility and purchase or redeliver grain previously received, but may not receive additional grain for purchase, shipping, or processing. Grain may be sold only with the prior approval of the commissioner.~~

SECTION 16. AMENDMENT. Section 60-02.1-13 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-13. ~~Penalty~~Violations of chapter - Criminal penalty - Civil penalty.

1. Any person ~~who violates~~violating any provision of this chapter or any rule adopted pursuant to this chapter, if punishment is not specifically provided for, is guilty:
 - a. Guilty of an infraction; and
 - b. Subject to a civil penalty in an amount not to exceed five thousand dollars for each violation.
2. The civil penalty may be adjudicated by a court or by the agriculture commissioner through an administrative hearing.

SECTION 17. AMENDMENT. Section 60-02.1-14 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-14. Credit-sale contracts.

1. A grain buyer may not purchase grain by a credit-sale contract except as provided in this section. All credit-sale contracts must be in writing and must be consecutively numbered at the time of printing the contract. The grain buyer shall maintain an accurate record of all credit-sale contract numbers, including the disposition of each numbered form, whether by execution, destruction, or otherwise. Each credit-sale contract must contain or provide for all of the following:
 - 1- a. The seller's name and address.
 - 2- b. The conditions of delivery.
 - 3- c. The amount and kind of grain delivered.
 - 4- d. The price per unit or basis of value.
 - 5- e. The date payment is to be made.
 - 6- f. The duration of the credit-sale contract.
 - 7- g. Notice in a clear and prominent manner that the sale is not protected by the bond coverage provided for in section 60-02.1-08. However, if the grain buyer has obtained bond coverage in addition to that required by section 60-02.1-08 and the coverage extends to the benefit of credit-sale contracts, the grain buyer may state that fact in the credit-sale contract along with the extent of such coverage.
2. The contract must be signed by both parties and executed in duplicate. An electronic signature satisfies the requirement. A holder of an unsigned contract is not eligible for any protection provided by chapter 60-10. One copy must be retained by the grain buyer and one copy must be delivered to the seller. Upon revocation, termination, or cancellation of a grain buyer's license, the payment date for all credit-sale contracts, at the seller's option, must be advanced to a date not later than thirty days after the effective date of the revocation, termination, or cancellation, and the purchase price for all unpriced grain must be determined as of the effective date of revocation, termination, or cancellation in accordance with all other provisions of the contract. ~~When a facility is transferred under this chapter, credit-sale contracts may be assigned to another licensed facility-based grain buyer or public warehouseman.~~
3. A buyer that offers deferred-payment contracts shall offer bond protection to producers.

SECTION 18. AMENDMENT. Section 60-02.1-15 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-15. Discrimination by grain buyer prohibited.

1. A grain buyer may not discriminate:
- 4- a. In the buying, selling, receiving, and handling of grain or in the charges made or the service rendered to owners of purchased grain;

2. b. In the receiving of grain offered for sale, but this chapter may not be construed to require a processor to receive or purchase any lot or kinds of grain;
 3. c. In regard to the persons offering such grain for sale; or
 4. d. Between points or stations except as the marketing factors or transportation costs or grain quality premiums may warrant.
2. A grain buyer is not required to receive any grain that is heating or otherwise out of condition. ~~A facility-based grain buyer shall post grain prices paid in a conspicuous place in the office or driveway of the buyer's place of business.~~

SECTION 19. AMENDMENT. Section 60-02.1-17 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-17. Reports to be made by grain buyers - Penalty for failure.

1. Each licensed and bonded grain buyer shall:
 1. a. Prepare for each month a report giving facts and information called for on the form of report prepared by the commissioner. The report must contain or be verified by a written declaration the report is made under the penalties of perjury. The report may be called for more frequently if the commissioner deems necessary. Information pertaining to the volume of grain handled is a confidential trade secret and is not a public record. The commissioner may make this information available for use by other governmental entities, but the information may not be released by those entities in a manner that jeopardizes the confidentiality of individual licensees.
 2. b. File the report with the commissioner not later than the last day of the following month. Failure to file this report promptly will be considered cause for revoking the grain buyer license after due notice and hearing.
 3. c. Keep a separate account of the grain business, if the grain buyer is engaged in handling or selling any other commodity, and under no circumstances may the grain account and other accounts be mixed.
 - d. Submit additional information requested by the commissioner pursuant to a report or an inspection within five business days.
2. The commissioner may refuse to renew a license to any grain buyer ~~who~~that fails to make a required report.

SECTION 20. AMENDMENT. Section 60-02.1-19 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-19. Federal grades to control - Grades to be posted.

All grain buyers shall purchase grain, except dry edible beans, in accordance with the official grades established from time to time by the secretary of agriculture of the United States, except as otherwise provided in applicable rules and regulations adopted by federal officials pursuant to law. ~~A facility-based grain buyer shall post in a conspicuous place in the buyer's facility the official grades so established and also any change that may be made from time to time.~~ A grain buyer of dry edible beans

shall purchase and deliver beans in accordance with the buyer's policy, which must be filed with the commissioner and, if applicable, posted in a conspicuous place in the buyer's facility. Other grading standards may be used if mutually agreed to in writing by the grain buyer and the owner of the grain. However, the owner may demand the use of federal grading standards. After hearing, the commissioner may prohibit the use of nonfederal grades.

SECTION 21. AMENDMENT. Section 60-02.1-21 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-21. Grain to be kept insured for benefit of owner by grain buyer.

A license may not be issued to a ~~facility-based grain buyer~~processor unless all company-owned and unconverted scale ticket grain is kept fully insured at the expense of the grain buyer for the benefit of the owner at the current market value of the grain against loss by fire, lightning, internal explosion, windstorm, cyclone, tornado, and such other risks of direct physical loss as provided by the insurer in a policy approved by the insurance commissioner. An insurance policy may not be transferred or assigned to any person for any purpose.

SECTION 22. AMENDMENT. Section 60-02.1-23 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-23. Destruction of grain - First lien by holder of outstanding receipt.

The holder of an unconverted scale ticket or other comparable receipt issued by any ~~facility-based grain buyer~~processor shall have a first lien, to the extent of the value of the grain at the time of loss at the place where held, on all insurance of the grain buyer for any loss sustained by the receiptholder, on account of the loss of such grain by fire, tornado, or any other cause covered by such insurance policy.

SECTION 23. AMENDMENT. Section 60-02.1-29 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-29. Appointment of commissioner.

~~Upon the insolvency of any roving grain buyer, the commissioner shall apply to the district court of Burleigh County for authority to take all action necessary to act as trustee of the trust fund described in section 60-02.1-30. If the insolvency involves a facility-based grain buyer, application must be to the district court of a county in which the licensee operates a licensed facility. Upon notice to the licensee as the court prescribes, but not exceeding twenty days, or upon waiver of notice in writing by the licensee, the court shall hear and determine the application in a summary manner. If the court determines that the licensee is insolvent within the meaning of this chapter and that it would be in the best interests of the receiptholders that the commissioner secure and execute the trust, the court shall issue an order granting the application, without bond, and the commissioner shall proceed to exercise the commissioner's authority without further direction from the court.~~

~~Upon the filing of the commissioner's application, the court may issue ex parte a temporary order to preserve or protect the assets of the trust fund until the court issues its order granting or denying the application.~~

SECTION 24. A new section to chapter 60-02.1 of the North Dakota Century Code is created and enacted as follows:

Joinder - Grain broker.

A licensed grain broker may be joined as a party to an insolvency proceeding if the commissioner determines the grain broker negotiated a grain transaction:

1. With an insolvent grain buyer; or
2. That was discriminatory, predatory, or in bad faith.

SECTION 25. AMENDMENT. Section 60-02.1-32 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-32. Notice to receiptholders and credit-sale contract claimants.

Upon the commissioner's appointment, the commissioner may take possession of relevant books and records of the licensee. If the insolvency involves a roving grain buyer, the commissioner shall publish a notice of the commissioner's appointment once each week for two consecutive weeks in all daily newspapers in the state and may notify, by ordinary mail, the holders of record of outstanding receipts and those who are potential credit-sale contract claimants, disclosed by the licensee's records. If the insolvency involves a facility-based grain buyerprocessor, the notice must be published once each week for two consecutive weeks in a newspaper in the county in which the warehousefacility is located. The notice must require outstanding receiptholders and credit-sale contract claimants to file their claims with the commissioner along with the receipts, contracts, or other evidence of the claims required by the commissioner. If an outstanding receiptholder or credit-sale contract claimant fails to submit a claim within forty-five days after the last publication of the notice or a longer time set by the commissioner, the commissioner is relieved of further duty in the administration of the insolvency on behalf of the receiptholder or credit-sale contract claimant and the receiptholder may be barred from participation in the trust fund, and the credit-sale contract claimant may be barred from payment for any amount due. Outstanding receiptholders and credit-sale contract claimants are not parties to the insolvency action unless admitted by the court upon a motion for intervention.

SECTION 26. AMENDMENT. Section 60-02.1-41 of the North Dakota Century Code is amended and reenacted as follows:

60-02.1-41. Roving grain buyers - Exception - Applicability of provisions.

Notwithstanding any other law, this chapter does not apply to any person that purchases, solicits, or merchandises grain, which has been cleaned, processed, and made ready for consumption, from a public warehouseman licensed and bonded under chapter 60-02 ~~or from a facility-based grain buyer licensed and bonded under this chapter~~. If the person engages in any activity other than those described in this section, the person is subject to the law governing those other activities.

SECTION 27. AMENDMENT. Subsection 2 of section 60-04-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Credit-sale contract" means a written contract for the sale of grain pursuant to which the sale price is to be paid or may be paid more than thirty days after the delivery or release of the grain for sale and which contains the notice provided in ~~subsection 7 of~~ section 60-02-19.1. When a part of the sale price of a contract for the sale of grain is to be paid or may be paid more than thirty days after the delivery or release of the grain for sale, only such part of the contract is a credit-sale contract.

SECTION 28. A new section to chapter 60-04 of the North Dakota Century Code is created and enacted as follows:

Commissioner's authority - Warehouseman - Trust assets.

Upon the commissioner's determination that continued operation of a warehouseman is likely to result in probable loss of assets to receiptholders, the commissioner immediately may suspend, close, or take control of the assets held in a trust fund described in section 60-04-03.1, or take any combination of these actions as the commissioner deems necessary to begin an orderly liquidation of those trust fund assets as provided in this chapter.

SECTION 29. AMENDMENT. Section 60-04-03 of the North Dakota Century Code is amended and reenacted as follows:

60-04-03. Appointment of commissioner.

~~Upon the insolvency of any warehouseman, the commissioner shall apply to the district court of a county in which the warehouseman operates a licensed warehouse for authority to take all action necessary and appropriate to secure and act as trustee of the trust fund described in section 60-04-03.1. Upon such notice to the warehouseman as the court shall prescribe, but not exceeding twenty days, or upon waiver of such notice in writing by the warehouseman, the court shall proceed to hear and determine such application in a summary manner. If it shall appear to the court the warehouseman is insolvent within the meaning of this chapter and it would be for the best interests of the receiptholders that the commissioner secure and execute such trust, the court shall issue an order granting the application, without bond, at which time the commissioner shall proceed to exercise the commissioner's authority without further direction from the court.~~

~~Upon the filing of the commissioner's application, the court may issue ex parte such temporary order as may be necessary to preserve or protect the assets of the trust fund, or the value of the trust fund, until the court issues an order granting or denying the application.~~

SECTION 30. AMENDMENT. Section 60-10-16 of the North Dakota Century Code is amended and reenacted as follows:

60-10-16. Roving grain buyers - Exception - Applicability of provisions.

~~Notwithstanding any other law, this chapter does not apply to any person that purchases, solicits, or merchandises grain, which has been cleaned, processed, and made ready for consumption, from a public warehouseman licensed and bonded under chapter 60-02 or from a facility-based grain buyer licensed and bonded under chapter 60-02.1. If the person engages in any activity other than those described in this section, the person is subject to the law governing those other activities.~~

SECTION 31. REPEAL. Sections 60-02.1-06, 60-02.1-07.1, 60-02.1-26, 60-02.1-27, 60-04-09, and 60-10-15 of the North Dakota Century Code are repealed.

Approved March 8, 2021

Filed March 9, 2021

WATERS

CHAPTER 488

HOUSE BILL NO. 1353

(Representatives Schmidt, Delzer, Monson, J. Nelson, Pollert)
(Senators Kreun, Schaible, Sorvaag, Bell, Wardner)

AN ACT to create and enact sections 61-03-01.1, 61-03-01.2, and 61-03-01.3 of the North Dakota Century Code, relating to the establishment of the department of water resources and powers and duties of the director of the department of water resources; to amend and reenact subsection 1 of section 4.1-01-18, sections 4.1-35-01 and 4.1-35-04, subsection 3 of section 4.1-35-05, section 11-33.2-12.1, subsection 1 of section 23.1-01-02, sections 23.1-08-13, 23.1-11-06, 23.1-11-10, 23.1-11-11, 24-03-06, 24-03-08, and 24-06-26.1, subsection 2 of section 37-17.1-11, subsection 12 of section 38-14.1-03, subdivision n of subsection 1 of section 38-14.1-14, subsection 2 of section 38-14.1-21, subsection 7 of section 38-14.1-24, subsection 1 of section 38-14.1-25, subsection 1 of section 38-23-08, subsection 11 of section 40-50.1-01, section 43-35-03, subsection 1 of section 54-57-03, sections 57-02-08.6 and 57-28-09, subsection 4 of section 61-01-01, sections 61-01-03, 61-01-05, 61-01-06, 61-01-25, 61-02-05, 61-02-14.2, 61-02-23.3, 61-02-26, 61-02-27, 61-02-30, 61-02-32, 61-02-33, 61-02-41, 61-02-68.10, 61-02.1-01, 61-03-03, 61-03-04, 61-03-06, 61-03-08, 61-03-10, 61-03-12, 61-03-13, 61-03-14, 61-03-15, 61-03-16, 61-03-17, 61-03-18, 61-03-19, 61-03-20, 61-03-21, 61-03-21.1, 61-03-21.2, 61-03-21.3, 61-03-21.4, 61-03-22, 61-03-23, 61-03-24, 61-03-25, and 61-04-01, subsections 1 and 15 of section 61-04-01.1, sections 61-04-02, 61-04-02.1, 61-04-02.2, 61-04-03, 61-04-03.1, 61-04-04, 61-04-04.1, 61-04-04.2, 61-04-04.3, 61-04-05, 61-04-05.1, 61-04-06, 61-04-06.1, 61-04-06.2, 61-04-06.3, 61-04-07.2, 61-04-07.3, 61-04-09, 61-04-11, 61-04-12, 61-04-14, 61-04-15, 61-04-15.2, 61-04-15.3, 61-04-15.4, and 61-04-23, subsection 1 of section 61-04-24, sections 61-04-25, 61-04-26, 61-04-27, 61-04-28, 61-04-29, 61-04-30, 61-04-31, and 61-04.1-04, subsection 3 of section 61-05-01, sections 61-05-07, 61-05-08, 61-05-09, 61-05-10, 61-05-11, 61-05-12, 61-05-13, 61-05-14, 61-05-15, 61-05-16, 61-05-17, 61-05-18, 61-05-19, 61-05-20, 61-06-01, 61-06-03, 61-06-04, 61-06-05, 61-06-19, 61-07-08, 61-07-19, 61-07-27, 61-09-02, 61-10-27, 61-10-30, 61-10-35, 61-10-37, 61-11-04, 61-11-08, 61-11-09, 61-11-15, 61-12-46, 61-14-01, 61-14-03, 61-14-06, 61-14-07, 61-14-13, 61-15-03, 61-15-09, and 61-16-06.1, subsection 1 of section 61-16.1-09.1, sections 61-16.1-23, 61-16.1-37, 61-16.1-38, 61-16.1-39, 61-16.1-53.1, 61-16.2-01, 61-16.2-02, 61-16.2-03, 61-16.2-04, and 61-16.2-05, subsection 1 of section 61-16.2-09, sections 61-16.2-11, 61-16.2-13, 61-16.2-14, 61-20-02, 61-20-03, 61-20-06, 61-20-07, 61-21-02.1, 61-21-22, 61-21-34, 61-24-07, 61-24.3-01, 61-24.5-01, 61-24.5-18, 61-24.6-01, 61-24.6-02, 61-24.6-03, 61-24.6-05, 61-24.8-01, 61-24.8-18, and 61-29-04, subsection 6 of section 61-31-02, and sections 61-32-03, 61-32-03.1, 61-32-08, 61-33-01, 61-33-01.1, 61-33-02, 61-33-03, 61-33-05, 61-33-05.1, 61-33-07, 61-33-08, 61-33-09, 61-33-10, 61-33.1-07, 61-34-01, 61-34-04, 61-35-01, 61-35-02, 61-35-02.1, 61-35-04, 61-35-05, 61-35-07, 61-35-08, 61-35-16, 61-35-18, 61-35-20, 61-35-21, 61-35-22, 61-35-23, 61-35-25, 61-35-63, 61-38-01, 61-38-02, 61-38-03, 61-38-04, 61-38-05,

61-38-06, 61-38-07, 61-38-08, 61-38-09, 61-38-10, 61-38-11, 61-39-01, and 61-40-07 of the North Dakota Century Code, relating to the powers and duties of the department of water resources and the state engineer and updates to statutory language; and to repeal sections 61-03-01, 61-03-02, and 61-03-05.1 of the North Dakota Century Code, relating to the powers and duties of the state engineer and the water use fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 4.1-01-18 of the North Dakota Century Code is amended and reenacted as follows:

1. The federal environmental law impact review committee consists of:
 - a. The commissioner, who shall serve as the chairman;
 - b. The governor or the governor's designee;
 - c. The majority leader of the house of representatives, or the leader's designee;
 - d. The majority leader of the senate, or the leader's designee;
 - e. One member of the legislative assembly from the minority party, selected by the chairman of the legislative management;
 - f. One individual appointed by the North Dakota corn growers association;
 - g. One individual appointed by the North Dakota grain growers association;
 - h. One individual appointed by the North Dakota soybean growers association;
 - i. One individual appointed by the North Dakota stockmen's association;
 - j. One individual appointed by the North Dakota farm bureau;
 - k. One individual appointed by the North Dakota farmers union;
 - l. The chairman of the public service commission or the chairman's designee;
 - m. The state engineer~~director of the department of water resources~~ or the state engineer's~~director's~~ designee;
 - n. The director of the game and fish department, or the director's designee;
 - o. The director of the department of transportation, or the director's designee;
 - p. The director of the department of environmental quality, or the director's designee;
 - q. One representative of an investor-owned utility company;
 - r. One representative from the North Dakota association of rural electric cooperatives; and

- s. Two individuals from the energy community appointed by the commissioner.

SECTION 2. AMENDMENT. Section 4.1-35-01 of the North Dakota Century Code is amended and reenacted as follows:

4.1-35-01. Definitions.

As used in this chapter:

1. "Chemigation" means any process by which chemicals, including pesticides and fertilizers, are applied to land or crops through an irrigation system.
2. "Commissioner" means the agriculture commissioner and includes any employee or agent designated by the commissioner.
3. "Fertilizer" means any fertilizer as defined by section 4.1-40-01.
4. "Pesticide" means that term defined in section 4.1-33-01.
5. ~~"State engineer" means the state engineer appointed by the state water commission under section 61-03-01.~~

SECTION 3. AMENDMENT. Section 4.1-35-04 of the North Dakota Century Code is amended and reenacted as follows:

4.1-35-04. Inspections - Assistance of ~~state engineer~~department of water resources.

The ~~state engineer~~department of water resources shall cooperate with the commissioner in the inspection of any irrigation system using chemigation. The ~~state engineer~~department shall inform the commissioner of any violation of this chapter which is discovered in the course of the ~~state engineer's department's~~ regular inspections of irrigation systems using chemigation.

SECTION 4. AMENDMENT. Subsection 3 of section 4.1-35-05 of the North Dakota Century Code is amended and reenacted as follows:

3. For the purpose of carrying out the provisions of this chapter, the commissioner and the ~~state engineer~~department of water resources may enter upon any public or private premises at reasonable times in order to:
 - a. Have access for the purpose of inspecting any equipment subject to this chapter and the premises on which the equipment is stored or used.
 - b. Inspect or sample lands actually, or reported to be, exposed to pesticides or fertilizers through chemigation.
 - c. Inspect storage or disposal areas.
 - d. Inspect or investigate complaints of injury to humans or animals.
 - e. Sample pesticides and fertilizers and pesticide or fertilizer mixes being applied or to be applied.
 - f. Observe the use and application of a pesticide or fertilizer through chemigation.

- g. Have access for the purpose of inspecting a premise or other place where equipment or devices used for chemigation are held for distribution, sale, or use.

SECTION 5. AMENDMENT. Section 11-33.2-12.1 of the North Dakota Century Code is amended and reenacted as follows:

11-33.2-12.1. Contents of plat - Location and elevation of lakes, rivers, or streams - Notification of floodplain.

Whenever land, subject to regulation under this chapter, abutting upon any lake, river, or stream is subdivided, the subdivider must show on the plat or other document containing the subdivision a contour line denoting the present shoreline, water elevation, and the date of the survey. If any part of a plat or other document lies within the one hundred year floodplain of a lake, river, or stream as designated by the ~~state engineer~~ department of water resources or a federal agency, the mean sea level elevation of that one hundred year flood must be denoted on the plat by numerals. Topographic contours at a two-foot [60.96-centimeter] contour interval referenced to mean sea level must be shown for the portion of the plat lying within the floodplain. All elevations must be referenced to a durable benchmark described on the plat with its location and elevation to the nearest hundredth of a foot [0.3048 centimeter], which must be given in mean sea level datum.

SECTION 6. AMENDMENT. Subsection 1 of section 23.1-01-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The environmental review advisory council is established to advise the department of environmental quality in carrying out its duties. The council consists of the ~~state engineer~~ director of the department of water resources, state geologist, and director of the game and fish department, who serve as ex officio members, and ten members appointed by the governor. The director of the department of environmental quality or the director's designee shall serve as the executive secretary for the council. The appointed members must be:
 - a. A representative of county or municipal government;
 - b. A representative of manufacturing or agricultural processing;
 - c. A representative of the solid fuels industry;
 - d. A representative of the liquid and gas fuels industry;
 - e. A representative of crop agriculture;
 - f. A representative of the waste management industry;
 - g. A representative with an agronomy or soil sciences degree;
 - h. A representative of the thermal electric generators industry;
 - i. A representative of the environmental sciences; and
 - j. A representative of the livestock industry.

SECTION 7. AMENDMENT. Section 23.1-08-13 of the North Dakota Century Code is amended and reenacted as follows:

23.1-08-13. Preconstruction site review.

The department, in cooperation with the ~~state engineer~~department of water resources and the state geologist, shall develop criteria for siting a solid waste disposal facility based upon potential impact on environmental resources. Any application for a landfill permit received after the department develops siting criteria as required by this section must be reviewed for site suitability by the department after consultation with the ~~state engineer~~department of water resources and state geologist before any site development. Site development does not include the assessment or monitoring associated with the review as required by the department in consultation with the ~~state engineer~~department of water resources and state geologist.

SECTION 8. AMENDMENT. Section 23.1-11-06 of the North Dakota Century Code is amended and reenacted as follows:

23.1-11-06. Ground water quality monitoring.

The department shall conduct ground water quality monitoring activities in cooperation with the ~~state engineer~~department of water resources and other state agencies. Based on monitoring results, the department of environmental quality shall implement or require appropriate mitigation activities or remedial action to prevent future contamination of ground water. The commissioner may implement or require appropriate mitigation activities pursuant to chapter 4.1-33 to prevent future contamination of ground water as it relates to the use of pesticides.

SECTION 9. AMENDMENT. Section 23.1-11-10 of the North Dakota Century Code is amended and reenacted as follows:

23.1-11-10. Wellhead protection program.

The department, in cooperation with the ~~state engineer~~department of water resources and state geologist, shall assist in implementing a public water supply wellhead protection program for protection of ground water resources utilizing existing state and local statutory authority.

SECTION 10. AMENDMENT. Section 23.1-11-11 of the North Dakota Century Code is amended and reenacted as follows:

23.1-11-11. Rules.

The department, with the approval of the commissioner and the ~~state engineer~~director of the department of water resources, shall adopt rules necessary for implementation of this chapter.

SECTION 11. AMENDMENT. Section 24-03-06 of the North Dakota Century Code is amended and reenacted as follows:

24-03-06. Method of construction of highway ditches.

All highways constructed or reconstructed by the department, board of county commissioners, board of township supervisors, their contractors, subcontractors, or agents, or by any individual firm, corporation, or limited liability company must be so designed as to permit the waters running into the ditches to drain into coulees, rivers, and lakes according to the surface and terrain where the highway or highways are

constructed in accordance with the stream crossing standards prepared by the department and the ~~state engineer~~department of water resources so as to avoid the waters flowing into and accumulating in the ditches to overflow adjacent and adjoining lands. In the construction of highways the natural flow and drainage of surface waters to the extent required to meet the stream crossing standards prepared by the department and the ~~state engineer~~department of water resources may not be obstructed, but the water must be permitted to follow the natural course according to the surface and terrain of the particular terrain. The department, county, township, their contractors, subcontractors, or agents, or any individual firm, corporation, or limited liability company is not liable for any damage caused to any structure or property by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the ~~state engineer~~department of water resources.

SECTION 12. AMENDMENT. Section 24-03-08 of the North Dakota Century Code is amended and reenacted as follows:

24-03-08. Determinations of surface water flow and appropriate highway construction.

Whenever and wherever a highway under the supervision, control, and jurisdiction of the department or under the supervision, control, and jurisdiction of the board of county commissioners of any county or the board of township supervisors has been or will be constructed over a watercourse or draw into which flow surface waters from farmlands, the ~~state engineer~~department of water resources, upon petition of the majority of landowners of the area affected or at the request of the board of county commissioners, township supervisors, or a water resource board, shall determine as nearly as practicable the design discharge that the crossing is required to carry to meet the stream crossing standards prepared by the department and the ~~state engineer~~department of water resources. When the determination has been made by the ~~state engineer~~department of water resources, the department of transportation, the board of county commissioners, or the board of township supervisors, as the case may be, upon notification of the determination, shall install a culvert or bridge of sufficient capacity to permit the water to flow freely and unimpeded through the culvert or under the bridge. The department, county, and township are not liable for any damage to any structure or property caused by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the ~~state engineer~~department of water resources.

SECTION 13. AMENDMENT. Section 24-06-26.1 of the North Dakota Century Code is amended and reenacted as follows:

24-06-26.1. Township road and drainage construction standards.

~~Whenever~~When the construction or reconstruction of a township road or bridge, the insertion of a culvert in a township road, or the construction or reconstruction of a ditch or drain in connection with a township road affects the flow of surface waters and increases the surface waterflow through ditches, drains, bridges, and culverts in other townships, the board of township supervisors or the township overseer of highways of the township undertaking the construction or reconstruction shall give notice to the boards of township supervisors or township overseers of highways in all townships affected by the construction or reconstruction projects.

The boards of township supervisors of townships affected by any road or bridge construction that changes or increases the flow of surface waters shall cooperate in

the construction projects expending on any portion of the projects the portions of the road and bridge tax as deemed conducive to the interests of the township. The board of township supervisors shall construct the ditches, drains, bridges, and culverts in accordance with stream crossing standards prepared by the department and the ~~state engineer~~department of water resources. A township, board of township supervisors, and township overseer of highways are not liable for any damage caused to any structure or property by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the ~~state engineer~~department of water resources.

SECTION 14. AMENDMENT. Subsection 2 of section 37-17.1-11 of the North Dakota Century Code is amended and reenacted as follows:

2. The ~~North Dakota state engineer and the~~ water commission and department of water resources, in conjunction with the division of homeland security, shall keep land uses and construction of structures and other facilities under continuing study and identify areas ~~which that~~ are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection must concentrate on means of reducing or avoiding the dangers caused by this ~~occurrence~~severe land shifting, subsidence, flood, or other catastrophic occurrence, or the consequences ~~thereof~~ of severe land shifting, subsidence, flood, or other catastrophic occurrence.

SECTION 15. AMENDMENT. Subsection 12 of section 38-14.1-03 of the North Dakota Century Code is amended and reenacted as follows:

12. To adopt rules consistent with state law, in consultation with the state geologist, department of environmental quality, and the ~~state engineer~~department of water resources for the protection of the quality and quantity of waters affected by surface coal mining operations.

SECTION 16. AMENDMENT. Subdivision n of subsection 1 of section 38-14.1-14 of the North Dakota Century Code is amended and reenacted as follows:

- n. The name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged, including the drainage permit application to the ~~state engineer~~department of water resources, if required, ~~pursuant to other applicable state law~~.

SECTION 17. AMENDMENT. Subsection 2 of section 38-14.1-21 of the North Dakota Century Code is amended and reenacted as follows:

2. The commission's approval or modification of the permit or permit revision application must include consideration of the advice and technical assistance of the state historical society, the department of environmental quality, the soil conservation committee, the game and fish department, the state forester, the state geologist, and the ~~state engineer~~department of water resources, and may also include those state agencies versed in soils, agronomy, ecology, geology, and hydrology, and other agencies and individuals experienced in reclaiming surface mined lands.

SECTION 18. AMENDMENT. Subsection 7 of section 38-14.1-24 of the North Dakota Century Code is amended and reenacted as follows:

7. Create, if authorized in the approved mining and reclamation plan and permit, as part of reclamation activities, permanent water impoundments in accordance with the requirements of the ~~state engineer pursuant to other applicable state law~~department of water resources and all of the following standards:
 - a. The size of the impoundment will be adequate for its intended purposes.
 - b. The impoundment dam construction will be designed to achieve necessary stability with an adequate margin of safety compatible with the requirements of applicable state law.
 - c. The quality of impounded water will be suitable on a permanent basis for its intended use, and discharges from the impoundment will not exceed the quality limitations imposed by the North Dakota pollutant discharge elimination system or degrade the water quality below water quality standards established pursuant to this chapter, whichever is more stringent.
 - d. The level of water will be reasonably stable.
 - e. Final grading will provide adequate safety and access for maintenance and proposed water users.
 - f. ~~Such~~The water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

SECTION 19. AMENDMENT. Subsection 1 of section 38-14.1-25 of the North Dakota Century Code is amended and reenacted as follows:

1. A permittee may not use any coal or commercial leonardite mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid or solid wastes either temporarily or permanently as dams or embankments unless approved by the commission; after consultation with the ~~state engineer~~department of water resources.

SECTION 20. AMENDMENT. Subsection 1 of section 38-23-08 of the North Dakota Century Code is amended and reenacted as follows:

1. The high-level radioactive waste advisory council is established to advise the commission in carrying out its duties. The council consists of the ~~state engineer~~director of the department of water resources, state health officer, director of the department of transportation, director of the game and fish department, the commerce commissioner, and director of the department of environmental quality, who serve as ex officio members. The state geologist shall serve as the executive secretary for the council. Additional members on the council are:
 - a. A representative of county government, appointed by the governor;
 - b. A representative of city government, appointed by the governor;
 - c. A representative of the agricultural community, appointed by the governor;

- d. Two senators, appointed by the majority leader of the senate of the legislative assembly; and
- e. Two representatives, appointed by the majority leader of the house of representatives of the legislative assembly.

SECTION 21. AMENDMENT. Subsection 11 of section 40-50.1-01 of the North Dakota Century Code is amended and reenacted as follows:

11. Any plat which includes lands abutting upon any lake, river, or stream must show a contour line denoting the present shoreline, water elevation, and the date of survey. If any part of a plat lies within the one hundred year floodplain of a lake, river, or stream as designated by the ~~state engineer~~department of water resources or a federal agency, the mean sea level elevation of that one hundred year flood must be denoted on the plat by numerals. Topographic contours at a two-foot [60.96-centimeter] contour interval referenced to mean sea level must be shown for the portion of the plat lying within the floodplain. All elevations must be referenced to a durable benchmark described on the plat with its location and elevation to the nearest hundredth of a foot [0.3048 centimeter], which must be given in mean sea level datum.

SECTION 22. AMENDMENT. Section 43-35-03 of the North Dakota Century Code is amended and reenacted as follows:

43-35-03. State board of water well contractors - Members' appointment - Qualification.

The state board of water well contractors consists of the ~~state engineer~~director of the department of water resources and the director of the department of environmental quality, or their duly authorized designees, two water well contractors appointed by the governor, one geothermal system driller or one monitoring well contractor appointed by the governor, one water well pump and pitless unit installer appointed by the governor, and one member appointed at large by the governor.

SECTION 23. AMENDMENT. Subsection 1 of section 54-57-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding the authority granted in chapter 28-32 allowing agency heads or other persons to preside in an administrative proceeding, all adjudicative proceedings of administrative agencies under chapter 28-32, except those of the public service commission, the industrial commission, the insurance commissioner, the ~~state engineer~~department of water resources, the department of transportation, job service North Dakota, and the labor commissioner, must be conducted by the office of administrative hearings in accordance with the adjudicative proceedings provisions of chapter 28-32 and any rules adopted pursuant to chapter 28-32. But, appeals hearings pursuant to section 61-03-22 and drainage appeals from water resource boards to the ~~state engineer~~department of water resources pursuant to chapter 61-32 must be conducted by the office of administrative hearings. Additionally, hearings of the department of corrections and rehabilitation for the parole board in accordance with chapter 12-59, regarding parole violations; job discipline and dismissal appeals to the board of higher education; Individuals With Disabilities Education Act and section 504 due process hearings of the superintendent of public instruction; and chapter 37-19.1 veterans' preferences hearings for any agency must be conducted by the office of administrative hearings in accordance with applicable laws.

SECTION 24. AMENDMENT. Section 57-02-08.6 of the North Dakota Century Code is amended and reenacted as follows:

57-02-08.6. Authorization for receipt of funds.

The state treasurer ~~is authorized to~~ may receive funds for the wetlands property tax exemption program by legislative appropriation and by gift, grant, devise, or bequest of any money or property from any private or public source. Funds appropriated from any source for this purpose are not subject to section 54-44.1-11, and all income and moneys derived from the investment of the funds must be credited to the fund for the wetlands property tax exemption program. The director of the game and fish department, the agriculture commissioner, and the ~~state engineer~~ director of the department of water resources shall work with the governor, the United States fish and wildlife service, nonprofit conservation organizations, and any other public official or private organization or citizen to develop a source of funding to implement sections 57-02-08.4 and 57-02-08.5.

SECTION 25. AMENDMENT. Section 57-28-09 of the North Dakota Century Code is amended and reenacted as follows:

57-28-09. Tax deed to be issued.

After the date of foreclosure for property with an unsatisfied tax lien, the county auditor shall issue a tax deed to the county or, in cases in which the ~~state engineer~~ department of water resources has made an assessment against the property under section 61-03-21.3, the county auditor shall issue a tax deed to the state or, if the property was sold by another political subdivision of this state within the ten years preceding the foreclosure, the county auditor shall issue a tax deed to that political subdivision. The tax deed passes the property in fee to the county, the state, or political subdivision, free from all encumbrances except installments of special assessments certified to the county auditor or which may become due after the service of the notice of foreclosure of tax lien, a homestead credit for special assessments lien provided for in section 57-02-08.3, and an easement or right of way recorded with an effective date that precedes the date of official notice to the record titleholder which states that property taxes are delinquent and constitute a property lien. While the county, the state, or political subdivision holds title under a tax deed, it is not liable for the payment of any installments of special assessments which become due unless the board of county commissioners, the state, or political subdivision has leased or contracted to sell the property. A deed issued under this section is prima facie evidence of the truth and regularity of all facts and proceedings before the execution of the deed.

SECTION 26. AMENDMENT. Subsection 4 of section 61-01-01 of the North Dakota Century Code is amended and reenacted as follows:

4. All waters, excluding privately owned waters, in areas determined by the ~~state engineer~~ department of water resources to be noncontributing drainage areas. A noncontributing drainage area is any area that does not contribute natural flowing surface water to a natural stream or watercourse at an average frequency more often than once in three years over the latest thirty-year period.

SECTION 27. AMENDMENT. Section 61-01-03 of the North Dakota Century Code is amended and reenacted as follows:

61-01-03. Claims to the use of water initiated prior to and after March 1, 1905.

In all cases of claims to the use of water initiated prior to March 1, 1905, the right shall ~~relate~~relates back to the initiation of the claim, upon the diligent prosecution to completion of the necessary surveys and construction for the application of the water to a beneficial use. ~~All claims~~Any claim to the use of water initiated after March 1, 1905, shall ~~relate~~relates back to the date of receipt of an application ~~therefor~~for the claim in the office of the ~~state engineer~~department of water resources or the department's predecessor, subject to compliance with the applicable provisions of ~~law~~statutes, and the rules, and regulations ~~established thereunder~~.

SECTION 28. AMENDMENT. Section 61-01-05 of the North Dakota Century Code is amended and reenacted as follows:

61-01-05. Reclaiming waters turned into natural or artificial watercourse.

Water turned into any natural or artificial watercourse by any party entitled to the use of ~~such~~the water may be reclaimed below and diverted ~~therefrom~~from the watercourse by ~~such~~the party, subject to existing rights, due allowance for losses being made, as determined by the ~~state engineer~~department of water resources.

SECTION 29. AMENDMENT. Section 61-01-06 of the North Dakota Century Code is amended and reenacted as follows:

61-01-06. Watercourse - Definition.

A watercourse entitled to the protection of the law is constituted if there is a sufficient natural and accustomed flow of water to form and maintain a distinct and a defined channel. ~~It is not essential that the~~The supply of water ~~should~~is not required to be continuous or from a perennial living source. ~~It is enough~~The criteria for constituting a watercourse are satisfied if the flow arises periodically from natural causes and reaches a plainly defined channel of a permanent character. If requested by a water resource board, the ~~state engineer~~department of water resources shall determine ~~if~~whether a watercourse is constituted.

SECTION 30. AMENDMENT. Section 61-01-25 of the North Dakota Century Code is amended and reenacted as follows:

61-01-25. Penalty.

Any person violating any of the provisions of this chapter or any rule or regulation of the ~~state engineer~~department of water resources for which another penalty is not specifically provided is guilty of a class B misdemeanor.

SECTION 31. AMENDMENT. Section 61-02-05 of the North Dakota Century Code is amended and reenacted as follows:

61-02-05. Chairman of commission.

The governor ~~shall be~~is the chairman of the commission. The governor shall designate a vice chairman ~~who shall be a member~~from the members of the commission. The ~~state engineer~~shall be~~director of the department of water resources~~is the secretary of the commission.

SECTION 32. AMENDMENT. Section 61-02-14.2 of the North Dakota Century Code is amended and reenacted as follows:

**61-02-14.2. Commission contracts may be executed by state—
engineer**director.

The ~~state engineer~~ director of the department of water resources, or the ~~state engineer's director's~~ authorized designee, may execute contracts approved by the commission.

SECTION 33. AMENDMENT. Section 61-02-23.3 of the North Dakota Century Code is amended and reenacted as follows:

61-02-23.3. Construction and operation of the Devils Lake outlet - Authorization - Agreement.

The state water commission may do all things reasonably necessary to construct an outlet from Devils Lake, including executing an agreement with the federal government ~~wherein~~ in which the state water commission agrees to hold the United States harmless and free from damages, except for damages due to the fault or negligence of the United States or its contractors. The ~~state engineer~~ director of the department of water resources may employ full-time personnel and ~~may employ such~~ other personnel as are necessary for the operation and maintenance of the Devils Lake outlet within the limits of legislative appropriations for that purpose. Notwithstanding section 61-02-64.1, funds disbursed from the contract fund and appropriated for the purposes of this section may be used for salaries, equipment, operations, and maintenance costs relating to the Devils Lake outlet.

SECTION 34. AMENDMENT. Section 61-02-26 of the North Dakota Century Code is amended and reenacted as follows:

61-02-26. Duties of state agencies concerned with intrastate use or disposition of waters.

Every state officer, department, board, and commission ~~heretofore or hereafter~~ authorized by any law of this state to take any action, perform any duties, or make any contract ~~which concerns~~ concerning the use or disposition of waters, or water rights, within the state first shall submit to the ~~state engineer~~ department of water resources any plans, purposes, and contemplated action with respect to the use or disposition of ~~such~~ the waters, and except as provided in this chapter, ~~shall~~ must receive the consent and approval of the ~~state engineer~~ department of water resources before making any agreement, contract, purchase, sale, or lease to carry into execution any works or projects authorized under the provisions of this chapter.

SECTION 35. AMENDMENT. Section 61-02-27 of the North Dakota Century Code is amended and reenacted as follows:

61-02-27. Proposals with respect to use or disposition of waters to be presented to ~~state engineer~~ department of water resources.

All persons, ~~including corporations, limited liability companies, voluntary organizations, and associations,~~ when concerned with any agreement, contract, sale, or purchase, or the construction of any works or project which involves the use and disposition of any water or water rights, shall present to the ~~state engineer~~ department of water resources all proposals with respect to the use or disposition of any ~~such~~ waters before making any agreement, contract, purchase, sale, or lease ~~in respect thereof~~ regarding the waters.

SECTION 36. AMENDMENT. Section 61-02-30 of the North Dakota Century Code is amended and reenacted as follows:

61-02-30. Commission acquiring water rights and administering provisions of chapter - Declaration of intention.

In acquiring the rights and administering the terms of this chapter, the commission may initiate a right to waters of this state by executing a declaration in writing of the intention to store, divert, or control the unappropriated waters of a particular body, stream, basin, or source, designating and describing in general terms the waters claimed, means of appropriation, and location of proposed use, and shall cause said ~~notice~~the declaration to be filed in the ~~office of the state engineer~~department of water resources. The ~~state engineer~~department shall issue a conditional water permit to the commission consistent with the terms of the declaration of intention, which ~~shall vest~~vests in ~~such~~the commission on the date of the filing of ~~such~~the declaration. The commission also shall file in the ~~office of the state engineer~~department copies of ~~its~~the commission's plans and specifications involved in completing any project for the appropriation of water which ~~it~~the commission intends to construct. Except as provided by this section, water rights ~~shall~~must be acquired by any person, association, firm, corporation, limited liability company, municipality, or state or federal agency, department, or political subdivision in the manner provided by chapter 61-04.

SECTION 37. AMENDMENT. Section 61-02-32 of the North Dakota Century Code is amended and reenacted as follows:

61-02-32. Modification of plans by commission regarding project to appropriate waters - Filing declaration of intention.

~~If~~the commission, ~~if it shall modify~~ modifies its plans in connection with any proposed project ~~concerning~~for which the commission ~~shall have~~ filed a declaration of intention to appropriate waters, ~~the commission shall file in the office of the state engineer~~department of water resources a declaration releasing all or part of the waters affected by ~~such~~the declaration.

SECTION 38. AMENDMENT. Section 61-02-33 of the North Dakota Century Code is amended and reenacted as follows:

61-02-33. Commission to file declaration of completion of appropriation with ~~state engineer~~department of water resources.

Upon completing the construction of works and application to beneficial use of the waters described in the declaration provided in section 61-02-30, the commission shall file in the ~~office of the state engineer~~department of water resources a declaration of completion of the appropriation, reciting the matters contained in the original declaration of intention to appropriate and the conditional water permit for ~~such~~the works obtained from the ~~state engineer~~department.

SECTION 39. AMENDMENT. Section 61-02-41 of the North Dakota Century Code is amended and reenacted as follows:

61-02-41. Surveys for the diversion of waters.

For the purpose of regulating the diversion of the natural flow of waters, ~~employees of the state engineer~~department of water resources may enter upon the means and place of use of all appropriators for the purpose of making surveys of respective rights and seasonal needs.

SECTION 40. AMENDMENT. Section 61-02-68.10 of the North Dakota Century Code is amended and reenacted as follows:

61-02-68.10. Execution and attestation of interim financing notes - Sale.

The interim financing notes ~~shall~~must be executed by the chairman or the vice chairman of the commission and ~~shall be attested by the signature of the state engineerdirector of the department of water resources.~~ The signature of the chairman or vice chairman, and the ~~state engineerdirector,~~ and any other signatures on appurtenant coupons, may be facsimiles. The notes ~~shall~~must be sold at private or public sale in ~~suchthe~~ manner, ~~and at suchthe~~ rate of interest, and ~~at such~~ price as the commission ~~shalldetermines~~ by resolution determine.

SECTION 41. AMENDMENT. Section 61-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

61-02.1-01. Legislative findings and intent - Authority to issue bonds.

1. The legislative assembly finds that some cities suffered serious economic and social injuries due to the major flood disaster in 1997 and other recent floods and are at significant risk for future flooding; that construction of flood control or reduction projects is necessary for the protection of health, property, and enterprises and for the promotion of prosperity and the general welfare of the people of the state; and that construction of any such projects involves and requires the exercise of the sovereign powers of the state and concerns a public purpose. ~~Therefore, it is declared~~It is necessary and in the public interest ~~that the state by and through the state water commission assist in financing the costs of constructing flood control or reduction projects through the issuance of bonds.~~
2. The legislative assembly finds ~~that~~ continued construction of the southwest pipeline project is necessary for the protection of health, property, and enterprises and for the promotion of prosperity and the general welfare of the people of the state ~~and that continued construction of the southwest pipeline project, involves and requires the exercise of the sovereign powers of the state, and concerns a public purpose.~~ The legislative assembly also finds ~~that~~ current funding for the southwest pipeline project has become uncertain, and ~~therefore, it is declared~~ necessary and in the public interest ~~that the state by and through the state water commission assist in financing the costs of continued construction of the southwest pipeline project through the issuance of bonds.~~
3. The legislative assembly finds ~~that~~ the Devils Lake basin is suffering and facing a worsening flood disaster; ~~that~~ construction of an outlet from Devils Lake is necessary for the protection of health, property, and enterprises and for the promotion of prosperity and the general welfare of the people of the state; and ~~that~~ construction of the outlet involves and requires the exercise of the sovereign powers of the state and concerns a public purpose. ~~Therefore, it is declared~~It is necessary and in the public interest ~~that an outlet from Devils Lake be constructed with financing from the state water commission to provide flood relief to the Devils Lake basin.~~
4. The legislative assembly finds ~~that~~ there is a critical need to develop a comprehensive statewide water development program to serve the long-term water resource needs of the state and its people and to protect the state's current usage of, and the state's claim to, its proper share of Missouri River water.
5. In furtherance of the public purpose set forth in subsection 1, the state water commission may issue bonds under chapter 61-02, and the proceeds are appropriated for flood control projects authorized and funded in part by the

federal government and designed to provide permanent flood control or reduction to cities that suffered severe damages as a result of the 1997 flood or other recent floods and to repay the line of credit extended to the state water commission under S.L. 1999, ch. 535, § 4. The commission may issue bonds for a flood control or reduction project only:

a. When:

- (1) A flood control or reduction project involves a city that suffered catastrophic flood damage requiring evacuation of the major share of its populace;
- (2) A flood control or reduction project includes interstate features and requires acquisition of private property to build permanent flood protection systems to comply with federal flood protection standards;
- (3) The governing body of a city provides a written certification to the state water commission that the city has committed itself to contribute one-half or more of the North Dakota project sponsor's share of the nonfederal share of the cost to construct the project;
- (4) The United States army corps of engineers issues its approval of the flood control or reduction project;
- (5) A project cooperation agreement, which contains provisions acceptable to the ~~state engineer~~department of water resources and is approved by the governor, is entered by the state of Minnesota or one of its political subdivisions in which the flood control or reduction project is to be constructed;
- (6) A project cooperation agreement, which contains provisions acceptable to the ~~state engineer~~department of water resources and is approved by the governor, is entered by the state or one of its political subdivisions in which the flood control or reduction project is to be constructed;
- (7) The governing body of the city has approved a financing plan for all amounts of the nonfederal share of a flood control or reduction project in excess of the amounts to be paid by the state; and
- (8) ~~That the~~The flood control or reduction project is designed to be cost-effective, and that any impact on residential neighborhoods is minimized in an amount reasonably practicable as determined by the ~~state engineer~~department of water resources and approved by the governor;

b. When a flood control or reduction project in a city with a population as of the 1990 federal decennial census of at least eight thousand and not more than ten thousand has received significant federal funding through federal grants and funds from the United States army corps of engineers and the federal emergency management agency; or

c. When a flood control or reduction project in a city with a population as of the 1990 federal decennial census of at least four thousand five hundred and not more than six thousand has at least seventy percent of the land

within the boundaries of the city located within the one hundred year floodplain as designated on a flood insurance rate map and the United States army corps of engineers issues its approval of the flood control or reduction project.

6. In furtherance of the public purpose set forth in subsection 2, the state water commission may issue bonds under chapter 61-02, and the proceeds are appropriated for construction of the southwest pipeline project and to repay the line of credit extended to the state water commission under S.L. 1999, ch. 535, § 4. The commission may ~~only~~ issue bonds under this chapter for continued construction of the southwest pipeline project only when it is determined that the Perkins County water system will not make payment to the state water commission in the amount of four million five hundred thousand dollars or on January 1, 2000, whichever occurs earlier. If the Perkins County water system makes payment to the state water commission after January 1, 2000, the payment must be used to pay principal and interest on bonds issued for continued construction of the southwest pipeline project as provided in subsection 2 of section 61-02.1-04. If the Perkins County water system does not make payment to the state water commission, no benefits may accrue to the Perkins County water system.
7. In furtherance of the public purposes set forth in subsections 3 and 4, the state water commission may issue bonds under chapter 61-02 to finance the cost of one or more of the projects identified in this section.
8. This chapter does not affect the state water commission's authority to otherwise issue bonds pursuant to chapter 61-02 or section 61-24.3-01.
9. Notwithstanding this section, the state water commission may not issue bonds authorized under subsection 5 for a project unless federal funds have been appropriated for that project.

SECTION 42. Section 61-03-01.1 of the North Dakota Century Code is created and enacted as follows:

61-03-01.1. Department of water resources established - Appointment and salary of director.

The department of water resources is established and is the primary state water agency. The governor shall appoint a director of the department subject to approval by a majority of the members of the state water commission. The director may not engage in any other occupation or business that may conflict with the statutory duties of the director. The position of director of the department is not a classified position, and the state water commission shall set the salary of the director within the limits of legislative appropriations.

SECTION 43. Section 61-03-01.2 of the North Dakota Century Code is created and enacted as follows:

61-03-01.2. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "Department" means the department of water resources.
2. "Director" means the director of the department.

SECTION 44. Section 61-03-01.3 of the North Dakota Century Code is created and enacted as follows:

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

1. The director shall:

- a. Enforce all rules adopted by the department;**
- b. Hire a state engineer who is a qualified professional engineer, has appropriate hydrology experience, and will report to the director;**
- c. Hire other employees as necessary to carry out the duties of the department and director;**
- d. Organize the department in an efficient manner; and**
- e. Take any other action necessary and appropriate for administration of the department.**

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

SECTION 45. AMENDMENT. Section 61-03-03 of the North Dakota Century Code is amended and reenacted as follows:

61-03-03. AuditingApproval of claims.

All claims for services rendered, expenses incurred, or materials or supplies furnished under the direction of the state engineer~~director~~ and which are payable from the funds appropriated for the ~~prosecution of the work under the state engineer's~~~~director's~~ direction and supervision ~~shall~~must be approved by the ~~state engineer~~~~director~~ before payment.

SECTION 46. AMENDMENT. Section 61-03-04 of the North Dakota Century Code is amended and reenacted as follows:

61-03-04. Biennial report.

The ~~state engineer~~~~director~~ may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04.

SECTION 47. AMENDMENT. Section 61-03-06 of the North Dakota Century Code is amended and reenacted as follows:

61-03-06. Records of state engineer -- Open to public -- Contents -- Certified copies as evidence~~the department.~~

The records of the office of the ~~state engineer~~~~department~~ are public records, ~~shall remain on file in the state engineer's office, and shall be open to the inspection of the public at all times during business hours. Such~~The records shallmust show in full all permits, certificates of completion of construction, and licenses issued, ~~together with all action thereon~~actions taken on permits and licenses, and all actionactions or decisions of the ~~state engineer~~~~department~~ affecting any rights or claims to appropriate water. ~~Certified copies of any records or papers on file in the office of the~~

~~state engineer shall be evidence equally with the originals thereof, and when introduced as evidence shall be held as of the same validity as the originals.~~

SECTION 48. AMENDMENT. Section 61-03-08 of the North Dakota Century Code is amended and reenacted as follows:

61-03-08. Duty of state engineer to cooperate with boards of county commissioners when requested.

~~Whenever requested so to do~~When asked by the board of county commissioners of any county of this state, the ~~state engineer~~department shall cooperate with ~~such~~the board in the engineering work required to lay out, establish, and construct any drain to be used by any county or counties or portions of the same for the purpose of ~~diverting a county to divert~~ floodwaters, lakes, or watercourses, and in general shall aid and assist the counties of this state in making preliminary surveys and establishing systems of drainage.

SECTION 49. AMENDMENT. Section 61-03-10 of the North Dakota Century Code is amended and reenacted as follows:

61-03-10. Custodian of government plats.

~~The state engineer shall be~~department is the custodian of all plats, field notes, and ~~similar~~ records that have been or hereafter may be turned over provided to the state by ~~the~~a federal government entity. Suitable rooms shall be provided in the capitol building containing vaults for fireproof protection and the safekeeping of ~~such~~the records, and free access to any such field notes, maps, records, and other papers for the purpose of taking extracts therefrom or making copies thereof without charge of any kind, shall be allowed to all officers or employees of the United States during office hours must be provided to the department.

SECTION 50. AMENDMENT. Section 61-03-12 of the North Dakota Century Code is amended and reenacted as follows:

61-03-12. Attorney general and state's attorney advisers of state engineer to provide legal counsel.

The attorney general, and the state's attorney of the county in which legal questions arise, shall ~~be the legal advisers of the state engineer, and shall perform any and all legal duties necessary in connection with the state engineer's work;~~provide legal counsel for the department without compensation other than their salaries as fixed by law, except when otherwise provided.

SECTION 51. AMENDMENT. Section 61-03-13 of the North Dakota Century Code is amended and reenacted as follows:

61-03-13. Rules and regulations made by state engineer - ModificationRulemaking authority.

~~The state engineer shall make all general~~department may adopt rules necessary to carry into effect ~~out~~ the duties devolving upon the state engineer's office, and may change the same from time to time ~~of the department~~. All ~~such~~The department shall amend rules relating to applications for permits to appropriate water, for the inspection of works, for the issuance of licenses, and for the determination of rights to the use of water shall ~~be modified by the state engineer, if required to do so~~ by a vote of the state water commission.

SECTION 52. AMENDMENT. Section 61-03-14 of the North Dakota Century Code is amended and reenacted as follows:

61-03-14. ~~Modification~~State water commission votes on modifications of rules and regulations of engineer voted upon only upon appeal from engineer.

~~The modification of the rules and regulations of the state engineer provided for in section 61-03-13 shall be voted upon by the~~The state water commission may vote on a modification of a department rule which is required under section 61-03-13 only on an appeal from a decision of the state engineer~~director.~~

SECTION 53. AMENDMENT. Section 61-03-15 of the North Dakota Century Code is amended and reenacted as follows:

61-03-15. ~~Hydrographic surveys and investigations made by state—engineer~~the department - Cooperating with federal agencies.

~~The state—engineer~~department shall make hydrographic surveys and investigations of each stream system and source of water supply in the state, beginning with those most used for irrigation, and shall obtain and record all available data for the determination, development, and ~~adjudication~~appropriation of the water supply of the state. ~~The state engineer~~department may cooperate with the agencies of the federal government engaged in similar surveys and, investigations and in, or the construction of works for the development and use of the water supply of the state, expending for such purposes any money available for the work of the state engineer's office. ~~The state engineer may accept and use, in connection with the operation of the state engineer's department, the results of the work of the agencies of the government and may expend funds appropriated to the department for that purpose.~~

SECTION 54. AMENDMENT. Section 61-03-16 of the North Dakota Century Code is amended and reenacted as follows:

61-03-16. Suit for adjudication of water rights.

Upon the completion of a hydrographic survey of any stream system, the ~~state engineer~~department shall deliver a copy thereof, ~~together with copies of the survey and~~ all data necessary for the determination of all rights to the use of the waters of ~~such~~the system; to the attorney general of the state, who, within sixty days thereafter, shall enter suit on behalf of the state for the determination of all rights to the use of ~~such~~the water; and ~~shall prosecute the same to proceed with the litigation until a final adjudication of the rights.~~ If private parties initiated the suit for the adjudication of such rights ~~shall have been begun by private parties, the attorney general shall not be required to bring suit, except that the attorney general shall intervene in any~~ the suit for the adjudication of rights to the use of water, on behalf of the state, if notified by the state engineer that, in the state engineer's opinion, the public interest requires ~~such action~~if the department notifies the attorney general intervening is necessary to protect the interests of the state.

SECTION 55. AMENDMENT. Section 61-03-17 of the North Dakota Century Code is amended and reenacted as follows:

61-03-17. Parties to and costs of suit for adjudication of water rights.

In any suit for the determination of a right to the use of the waters of any stream system, all ~~who~~persons that claim the right to use ~~such~~the waters ~~shall~~must be made parties. When any suit has been filed, the court, by its order duly entered, shall direct

~~the state engineer to make or furnish, and the department shall provide the court a complete hydrographic survey of such the stream system as is provided in this chapter, in order to obtain all data necessary to the determination of the rights involved. The cost of such the suit, including the litigation and survey costs on behalf of incurred by the state, and of such surveys, shall must be charged against to each of the private parties thereto to the suit in proportion to the amount of the water right allotted.~~

SECTION 56. AMENDMENT. Section 61-03-18 of the North Dakota Century Code is amended and reenacted as follows:

61-03-18. Hydrographic survey fund - Use - Payments.

The hydrographic survey fund, a permanent fund, ~~shall may~~ be used only for the payment of the expenses of the surveys ~~ordered by the court as provided in required under~~ section 61-03-17. All claims for services rendered, expenses incurred, or materials or supplies furnished under the direction of the state engineer ~~in the prosecution of such department for the surveys shall must~~ be approved by the state engineer ~~department~~. The amounts paid by ~~the private~~ parties to such suits, ~~on account of such under section 61-03-17 for the surveys, shall must~~ be paid to the state treasurer, who shall credit the same ~~to such payments to the hydrographic survey fund, which shall continue to be available for advancing the expenses of such surveys, as ordered by the court from time to time.~~

SECTION 57. AMENDMENT. Section 61-03-19 of the North Dakota Century Code is amended and reenacted as follows:

61-03-19. Decree adjudicating water rights - Filing - Contents.

Upon the adjudication of the rights to the use of the waters of a stream system, a certified copy of the decree ~~shall must~~ be prepared by the clerk of the court; at the cost of the parties, and ~~shall must~~ be filed in the office ~~of the state engineer department~~. Such decree, in every case, ~~shall The decree must declare as to the water right adjudged to each party, the priority, amount, purpose, and place of use, and, as to water used for irrigation, the specific tracts of land to which it shall be the right is appurtenant, together with such any other conditions as may be necessary to define the right and its the priority of the right.~~

SECTION 58. AMENDMENT. Section 61-03-20 of the North Dakota Century Code is amended and reenacted as follows:

61-03-20. State engineer to cooperate Cooperation with United States geological survey in making topographic maps.

The ~~state engineer department~~ may confer with the director of the United States geological survey and may accept the cooperation of the United States ~~with this state in the execution of to execute~~ topographic surveys and maps of this state. The ~~state engineer department~~ may arrange with the director or other authorized representative of the United States geological survey concerning the details of ~~such work the surveys or maps, the method of its execution, and the order in which these the surveys and maps of different parts of the state shall be are~~ undertaken. In ~~any such work, the director of the United States geological survey shall agree to expend on the part of the United States upon said work a sum equal to that appropriated by the state from time to time for this purpose. In arranging these details the state engineer, in addition to such other provisions as the state engineer may deem wise, shall require that the maps resulting from this survey show the outlines of all counties, towns, and extensive wooded areas, as existing on the ground at the time of the execution of the~~

survey, the location of all railways, roads, streams, canals, lakes, and rivers, and contain contour lines showing the elevation and depression for at least every twenty feet [6.10 meters] in vertical interval of the surface of the country. The resulting map must recognize wholly the cooperation of the state of North Dakota and, as each manuscript sheet of the map is completed, the United States geological survey should furnish the state engineer with photographic copies of the same. As the engraving on each sheet is completed, the director shall furnish the state engineer with transfers from the copperplates of the same.

SECTION 59. AMENDMENT. Section 61-03-21 of the North Dakota Century Code is amended and reenacted as follows:

61-03-21. State engineer may require planPlans of operation for reservoirs - Adequate structure.

Every operator of a water storage reservoir in North Dakota having a capacity of more than one thousand acre-feet [1233481.84 cubic meters] annually shall annually file with the department, between the first and fifteenth day of February, file with the state engineer an operating plan for suchthe reservoir for the calendar year in which the sameplan is filed. The operator of any suchthe reservoir shall be required to cooperate with the state engineer to the end thatdepartment to make all water releases shall be compatible with the best interest of the greatest number of downstream water users and affected landowners. In the event that the state engineerIf the department declares an emergency to exist in connection with the operation of any suchthe reservoir, the operator thereof shall promptly shall submit to the state engineerdepartment a separate interim operating plan therefor in addition to the annual reservoir operating plan herein requiredfor the reservoir. SuchThe interim operating plan shall thenmust be coordinated and integrated with the suggestions and plans of the state engineerdepartment to best serve the affected interestspersons during suchthe emergency. The state engineerdepartment may also require suchreservoir operators to maintain adequate structures and to operate them in a manner that willto prevent waste, promote the beneficial use of water, and not endanger the general health and welfare of persons affected therebyby the reservoirs. In the event suchIf an operator fails to maintain and operate adequate structures in the manner provided in this section, the state engineerdepartment shall set a place and time for hearing and shall serve notice upon suchthe operator to show cause at such time and place why the operator's water permit should not be declared terminated and canceled. A copy of any order terminating or canceling suchthe water right shallmust be filed in the office of the recorder in the county or counties where the land to which the right is appurtenant is located. An appeal may be taken from the decision of the state engineerdepartment in accordance with the provisions of chapter 28-32.

SECTION 60. AMENDMENT. Section 61-03-21.1 of the North Dakota Century Code is amended and reenacted as follows:

61-03-21.1. Inspection by state engineerdepartment.

Whenever the state engineerWhen the department is authorized or mandated by law to inspect or investigate an alleged violation of a statute under this title, the state engineer shall have the authority todepartment may enter upon land for the purposes of conducting such an to conduct the inspection or investigation. Except in emergency situations as determined by the state engineerdepartment, the state engineerdepartment shall request written permission from the landowner to enter the property. If the landowner refuses to give written permission, or fails to respond within five days of the request, the state engineerdepartment may request the district court

of the district containing the property for an order authorizing the ~~state engineer~~department to enter the property to inspect or investigate the alleged violation.

SECTION 61. AMENDMENT. Section 61-03-21.2 of the North Dakota Century Code is amended and reenacted as follows:

61-03-21.2. Removal or modification of unsafe or unauthorized works.

If the ~~state engineer~~ pursuant to the ~~state engineer's~~ authority under this ~~title~~department determines that works are unsafe or unauthorized, the ~~state engineer~~department shall notify the landowners by registered mail at the landowner's last-known post-office address of record. A copy of the notice ~~must also~~ must be sent to any tenant, if the ~~state engineer~~department has actual knowledge of the fact that a tenant exists. The notice must specify the nature and extent of the noncompliance, and the modifications necessary for compliance, and must state that if the works are not modified or removed within the period stated in the notice, but not less than thirty days, the ~~state engineer~~department shall cause the removal or modification of the works and assess the cost thereof of the removal or modification, or ~~such a~~ portion of the cost as the ~~state engineer~~ shall ~~determine~~department determines, against the property of the landowner responsible. The notice also must ~~also~~ state that the affected landowner may, demand in writing a hearing on the matter within fifteen days of the date the notice is mailed, ~~demand, in writing, a hearing upon the matter~~. The request for a hearing must state with particularity the issues, facts, and points of law to be presented at the hearing. If the ~~state engineer~~department determines the issues, facts, and law to be presented are well-founded and ~~are~~ not frivolous, and the request for a hearing was not made merely to interpose delay, the ~~state engineer~~department shall set a hearing date without undue delay. In the event of an emergency, the ~~state engineer~~department immediately may ~~immediately~~ apply to the appropriate district court for an injunction prohibiting the landowner or tenant from constructing or maintaining the works, or ordering the landowner to remove or modify the works. Any assessments levied under the provisions of this section must be collected in the same manner as other assessments authorized by this title. If, in the opinion of the ~~state engineer~~director, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Any person aggrieved by ~~action~~a decision of the ~~state engineer~~department under the provisions of this section may appeal the decision of the ~~state engineer~~ to the district court of the county in which the land is located in accordance with the ~~procedures provided under~~ chapter 28-32. A hearing ~~as provided for in~~under this section is a prerequisite to an appeal, unless the hearing was denied by the ~~state engineer~~department.

For purposes of this section, the term "works" includes dams, dikes, wells, or other devices for water conservation, flood control, regulation, storage, diversion, or carriage of water.

SECTION 62. AMENDMENT. Section 61-03-21.3 of the North Dakota Century Code is amended and reenacted as follows:

61-03-21.3. Removal, modification, or destruction of dangers in, on the bed of, or adjacent to navigable waters.

1. If the ~~state engineer~~department finds that buildings, structures, boat docks, debris, or other manmade objects, except a fence or corral, situated in, on the bed of, or adjacent to waters that have been determined to be navigable by a court are, or are likely to be, a menace to life or property or public health or

safety, the ~~state engineer department~~ may issue an order to the person responsible for the object. If the ~~state engineer department~~ issues an order, the order must specify the nature and extent of the conditions, the action necessary to alleviate, avert, or minimize the danger, and a date by which that action must be taken. If the ~~state engineer department~~ determines that an object covered by flood insurance is likely to be a menace to life or property or public health or safety, the date specified in the order for action to be taken may not precede the date on which the person is eligible to receive flood insurance proceeds. If a building, structure, boat dock, debris, or other manmade object, except a fence or corral, is partially or completely submerged due to the expansion of navigable waters, the person responsible is the person who owns or had control of the property on which the object is located or the person who owned or had control of the property immediately before it became submerged by water.

2. If the action is not taken by the date specified, but not less than twenty days from the date of service of the notice, the ~~state engineer department~~ may cause the action to be taken. The ~~state engineer department~~ may require the action to be taken in less than twenty days if an emergency exists.
3.
 - a. The ~~state engineer department~~ may bring an action to enforce an order of the ~~state engineer department~~, or if the ~~state engineer department~~ causes the action to be taken, the ~~state engineer department~~ may:
 - a. (1) Assess the costs of taking ~~such~~the action, or ~~such~~a portion of the costs as the ~~state engineer department~~ determines, against any property of the person responsible; or
 - b. (2) Bring a civil action against the person responsible to recover the costs incurred in taking the action.
 - b. If the ~~state engineer department~~ chooses to recover costs by assessing the cost against property of the person responsible and the property is insufficient to cover the costs incurred, the ~~state engineer department~~ may bring a civil action to recover any costs not recovered through the assessment process. Any assessments levied under this section must be collected in the same manner as other real estate taxes are collected and paid. Any costs recovered must be deposited in the fund from which the expenses were paid.
4. A person who receives an order, within ten days of the date of service of the order, may demand, in writing, a hearing on the matter. The demand for a hearing must state with particularity the issues, facts, and points of law to be presented at the hearing. If the ~~state engineer department~~ determines the issues, facts, and law to be presented are well-founded and not frivolous, and the request for a hearing was not made merely to interpose delay, the ~~state engineer department~~ shall set a hearing date without undue delay.
5. In the event of an emergency, the ~~state engineer department~~ immediately may immediately apply to the district court of the county in which the property is located for an injunction ordering the person responsible to modify, remove, abate, or otherwise eliminate the dangerous condition.
6. Any person aggrieved by the action of the ~~state engineer department~~ may appeal the decision to the district court of the county in which the land is

located in accordance with chapter 28-32. A hearing ~~as provided for in~~ under this section is a prerequisite to an appeal unless the hearing was denied by the ~~state engineer~~department.

7. If the ~~state engineer~~department has issued an order under this section with regard to a building, structure, boat dock, debris, or other manmade object that the ~~state engineer~~department has determined is likely to be a menace to life or property or public health or safety, and it later becomes known that the object would not have become a menace, a person who has taken action required by the ~~state engineer's~~ order is entitled to compensation in an amount equal to the value of any property destroyed and reasonable costs incurred as a result of complying with the ~~state engineer's~~ notice from the department.
8. Any person claiming compensation for the destruction of property or costs incurred under subsection 7 must file a claim with the ~~state engineer~~department in the form and manner required by the ~~state engineer~~department. Unless the amount of compensation is agreed to between the claimant and the ~~state engineer~~department, the amount of compensation must be calculated in the same manner as compensation due for taking of property pursuant to the condemnation laws of this state. In determining compensation, the proceeds of any flood or other insurance or any other kind of compensatory payments must be subtracted from the amount paid.

SECTION 63. AMENDMENT. Section 61-03-21.4 of the North Dakota Century Code is amended and reenacted as follows:

61-03-21.4. Economic analysis process required for certain projects.

The ~~state engineer~~department of water resources shall develop an economic analysis process for water conveyance projects and flood-related projects expected to cost more than one million dollars, and a life cycle analysis process for municipal water supply projects. When the state water commission is considering whether to fund a water conveyance project, flood-related project, or water supply project, the ~~state engineer~~department of water resources shall review the economic analysis or life cycle analysis, and inform the state water commission of the findings from the analysis and review.

SECTION 64. AMENDMENT. Section 61-03-22 of the North Dakota Century Code is amended and reenacted as follows:

61-03-22. Hearing - Appeals from decision of ~~state engineer~~department.

Any person aggrieved by an action or decision of the ~~state engineer~~department under this title has the right to a hearing. The ~~state engineer~~department must receive ~~the~~ request for a hearing within thirty days after the aggrieved person knew or ~~reasonably~~ should have ~~reasonably~~ known of the action or decision. Once a hearing has been held or if the hearing request is denied, the person aggrieved has the right to petition for reconsideration or appeal under chapter 28-32.

SECTION 65. AMENDMENT. Section 61-03-23 of the North Dakota Century Code is amended and reenacted as follows:

61-03-23. Penalties - Civil.

1. In addition to criminal sanctions that may be imposed pursuant to law, a person who violates any provision of this title or any rules adopted under this title may be assessed a civil penalty not to exceed twenty-five thousand dollars for each day the violation occurred and continues to occur and may be required by the state-engineerdepartment to forfeit any right to the use of water. The civil penalty for violation of an irrigation appropriation permit may not exceed five thousand dollars for each day the violation occurred and continues to occur. The civil penalty or forfeiture of a right to use water may be adjudicated by the courts or by the state-engineerdepartment through an administrative hearing under chapter 28-32.
2. If a civil penalty levied by the state-engineerdepartment after an administrative hearing is not paid within thirty days after a final determination that the civil penalty is owed, the civil penalty may be assessed against the property of the landowner responsible for the violation leading to the assessment of the penalty. The assessment must be collected as other assessments made under this title are collected. Notwithstanding the provisions of section 57-20-22, all interest and penalties due on the assessment must be paid to the state. Any civil penalty assessed under this section must be in addition to any costs incurred by the state-engineerdepartment for enforcement of the order.

SECTION 66. AMENDMENT. Section 61-03-24 of the North Dakota Century Code is amended and reenacted as follows:

61-03-24. Pending administrative actions and permits.

If an applicant for any permit processed by the state-engineerdepartment has an unresolved administrative order or complaint under this title, the permit ~~will~~may not be processed until the order is complied with or complaint is resolved. At the ~~state-engineer's discretion of the department~~, the permit may be processed if issuing the permit would resolve the administrative order or complaint. If an applicant is not an individual, this section applies if the applicant is at least twenty-five percent owned by an individual with an unresolved administrative order or complaint under this title.

SECTION 67. AMENDMENT. Section 61-03-25 of the North Dakota Century Code is amended and reenacted as follows:

61-03-25. Emergency action plan - High-hazard or medium-hazard dam.

The owner of a high-hazard or medium-hazard dam shall develop, periodically test, and update an emergency action plan to be implemented if there is an emergency involving the dam. The emergency action plan and any subsequent updates must be submitted to the state-engineerdepartment for approval.

SECTION 68. AMENDMENT. Section 61-04-01 of the North Dakota Century Code is amended and reenacted as follows:

61-04-01. Petitions, reports, surveys, and other documents filed with the commission.

Any petitions, applications, surveys, reports, orders, or other documents provided for in this chapter must be filed with the commission in Bismarck, where they must be kept on file under the control of the state-engineerdirector of the department of water resources.

³³⁵ **SECTION 69. AMENDMENT.** Subsection 1 of section 61-04-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. "Adjudicative proceeding" means an appeal under chapter 28-32 of a recommended decision prepared by the state engineer~~director of the department of water resources~~ for a water permit application.

³³⁶ **SECTION 70. AMENDMENT.** Subsection 15 of section 61-04-01.1 of the North Dakota Century Code is amended and reenacted as follows:

15. "Perfected water permit" means a water permit where the water appropriated under a conditional water permit has been applied to a beneficial use and the state engineer~~department of water resources~~ has inspected the works to verify all conditions have been met.

SECTION 71. AMENDMENT. Section 61-04-02 of the North Dakota Century Code is amended and reenacted as follows:

61-04-02. Permit for beneficial use of water required.

Any person, before commencing any construction for the purpose of appropriating waters of the state or before taking waters of the state from any constructed works, shall first secure a water permit from the state engineer~~department of water resources~~ unless ~~such~~the construction or taking from ~~such~~the constructed works is for domestic or livestock purposes or for fish, wildlife, and other recreational uses or unless otherwise provided by law. However, immediately upon completing any constructed works for domestic or livestock purposes or for fish, wildlife, and other recreational uses, the water user shall notify the state engineer~~department of water resources~~ of the location and acre-feet [1233.48 cubic meters] capacity of ~~such~~the constructed works, dams, or dugouts. Regardless of proposed use, ~~however~~, all water users, except those reusing fossil byproduct water, shall secure a water permit prior to constructing an impoundment capable of retaining more than twelve and one-half acre-feet [15418.52 cubic meters] of water or the construction of a well from which more than twelve and one-half acre-feet [15418.52 cubic meters] of water per year will be appropriated. If a permit is not required of a landowner or the landowner's lessee to appropriate less than twelve and one-half acre-feet [15418.52 cubic meters] of water from any source for domestic or livestock purposes or for fish, wildlife, and other recreational uses, those appropriators may apply for water permits in order to clearly establish a priority date, and the state engineer~~department of water resources~~ may waive any fee or hearing for ~~such~~the applications. An applicant for a water permit to irrigate need not be the owner of the land to be irrigated.

SECTION 72. AMENDMENT. Section 61-04-02.1 of the North Dakota Century Code is amended and reenacted as follows:

61-04-02.1. Emergency or temporary authorization.

The state engineer~~department of water resources~~ may authorize emergency or temporary use of water for periods not to exceed twelve months if the state engineer~~department~~ determines ~~such~~the use will not be to the detriment of existing rights. The state engineer~~department~~ shall establish by rule a separate procedure for

³³⁵ Section 61-04-01.1 was also amended by section 70 of House Bill No. 1353, chapter 488.

³³⁶ Section 61-04-01.1 was also amended by section 69 of House Bill No. 1353, chapter 488.

the processing of applications for emergency or temporary use. ~~No prescriptive or~~ Prescriptive and other rights to the use of water ~~shall~~ may not be acquired by use of water as authorized ~~herein~~ in this section.

SECTION 73. AMENDMENT. Section 61-04-02.2 of the North Dakota Century Code is amended and reenacted as follows:

61-04-02.2. Property interest required to hold a water permit.

A permit holder ~~shall~~ must have a legal interest in each point of diversion identified on the permit. If the permit holder does not have a legal interest in each point of diversion, the ~~state engineer~~ department of water resources shall assign the permit, or portion of the permit, as provided in this chapter to the title owner.

A permit holder ~~shall~~ must have a legal interest in each irrigated tract of land identified on the permit. If the permit holder does not have a legal interest in each irrigated tract of land, the permit holder may transfer the approved acres to other land, as provided in this chapter.

SECTION 74. AMENDMENT. Section 61-04-03 of the North Dakota Century Code is amended and reenacted as follows:

61-04-03. Water permit application - Contents - Information to accompany.

A permit application to make beneficial use of any waters of the state must be in the form required by the rules established by the ~~state engineer~~ department of water resources. The rules ~~shall~~ must prescribe the form and contents of, and the procedure for filing, the application. The application, along with all other information filed with it, must be retained with the commission after approval or disapproval of the application. The ~~state engineer~~ department of water resources may require additional information not provided for in the general rules if the ~~state engineer~~ department deems it to be ~~the~~ information necessary.

SECTION 75. AMENDMENT. Section 61-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

61-04-03.1. Limitation on amount of water.

~~An individual~~ An applicant may not apply for a permit or permits for irrigation which, if approved, would enable ~~the individual~~ a person, at any one time, to hold a conditional water permit or permits for more than seven hundred twenty acre-feet [888106.75 cubic meters] of water ~~which that~~ has not been applied to beneficial use. Applications submitted in violation of this section may not be assigned a priority date and must be returned to the applicant by the ~~state engineer~~ department of water resources. This section may not apply to water permit applications from the Missouri River or to applications submitted by irrigation districts organized pursuant to this title. For the purposes of this section, ~~an individual means any person, including the person's~~ person", when applied to an individual, means the individual and the individual's spouse and dependents within the meaning of the Internal Revenue Code [26 U.S.C. 152].

SECTION 76. AMENDMENT. Section 61-04-04 of the North Dakota Century Code is amended and reenacted as follows:

61-04-04. Filing and correction of application.

The date of receipt of the application provided for in section 61-04-03 in the commission ~~shall~~must be noted on the application. If the application is defective as to form, incomplete, or otherwise unsatisfactory, it must be returned with a statement of the corrections, amendments, or changes required, within thirty days after its receipt, and sixty days must be allowed for refiling. If the application is corrected as required and is refiled within the time allowed, ~~it~~the application, upon being accepted, must take priority as of the date of its original filing. Any corrected application filed after the time allowed must be treated in all respects as an original application received on the date of its refiling. The application may be amended by the applicant at any time prior to the commencement of administrative action by the ~~state engineer~~department of water resources as provided in sections 61-04-05 through 61-04-06.3.

SECTION 77. AMENDMENT. Section 61-04-04.1 of the North Dakota Century Code is amended and reenacted as follows:

61-04-04.1. Application fees.

The following fees must accompany a conditional water permit application and must be paid by the ~~state engineer~~department of water resources into the resources trust fund of the state treasury:

- | | |
|---|---------|
| 1. For municipal or public use | \$500 |
| 2. For irrigation use | \$500 |
| 3. For industrial use of one acre-foot [1233.48 cubic meters] or less | \$250 |
| 4. For industrial use in excess of one acre-foot [1233.48 cubic meters] | \$1,000 |
| 5. For recreation, livestock, or fish and wildlife | \$100 |
| 6. Water permit amendment | \$100 |

SECTION 78. AMENDMENT. Section 61-04-04.2 of the North Dakota Century Code is amended and reenacted as follows:

61-04-04.2. Refund of water permit application fees.

The ~~state engineer~~department of water resources may refund a water permit application fee, upon the request of the applicant, if the application is withdrawn by the applicant, and:

1. The ~~state engineer~~department has not published notice of the application; or
2. The ~~state engineer~~department determines other good and sufficient cause exists to refund the application fee.

SECTION 79. AMENDMENT. Section 61-04-04.3 of the North Dakota Century Code is amended and reenacted as follows:

61-04-04.3. Rejection of applications.

If the ~~state engineer~~department of water resources determines a conditional water permit application does not meet this chapter's requirements or the rules in North Dakota Administrative Code article 89-03, the ~~state engineer~~department shall reject the application and decline to order the publication of notice of application.

SECTION 80. AMENDMENT. Section 61-04-05 of the North Dakota Century Code is amended and reenacted as follows:

61-04-05. Notice of application - Contents - Proof - Failure to file satisfactory proof.

When an application is filed which complies with this chapter and the rules adopted under this chapter, the ~~state engineer~~department of water resources shall instruct the applicant to:

1. Give notice of the application by certified mail in the form prescribed by rule, to all record title owners of real estate within a radius of one mile [1.61 kilometers] from the location of the proposed water appropriation site, except:
 - a. If the one-mile [1.61-kilometer] radius extends within the geographical boundary of a city, the notice must be given to the governing body of the city and no further notice need be given to the record title owners of real estate within the geographical boundary of the city.
 - b. If the one-mile [1.61-kilometer] radius includes land within the geographical boundary of a rural subdivision where the lots are of ten acres [4.04 hectares] or less, the notice must be given to the governing body of the township or other governing authority for the rural subdivision and no further notice need be given to the record title owners of real estate within the geographical boundary of the rural subdivision.
 - c. If the one-mile [1.61-kilometer] radius includes a single tract of rural land which is owned by more than ten individuals, the notice must be given to the governing body of the township or other governing authority for that tract of land and no further notice need be given to the record title owners of that tract.
2. Give notice of the application by certified mail in the form prescribed by rule to all persons holding water permits for the appropriation of water from appropriation sites located within a radius of one mile [1.61 kilometers] from the location of the proposed water appropriation site. The ~~state engineer~~department of water resources shall provide a list of all persons who must be notified under this subsection to the applicant.
3. Give notice of the application by certified mail in the form prescribed by rule to all municipal or public use permitholders within a twelve-mile [19.32-kilometer] radius of the proposed water appropriation site. The ~~state engineer~~department of water resources shall provide a list of all municipal or public use permitholders that must be notified under this subsection to the applicant.
4. Provide the ~~state engineer~~department of water resources with an affidavit of notice by certified mail within sixty days from the date of the ~~engineer's department's~~ instructions to provide notice. If the applicant fails to file satisfactory proof of notice by certified mail within sixty days and in compliance with the applicable rules, the ~~state engineer~~department shall treat the application as an original application filed on the date of receipt of the affidavit of notice by certified mail in proper form. If a properly completed affidavit of notice is not submitted within one hundred twenty days, the ~~state engineer~~department shall consider the application withdrawn. Upon receipt of a proper affidavit of notice by certified mail, the ~~state engineer~~department shall publish notice of the application, in a form prescribed by rule, in the official

newspaper of the county in which the proposed appropriation site is located, once a week for two consecutive weeks.

5. The notice must give all essential facts as to the proposed appropriation, including the places of appropriation and of use, amount of water, the use, the name and address of the applicant, and the date by which written comments and requests for an informational hearing regarding the proposed appropriation must be filed with the state engineer department of water resources. The notice also must ~~also~~ state that anyone who files written comments with the state engineer department will be mailed the state engineer's department's recommended decision on the application. Persons filing written comments will become a party of record to the application. The comment deadline is five p.m. on the first business day thirty days after the first published notice in the official county newspaper as specified in subsection 4.
6. The applicant shall pay all costs of the publication of notice.

SECTION 81. AMENDMENT. Section 61-04-05.1 of the North Dakota Century Code is amended and reenacted as follows:

61-04-05.1. Comments - Hearing.

1. Comments regarding a proposed appropriation must be in writing and filed by the date specified by the state engineer department of water resources under subsection 5 of section 61-04-05. The comments must state the name and mailing address of the person filing the comments. Comment letters submitted electronically must state the name and mailing address of the person filing the comments, and must be signed by the submitter to be considered valid and part of the official record.
2. A person filing written comments also may ~~also~~ request an informational hearing on the application by the date specified by the state engineer department of water resources under subsection 5 of section 61-04-05. If a request for an informational hearing is made and if the state engineer department determines an informational hearing is necessary to obtain additional information to evaluate the application or to receive public input, the state engineer department shall designate a time and place for the informational hearing and serve a notice of hearing upon the applicant and any person who filed written comments. Service must be made in the manner allowed for service under the North Dakota Rules of Civil Procedure at least twenty days before the hearing.
3. If two or more municipal or public use permitholders request the informational hearing to be held locally, the state engineer department of water resources shall hold the hearing in the county seat of the county in which the proposed water appropriation site is located.
4. The state engineer department of water resources shall consider all written comments received and testimony presented at an informational hearing, if held, and shall make a recommended decision in writing. The recommended decision must be mailed to the applicant and any party of record and may constitute:
 - a. Approval of all or a portion of the application, with the remainder held in abeyance or denied;

- b. Denial of the application; or
 - c. Deferral of the application.
5. Within thirty days of service of the recommended decision, the applicant and any party of record who would be aggrieved by the decision may file additional written comments with the ~~state engineer~~department of water resources or request an adjudicative proceeding on the application, or both. A request for an adjudicative proceeding must be made in writing and must state with particularity how the person would be aggrieved by the decision and the issues and facts to be presented at the proceeding. If a request for an adjudicative proceeding is not made, the ~~state engineer~~department shall consider the additional comments, if any are submitted, and issue a final decision. If a request for an adjudicative proceeding is made, and if the ~~state engineer~~department determines an adjudicative proceeding is necessary, the ~~state engineer~~department shall designate a time and place for the adjudicative proceeding and serve the notice of adjudicative proceeding upon the applicant and any person who filed written comments. Service must be made in the manner allowed for service under the North Dakota Rules of Civil Procedure at least twenty days before the hearing.

SECTION 82. AMENDMENT. Section 61-04-06 of the North Dakota Century Code is amended and reenacted as follows:

61-04-06. Criteria for issuance of permit.

1. The ~~state engineer~~department of water resources shall issue a permit if the ~~state engineer~~department finds all of the following:
 - a. The rights of a prior appropriator will not be unduly affected.
 - b. The proposed means of diversion or construction are adequate.
 - c. The proposed use of water is beneficial.
 - d. The proposed appropriation is in the public interest. In determining the public interest, the ~~state engineer~~department shall consider all of the following:
 - (1) The benefit to the applicant resulting from the proposed appropriation.
 - (2) The effect of the economic activity resulting from the proposed appropriation.
 - (3) The effect on fish and game resources and public recreational opportunities.
 - (4) The effect of loss of alternate uses of water that might be made within a reasonable time if not precluded or hindered by the proposed appropriation.
 - (5) Harm to other persons resulting from the proposed appropriation.
 - (6) The intent and ability of the applicant to complete the appropriation.

2. Subsection 1 of section 28-32-38 does not apply to water permit application proceedings unless a request for an adjudicative proceeding is made. If an application is approved, the ~~state engineer department of water resources~~ shall issue a conditional water permit allowing the applicant to appropriate water. However, the commission, by resolution, may reserve unto itself final approval authority over any specific water permit in excess of five thousand acre-feet [6167409.19 cubic meters].

SECTION 83. AMENDMENT. Section 61-04-06.1 of the North Dakota Century Code is amended and reenacted as follows:

61-04-06.1. Preference in granting permits.

When there are competing applications for water from the same source, and the source is insufficient to supply all applicants, the ~~state engineer department of water resources~~ shall adhere to the following order of priority:

1. Domestic use.
2. Municipal or public use.
3. Livestock use.
4. Irrigation use.
5. Industrial use.
6. Fish, wildlife, and other recreational uses.

³³⁷ **SECTION 84. AMENDMENT.** Section 61-04-06.2 of the North Dakota Century Code is amended and reenacted as follows:

61-04-06.2. Terms of permit.

The ~~state engineer department of water resources~~ may issue a conditional water permit for less than the amount of water requested. Except for water permits for incorporated municipalities or rural water systems, the ~~state engineer department~~ may not issue a permit for more water than can be beneficially used for the purposes stated in the application. Water permits for incorporated municipalities or rural water systems may contain water in excess of present needs based upon what may reasonably be necessary for the future water requirements of the municipality or the rural water system. The ~~state engineer department~~ may require modification of the plans and specifications for the appropriation. The ~~state engineer department~~ may issue a permit subject to fees for water use and conditions the ~~state engineer department~~ considers necessary to protect the rights of others and the public interest. The fees must be used by the department for planning, research, and administration required to regulate the allocation and appropriation of the waters of the state. Conditions must be related to matters within the ~~state engineer's department's~~ jurisdiction. All conditions attached to any permit issued before July 1, 1975, are binding upon the permitholder.

SECTION 85. AMENDMENT. Section 61-04-06.3 of the North Dakota Century Code is amended and reenacted as follows:

³³⁷ Section 61-04-06.2 was also amended by section 14 of Senate Bill No. 2035, chapter 56.

61-04-06.3. Priority.

Priority in time gives the superior water right. Priority of a water right acquired under this chapter dates from the filing of an application with the ~~state-engineerdepartment of water resources~~, except for water applied to domestic or livestock purposes, or fish, wildlife, and other recreational uses in which case the priority date must relate back to the date when the quantity of water in question was first appropriated, unless otherwise provided by law.

Priority of appropriation does not include the right to prevent changes in the condition of water occurrence, such as the increase or decrease of streamflow, or the lowering of a water table, artesian pressure, or water level, by later appropriators, if the prior appropriator can acquire reasonably the prior appropriator's water under the changed conditions.

SECTION 86. AMENDMENT. Section 61-04-07.2 of the North Dakota Century Code is amended and reenacted as follows:

61-04-07.2. Conditional water permit application denial.

If the ~~state-engineerdepartment of water resources~~ determines an application or any portion of an application does not meet the criteria prescribed in section 61-04-06 for any reason other than sufficient information or data is lacking to allow for sound decisionmaking of the impacts of the proposed diversion on the prior appropriators, the resource, or the public interest, the application or portion must be denied.

SECTION 87. AMENDMENT. Section 61-04-07.3 of the North Dakota Century Code is amended and reenacted as follows:

61-04-07.3. Conditional water permit application deferral.

If the ~~state-engineerdepartment of water resources~~ determines an application or any portion of an application does not meet the criteria prescribed in section 61-04-06 because sufficient information or data is lacking to allow for sound decisionmaking of the impacts of the proposed diversion on the prior appropriators, the resource, or the public interest, the conditional water permit application must be placed in a deferred status. The applicant must be notified by mail the application has been placed in deferred status.

SECTION 88. AMENDMENT. Section 61-04-09 of the North Dakota Century Code is amended and reenacted as follows:

61-04-09. Application to beneficial use - Inspection - Perfected water permit.

After the permit's beneficial use date, or upon notice from the permitholder that water has been applied to a beneficial use, the ~~state-engineerdepartment of water resources~~ shall notify the conditional water permitholder and inspect the works. The inspection must determine the safety, efficiency, and actual capacity of the works. If the works are not ~~constructed~~ properly and safely ~~constructed~~, the ~~state-engineerdepartment~~ may require the necessary changes to be made within a reasonable time. Failure to make the changes within the time prescribed by the ~~state-engineer-shall-causedepartment will result in~~ postponement of the permit's priority date to the date the changes are made to the satisfaction of the ~~state-engineerdepartment~~. Any intervening application submitted before the date the changes are made will have the benefit of the postponement of priority. When the works are ~~constructed~~ properly and safely ~~constructed~~ and inspected, the ~~state-engineerdepartment~~ shall issue the perfected water permit, setting forth the actual

capacity of the works and the limitations or conditions upon the water permit as stated in the conditional water permit authorized by section 61-04-06.2. All conditions attached to any permit issued before July 1, 1975, are binding upon the permitholder.

SECTION 89. AMENDMENT. Section 61-04-11 of the North Dakota Century Code is amended and reenacted as follows:

61-04-11. Inspection of works.

If the state engineer department of water resources, in the course of the state engineer's department's duties, finds any works used for the storage, diversion, or carriage of water are unsafe and a menace to life or property, the state engineer department shall notify the owner or the owner's agent, specifying the changes necessary and allowing a reasonable time for putting the works in safe condition. Upon the request of any party, accompanied by the estimated cost of inspection, the state engineer department shall inspect any alleged unsafe works. If they shall be the works are found unsafe by the state engineer department, the money deposited by the party must be refunded, and the fees for inspection must be paid by the owner of such the works. If the fees are not paid by the owner of the works does not pay the fees within thirty days after the decision of the state engineer department, they the fees must be a lien against any property of the owner, and must be recovered by a suit instituted by the state's attorney of the county shall initiate a suit to recover the fees from the owner at the request of the state engineer department. The state engineer, when in the state engineer's opinion it is necessary, department may inspect any works under construction for the storage, diversion, or carriage of water and may require any changes necessary to secure their the safety of the works. The fees for the inspection must be a lien on any property of the owner and must be subject to collection as provided in this chapter but neither the United States nor the state of North Dakota nor any government agency may be required to pay such fees.

SECTION 90. AMENDMENT. Section 61-04-12 of the North Dakota Century Code is amended and reenacted as follows:

61-04-12. Use of unsafe works - Penalty.

Any person using works for the storage, diversion, or carriage of water, at any time after an inspection thereof the works by the state engineer department of water resources and receipt of notice from the state engineer department that the same works are unsafe for the purpose for which they the works are used; and until before the receipt of notice from the state engineer department that in the state engineer's opinion they the department deems the works to have been made safe, shall be guilty of a class A misdemeanor.

SECTION 91. AMENDMENT. Section 61-04-14 of the North Dakota Century Code is amended and reenacted as follows:

61-04-14. Extending time for application to beneficial use.

The state engineer department of water resources may extend the time for the application of water to the beneficial use cited in the conditional water permit for good cause shown. When the time has expired, the state engineer department may renew and extend the same time upon application; provided, however, However, a conditional water permit, or any portion of the application must be considered forfeited if no request for renewal is received by the state engineer department within sixty days after the date the permitholder is informed the period for applying water to the beneficial use cited in the conditional water permit has expired. If a request to extend the time for application to beneficial use for any conditional water permit, or portion of

the permit, is denied, the conditional water permit, or portion of the permit, must be considered forfeited. Sections 61-04-23 through 61-04-25 do not apply to this section.

SECTION 92. AMENDMENT. Section 61-04-15 of the North Dakota Century Code is amended and reenacted as follows:

61-04-15. Assignment of conditional or perfected water permit.

Any conditional or perfected water permit may be assigned only upon approval by the ~~state engineer~~department of water resources. Upon reasonable proof the assignment can be made without detriment to existing rights, the ~~state engineer~~department shall assign the water permit without losing priority of any right previously established. The transfer of title to land in any manner ~~whatsoever~~ must carry with it all rights to the use of water for irrigation of the land, except any conditional or perfected water permit for irrigation purposes must be assigned in accordance with this section.

SECTION 93. AMENDMENT. Section 61-04-15.2 of the North Dakota Century Code is amended and reenacted as follows:

61-04-15.2. Add a point of diversion.

A permitholder may add a point of diversion to a conditional or perfected permit without affecting the priority date, if approved by the ~~state engineer~~department of water resources. Applications to add a point of diversion must be processed and evaluated in the same manner as a conditional water permit application. The ~~state engineer~~department may approve the additional point of diversion if the proposed addition will not adversely affect the rights of other appropriators.

SECTION 94. AMENDMENT. Section 61-04-15.3 of the North Dakota Century Code is amended and reenacted as follows:

61-04-15.3. Transfer of approved irrigated acreage.

A permitholder may transfer acres approved for irrigation on a conditional or perfected water permit to any tract of land owned or leased by the permitholder without affecting the priority date, if approved by the ~~state engineer~~department of water resources. The ~~state engineer~~department shall cause the water permit involved to be simultaneously severed and transferred from ~~such~~the land.

SECTION 95. AMENDMENT. Section 61-04-15.4 of the North Dakota Century Code is amended and reenacted as follows:

61-04-15.4. Change in purpose of use.

A permitholder may change the purpose of use of a conditional or perfected water permit without affecting the priority date, if approved by the ~~state engineer~~department of water resources. Applications for a change in the purpose of use must be processed and evaluated in the same manner as a conditional water permit application. A change in the purpose of use may be authorized only for a superior use as determined by the order of priority in section 61-04-06.1. The ~~state engineer~~department may approve the proposed change if the proposed change will not adversely affect the rights of other appropriators.

SECTION 96. AMENDMENT. Section 61-04-23 of the North Dakota Century Code is amended and reenacted as follows:

61-04-23. Cancellation of water rights - Inspection of works.

Any appropriation of water must be for a beneficial use, and when the appropriator fails to apply it to the beneficial use cited in the permit or ceases to use it for the beneficial use cited in the permit for three successive years, unless the failure or cessation of use has been due to the unavailability of water, a justifiable inability to complete the works, or other good and sufficient cause, the ~~state engineer~~department of water resources may cancel the water permit or right. For purposes of this chapter, an incorporated municipality or rural water system has good and sufficient cause excusing the failure to use a water permit, if the water permit reasonably may be necessary for the future water requirements of the municipality or the rural water system. The ~~state engineer~~department of water resources, as often as necessary, shall examine the condition of all works constructed or partially constructed within the state and compile information concerning the condition of every water permit or right and all ditches and other works constructed or partially constructed under the permit or right.

SECTION 97. AMENDMENT. Subsection 1 of section 61-04-24 of the North Dakota Century Code is amended and reenacted as follows:

1. If it appears any water appropriation or portion of an appropriation has not been used for a beneficial use, or having been so used at one time has ceased to be used for that purpose for more than three successive years, unless the failure or cessation of use is due to the unavailability of water, a justifiable inability to complete the works, or other good and sufficient cause, the ~~state engineer~~department of water resources shall set a place and time for a hearing. For purposes of this chapter, an incorporated municipality or a rural water system has good and sufficient cause excusing the failure to use a water permit, if the water permit reasonably may be necessary for the future water requirements of the municipality or the rural water system. Any permitholder using water from a common source of supply, any applicant for a permit to use water from a common source of supply, or any interested party may request the ~~state engineer~~department of water resources to conduct a hearing to cancel any unused water rights to the common source of supply. Any decision of the ~~state engineer~~department in denying a request for a hearing may be appealed in accordance with chapter 28-32. Prior to the hearings, the ~~state engineer~~department shall serve notice upon the permitholder and upon the owners of land benefited by the appropriation or works, except where the lands benefited are within the geographical boundaries of a city, in which case notice must be given to the governing body of the city, to show cause by a time and at a place why the water appropriation or a portion of the appropriation should not be canceled.

SECTION 98. AMENDMENT. Section 61-04-25 of the North Dakota Century Code is amended and reenacted as follows:

61-04-25. Cancellation of water rights - Hearing - Appeal.

At the hearing the recommended decision of the ~~state engineer~~department of water resources is prima facie evidence for cancellation of the water permit or portion of the permit. If no one appears at the hearing, the water permit or portion must be canceled. If interested parties appear and contest the cancellation, the ~~state engineer~~department shall hear the evidence and, if it appears that the water has not been put to a beneficial use, or, having been so used put to a beneficial use at one time, has ceased to be used for the purpose for more than three successive years, unless the failure or cessation of use is due to the unavailability of water, a justifiable inability to complete the works, or other good and sufficient cause, the permit, or a portion of the permit, must be canceled. For purposes of this chapter, an incorporated

municipality or a rural water system has good and sufficient cause excusing the failure to use a water permit, if the water permit reasonably may be necessary for the future water requirements of the municipality or the rural water system. An appeal may be taken from the decision of the state-engineerdepartment in accordance with chapter 28-32.

SECTION 99. AMENDMENT. Section 61-04-26 of the North Dakota Century Code is amended and reenacted as follows:

61-04-26. Recorder to record water permit or order affecting water right.

A water permit may be recorded as any other instrument affecting the title to real property without acknowledgment or further proof. The order canceling a water right, or portion of a water right must be filed by the state-engineerdepartment of water resources with the county recorder where the affected land is located; and ~~it shall be~~ recorded as any other instrument affecting the title to real property without acknowledgment or further proof. Any document filed under this section must be listed in the index of the property affected as provided in section 11-18-07.

SECTION 100. AMENDMENT. Section 61-04-27 of the North Dakota Century Code is amended and reenacted as follows:

61-04-27. Information filed with state-engineerdepartment of water resources - Installation of measuring devices.

By March thirty-first of each year, permitholders shall file with the state-engineerdepartment of water resources, on forms supplied by the state-engineerdepartment, water use and other information as the state-engineerdepartment requires. The state-engineerdepartment also may require permitholders to install measuring devices conforming to the state-engineer'sdepartment's specifications, at all points specified by the state-engineerdepartment.

SECTION 101. AMENDMENT. Section 61-04-28 of the North Dakota Century Code is amended and reenacted as follows:

61-04-28. Correction of application or water right by state-engineerdepartment of water resources.

Upon proof satisfactory to the state-engineerdepartment of water resources that a water permit application or water permit contains a nonmaterial error, the state-engineer-maydepartment, by written notice to the holder of the affected water permit or application, may correct the error without publication of notice.

SECTION 102. AMENDMENT. Section 61-04-29 of the North Dakota Century Code is amended and reenacted as follows:

61-04-29. Enforcement.

The state-engineerdepartment of water resources has full power and authority to institute, maintain, and prosecute to determination in an administrative proceeding or any of the courts of this state, or in any of the federal courts, any and all actions, suits, and special proceedings that may be necessary to enjoin unauthorized use of water, enforce an order of the state-engineerdepartment or the commission, or otherwise administer the provisions of this chapter. Notwithstanding any other provision of law, the state-engineerdepartment of water resources may issue administrative orders requiring the immediate cessation of water use when the state

~~engineerdepartment~~ has a reasonable belief the use is unauthorized or continued use will damage the rights of prior appropriators.

SECTION 103. AMENDMENT. Section 61-04-30 of the North Dakota Century Code is amended and reenacted as follows:

61-04-30. Penalty.

A person who constructs works for an appropriation, or diverts, impounds, withdraws, or uses a significant amount of water from any source without a permit specifically authorizing such action, except as otherwise provided in section 61-04-02; who violates an order of the ~~state engineerdepartment of water resources~~; who fails or refuses to install meters, gauges, or other measuring devices or to control works; who violates an order establishing corrective controls for an area or for a source of water; who violates the terms of the permit; or who knowingly makes a false or misleading statement in a declaration of existing rights is guilty of a class A misdemeanor. As used in this section, "significant amount of water" means any amount of water in excess of that allowed in a valid water permit, or any amount of water in excess of the needs for domestic and livestock purposes where no permit has been issued. The ~~state engineerdepartment of water resources~~ shall inform the tax commissioner of violations of industrial use permits.

SECTION 104. AMENDMENT. Section 61-04-31 of the North Dakota Century Code is amended and reenacted as follows:

61-04-31. Reservation of waters - Public hearing - Notice.

1. Whenever it appears necessary to the ~~state engineerdepartment of water resources~~, or when directed by the commission, the ~~state engineerdepartment~~ may ~~by regulation~~ reserve and set aside waters by regulation for beneficial use in the future.
 - a. Before the adoption of a regulation under this section, the ~~state engineerdepartment~~ shall conduct a public hearing in each county where waters relating to the regulation are located. At least seven days before the date set for the public hearing, a notice must be published in the official county newspapers within each of the counties.
 - b. Regulations adopted hereunder are subject to chapter 28-32.
2. When sufficient information or data is lacking to allow for sound decisionmaking on a water permit application, the ~~state engineerdepartment of water resources~~ may withdraw various waters of the state from additional appropriations until sufficient data or information is available. Water permit applications pending from these sources will be placed in a deferred status.

SECTION 105. AMENDMENT. Section 61-04.1-04 of the North Dakota Century Code is amended and reenacted as follows:

61-04.1-04. North Dakota atmospheric resource board created - Membership.

~~There is created a~~

1. The North Dakota atmospheric resource board which shall be is a division of the state water commission. The board is composed of the director of the state aeronautics commission, a representative of the department of environmental quality, the ~~state engineer~~director of the department of water

resources, and one additional board member from each of seven districts established by section 61-04.1-05. The governor shall initially appoint one board member for each of the seven districts from a list of three candidates given to the governor by weather modification authorities in each district and:

1. a. When the term of office of any board member from any district is about to expire.
2. b. When a vacancy has occurred, or is about to occur, in the term of office of a board member from any district for any reason other than expiration of term of office.
2. Beginning on July 1, 1983, the term of office for the board ~~shall~~must be arranged so that ~~not less~~no fewer than three nor more than four terms shall expire on the first day of July of each odd-numbered year. ~~Therefore, board members appointed on July 1, 1983, from districts II, IV, and VI shall serve for two-year terms, and board members appointed on July 1, 1983, from districts I, III, V, and VII shall serve for four-year terms. Thereafter, board~~Board members from each district shall serve for a four-year term of office except in the event the governor ~~shall appoint~~appoints a member for an unexpired term, in which case the member shall serve only for the unexpired portion of the term. ~~In the event~~If any district fails to furnish a list to the governor, or if there are no weather modification authorities under this chapter within a district, the governor shall appoint a board member of the governor's choice residing within ~~such~~the district.

SECTION 106. AMENDMENT. Subsection 3 of section 61-05-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Irrigable acres" or "irrigable lands" means those lands which can or will be served by the district's works, as determined by the ~~state engineer~~department of water resources before the district is organized, or as determined from time to time by the district's board of directors. Whenever land or acreage is described as being susceptible of irrigation or subject to assessment, it means the same as irrigable acres.

SECTION 107. AMENDMENT. Section 61-05-07 of the North Dakota Century Code is amended and reenacted as follows:

61-05-07. Petition for a proposed irrigation district - Where filed - Signed by whom - Contents.

A petition for a proposed irrigation district ~~shall~~must be filed with the ~~state engineer~~department of water resources and ~~shall be~~ signed by landowners of the proposed district who together ~~shall~~ own a majority of the whole number of acres [hectares] subject to assessment for construction or other costs within the district requesting the territory described in ~~such~~the petition be organized under the provisions of this chapter. ~~Such~~The territory ~~shall~~must be described and ~~shall be~~ included in ~~such~~the district, if established, by legal governmental subdivisions of forty acres [16.19 hectares] or more unless held in fractional lots or plotted units of lesser size, or unless portions ~~thereof~~of the territory are more readily susceptible to irrigation from works other than those of the proposed district. The proposed district may include lands ~~which~~that are not contiguous to any other lands in the proposed district. ~~Such~~The petition ~~shall set forth~~must include the name and address of each petitioner and a description of the petitioner's land, and ~~the petition shall have attached thereto~~

a map or maps showing the boundaries of the proposed district must be attached to the petition.

SECTION 108. AMENDMENT. Section 61-05-08 of the North Dakota Century Code is amended and reenacted as follows:

61-05-08. Petition accompanied by map - Contents - Scale.

The petition provided for in section 61-05-07 ~~shall~~must be accompanied by a map or maps of the proposed district. The map ~~shall~~must show the location of the proposed conveyance systems and other works ~~by means of which it is intended to be used to~~ irrigate the lands of the proposed district. If the water supply is from a natural stream, the flow of ~~such~~the stream ~~shall~~must be stated in cubic feet [meters] per second. If the water supply for the district is to be gathered by a storage reservoir or reservoirs, the map ~~shall~~must show the location ~~thereof~~of the storage reservoir and and ~~shall state their~~the reservoir's capacity in acre-feet. If the water supply is from a ground water source, the map must show the general location of wells and proposed pumping rates. Unless otherwise permitted by the ~~state engineer~~department of water resources, ~~such~~the map ~~shall~~must be drawn to a scale of not less than two inches [5.08 centimeters] to the mile [1.61 kilometers]. Preliminary designs of all proposed conveyance systems and other works ~~shall~~must be prepared in sufficient detail to show the contemplated method of construction, along with a feasibility report on the proposed plan of irrigation. The feasibility report must include an analysis of the soil and water compatibility of the irrigable lands of the proposed district. A registered professional engineer shall prepare the map, preliminary designs, and feasibility report required by this section.

SECTION 109. AMENDMENT. Section 61-05-09 of the North Dakota Century Code is amended and reenacted as follows:

61-05-09. Petition accompanied by bond - Approval of bond - Certified copy of petition filed.

Unless otherwise permitted by the ~~state engineer~~department of water resources, the petition ~~shall~~must be accompanied by a good and sufficient bond to be approved by the ~~state engineer, which shall~~department of water resources. The bond must be in double the amount of the probable cost of organizing ~~such~~the district; including the cost of the first election for the organization of the district ~~and shall. The bond also must~~ be conditioned that the sureties will pay all costs in case ~~said~~the organization ~~shall not be~~is not approved by the electors. Within ten days after the filing of ~~such~~the petition, and the approval of ~~such~~the bond, the ~~state engineer~~department of water resources shall file a copy of ~~such~~the petition with the county auditor of each county ~~wherein~~in which the proposed irrigation district is situated.

SECTION 110. AMENDMENT. Section 61-05-10 of the North Dakota Century Code is amended and reenacted as follows:

61-05-10. Hearing on petition - Notice - Report prepared by state engineer on feasibility - Copy of report filed - Submitted to electors.

The ~~state engineer~~department of water resources shall examine the petition, maps, papers, and data pertaining to the proposed irrigation district and shall fix a time and place for hearing ~~such~~the petition. A notice stating that ~~such~~the petition will be heard, and stating the time and place of hearing, ~~shall~~must be filed with the county auditor of each county ~~wherein~~in which the proposed district is located. The notice ~~shall~~must be published once each week for two consecutive weeks in the ~~newspaper or newspapers~~ of general circulation where the district is located and in

the official newspaper of each county in which the district is located. The date set for the hearing on the petition may not be less than twenty days after the first publication of the notice. ~~Prior to such~~Before the hearing the ~~state engineer~~department shall review the maps, preliminary designs, and feasibility study and shall prepare, or shall cause to be prepared, a summary report showing the probable cost of the proposed irrigation works and the practicability and feasibility of the plan of irrigation suggested or proposed by petitioners for the irrigation of the lands within ~~such~~the district. A copy of ~~such~~the report ~~shall~~must be filed with the county auditor of each county ~~wherein~~in which the proposed irrigation district is situated, and ~~such~~the report ~~shall~~must be open to public inspection. The ~~state engineer~~department of water resources also shall submit ~~such~~the report to the electors of the proposed district at the meeting set for hearing the petition for the organization ~~thereof~~of the proposed district.

SECTION 111. AMENDMENT. Section 61-05-11 of the North Dakota Century Code is amended and reenacted as follows:

61-05-11. Amendment of plan of irrigation - Adjournment of hearing by state engineerdepartment of water resources.

At the hearing provided in section 61-05-10, the ~~state engineer~~department of water resources may amend the plan of irrigation proposed in the petition provided in section 61-05-07. The ~~state engineer~~department may adjourn ~~such~~the hearing from time to time and may make ~~such~~ changes in the proposed boundaries of the district as the ~~state engineer~~department deems advantageous and advisable, but the boundaries of the district proposed in the petition for its organization ~~shall~~may not be enlarged or extended until the electors who own a majority of the acres [hectares] of land subject to assessments for construction or other costs to be included in the extension ~~having in writing consented thereto~~the enlargement or extension in writing.

SECTION 112. AMENDMENT. Section 61-05-12 of the North Dakota Century Code is amended and reenacted as follows:

61-05-12. State engineerDepartment of water resources may make order denying petition - Filing.

If the ~~state engineer~~department of water resources ~~determines~~determines the plan of irrigation proposed is not practicable or ~~that such plan is~~ not economically sound, the ~~state engineer~~department shall make an order denying the petition for the organization of an irrigation district and shall state the reasons for the action. A copy of ~~such~~the order ~~shall~~must be filed with the county auditor of each county in which the proposed irrigation district is situated.

SECTION 113. AMENDMENT. Section 61-05-13 of the North Dakota Century Code is amended and reenacted as follows:

61-05-13. State engineer - ~~to make order~~Order establishing irrigation district - Calling election - Dividing district - Contents of order.

1. If the ~~state engineer~~department of water resources determines that the establishment of the proposed irrigation district is advisable, and ~~that the~~ plan proposed for irrigating the lands ~~therein~~in the proposed district is practicable and economically sound, the ~~state engineer~~department shall make an order establishing the irrigation district, subject to the approval of the electors of the district at an election called by the ~~state engineer~~department for that purpose.

2. If the district embraces more than twenty thousand irrigable acres [8093.72 irrigable hectares] of land, the ~~state engineer~~department by the order shall divide the district into five or seven divisions or precincts as the ~~state engineer~~department determines necessary for the convenience of the electors of the district. The divisions or precincts must be numbered and as nearly equal in size as ~~may be deemed practicable, the divisions must be numbered, and one.~~ One director must be elected from, and by the electors of, each division. If an elector owns land in more than one division, the elector ~~must~~shall cast all the elector's votes for director and ~~be~~is eligible for election as a director in the division in which the majority of the elector's land subject to assessment lies.
3. The department's order must set forth:
 4. a. The time and place of holding the election.
 2. b. The boundaries of the district.
 3. c. That a petition sufficient in form and substance was filed with the ~~state engineer~~department of water resources.
 4. d. That due and reasonable notice of time and place of hearing on petition was given to the qualified electors of the proposed irrigation district.
4. A copy of the order must be filed with the county auditor of each county in which the irrigation district is situated. The order is prima facie evidence of the matter and facts therein stated.

SECTION 114. AMENDMENT. Section 61-05-14 of the North Dakota Century Code is amended and reenacted as follows:

61-05-14. Notice of election by ~~state engineer~~ - Contents - Publication.

Upon making an order establishing an irrigation district, the ~~state engineer~~department of water resources shall give notice of an election to be held in ~~such~~the district for the purpose of determining whether or not to determine whether the electors of the district approve the establishment and organization thereof as an ~~of~~the irrigation district. The notice ~~shall~~must state that an elector desiring to be a candidate for the office of district director shall file the elector's name with the ~~state engineer~~department of water resources not less than twenty days before ~~such~~the election. The notice ~~shall~~must carry a reference to the map or maps previously filed with the county auditor describing the boundaries of the lands included in the district as established by the ~~state engineer~~department and shall designate a name for ~~such~~the district. The notice ~~shall~~must be filed with the county auditor of each county in which the proposed district is situated and shall be published once each week for two consecutive weeks in the ~~newspaper or newspapers~~ of general circulation where the district is located and in the official newspaper of each county in which the district is located. The date set for the election ~~shall~~must be not less than twenty-five, nor more than thirty-five, days after the first publication of the notice.

SECTION 115. AMENDMENT. Section 61-05-15 of the North Dakota Century Code is amended and reenacted as follows:

61-05-15. Form of notice of election.

The notice of election provided for in section 61-05-14 must be substantially in the following form:

NOTICE OF ELECTION

Notice is given that on _____, _____, an election will be held for the purpose of submitting to the electors within the territory established and described by the order of the ~~state engineer~~department of water resources as _____ irrigation district, the question as to whether the order of the ~~state engineer~~department of water resources establishing the irrigation district is approved. Notice is given that the lands of the district are fully described fully in the order of the ~~state engineer~~department of water resources establishing the district and filed in the ~~state engineer's department's~~ office in Bismarck, North Dakota, and in the office of the county auditor of _____ County, North Dakota. The ballot must be in the following form:

FOR IRRIGATION DISTRICT

Yes ☐

No ☐

Notice is further given that a board consisting of _____ directors will be elected, one from each district division, ~~who will~~to serve as provided by law after the establishment of the district is approved. Polls will be open from one p.m. to seven p.m. Notice is further given that any elector desiring to be a candidate for the office of district director and to have the elector's name appear on the ballot ~~must~~shall file the elector's request in writing with the ~~state engineer~~department of water resources not less than twenty days before the election.

Dated _____, _____.

Signed _____

~~State Engineer~~Director of the Department of Water Resources

SECTION 116. AMENDMENT. Section 61-05-16 of the North Dakota Century Code is amended and reenacted as follows:

61-05-16. ~~State engineer~~Department of water resources to appoint clerk and two judges of election - Filling vacancies on board.

Prior to the holding of an election upon the question of establishing and organizing an irrigation district, the ~~state engineer~~department of water resources shall appoint from the electors of the district one clerk and two judges ~~who shall~~to constitute a board of election for ~~such~~the district. If the district is divided into divisions or precincts, ~~such~~the board of election ~~shall~~must be appointed from the electors of each ~~such~~ division and shall serve as a board of election ~~therein~~for the district. If the members appointed do not attend at the opening of the polls on the day of election, the electors present at that hour may choose the members of the election board or fill the place of an absent member ~~thereof~~of the election board.

SECTION 117. AMENDMENT. Section 61-05-17 of the North Dakota Century Code is amended and reenacted as follows:

61-05-17. Conduct of election - Votes canvassed by board and state engineer department of water resources - Retaining ballots.

An election upon the question of organizing an irrigation district ~~shall~~must be conducted in accordance with the general election laws of the state. After the polls are closed, the election board shall proceed to canvass the votes cast thereat, and the clerk of the election board shall certify to the ~~state engineer department of water resources~~ the result of ~~such~~the election. The clerk of the board then shall wrap securely the ballots cast at ~~such~~the election and shall express or mail the ~~same~~secured ballots by registered or certified mail to the ~~state engineer~~state engineer department, ~~which~~ also shall canvass the ballots and verify the result. The ~~state engineer department~~ shall file and retain in the ~~state engineer's department's~~ office the ballots cast at ~~such~~the election.

SECTION 118. AMENDMENT. Section 61-05-18 of the North Dakota Century Code is amended and reenacted as follows:

61-05-18. Election governing organization of district - Filing record of election - Certificates of election to directors.

If, upon a canvass of the votes cast and after ~~such~~After the canvass of ~~votes~~ has been verified by the ~~state engineer~~it appears that department of water resources, if a majority of all votes cast are in favor of the organization of an irrigation district, the ~~state engineer department~~, by an order, shall declare ~~such~~the territory duly organized as an irrigation district under the name and style designated and shall declare the persons receiving the highest number of votes duly elected as directors. The ~~state engineer department~~ shall cause a certified copy of ~~such~~the order, ~~duly certified~~, to be filed immediately for record in the office of the recorder of each county in which any portion of the irrigation district is situated and also shall file a copy of ~~such~~the order with the county auditor of each ~~such~~ county, and from and after the date of ~~such~~ filing, ~~the organization of such district shall be complete~~county in which any portion of the district is situated. The organization of the district is complete upon the filings required in this section. The ~~state engineer department of water resources~~ immediately shall make out and mail, by registered or certified mail, to each person elected to the office of director a certificate of election signed by the ~~state engineer~~. ~~The directors thereupon shall enter upon the duties of their office~~director of the department, and the directors shall take office upon receipt of the certification.

SECTION 119. AMENDMENT. Section 61-05-19 of the North Dakota Century Code is amended and reenacted as follows:

61-05-19. ~~State engineer~~Department of water resources to file order with secretary of state - Secretary of state to make certificate - Evidence.

The ~~state engineer department of water resources~~ shall file in the office of the secretary of state a certified copy, ~~duly certified by the state engineer, of the state engineer's department's~~ order declaring any territory to be duly organized as an irrigation district, and the secretary of state shall make and issue to the ~~state engineer department~~ a certificate under the seal of the state, of the due organization of ~~such~~the district and The secretary of state also shall file in the secretary's office a copy of such the secretary's certificate and the said order of the state engineer department. Such ~~The~~ certificate of the secretary of state, or a copy thereof ~~of the certificate~~, authenticated by the secretary of state, ~~shall be~~is prima facie evidence of the organization and existence of ~~such~~the irrigation district.

SECTION 120. AMENDMENT. Section 61-05-20 of the North Dakota Century Code is amended and reenacted as follows:

61-05-20. Appeal to district court from orders and decisions of the state engineer department of water resources - Time - Undertaking.

An appeal may be taken to the district court from any order or decision of the ~~state engineer department of water resources~~ by any person who is aggrieved ~~thereby by the order or decision~~, at any time within thirty days after the order or decision appealed from has been filed with the county auditor of the county in which the appeal is taken. ~~Such appeal shall~~ The appeal must be taken by serving notice of appeal on the ~~state engineer director of the department of water resources~~ and by filing the notice of appeal, proof of service ~~thereof the notice~~, and the undertaking required in this section with the clerk of the district court of the county in which the appeal is taken. To effect an appeal an undertaking must be executed by the appellant and sufficient surety conditioned that the appellant will prosecute ~~such the~~ appeal without delay and will pay all costs adjudged against the appellant in the district court. ~~Such the~~ undertaking shall must be made in favor of the ~~state engineer department of water resources~~ as obligee and may be enforced by the ~~state engineer department~~. The appeal ~~shall must~~ be taken to the district court of the county in which the land claimed to be affected adversely by the order or decision appealed from is situated ~~and if such~~. If the land is situated in more than one county, ~~such the~~ appeal may be taken to the district court of any county in which any part of ~~such the~~ land is situated. Any appeal ~~thus taken shall taken~~ under this section must be docketed in the district court as any civil cause commenced in the district court is docketed ~~and thereupon the~~. The district court has and shall have and exercise original jurisdiction in ~~such cause the appeal~~ and shall hear and ~~determine the same rule on the case~~, without a jury, in ~~like the same~~ manner as a civil cause originally commenced in that court. The court may require and fix the time for the service and filing of formal pleadings ~~and fix the time therefor~~. Appeals to the supreme court may be taken by the ~~state engineer department of water resources~~ or any other party to the cause from any judgment entered in the district court ~~in any such cause~~, and from any order of ~~said the~~ court if an appeal would lie from ~~such an the~~ order if the ~~same order~~ were entered by the court in any other civil action.

SECTION 121. AMENDMENT. Section 61-06-01 of the North Dakota Century Code is amended and reenacted as follows:

61-06-01. Board of directors of irrigation district - Terms - Vacancies.

If an irrigation district contains less than twenty thousand irrigable acres [8093.72 irrigable hectares] of land and is not divided into precincts or divisions, the board of directors consists of five directors who must be residents of the state and electors of the district and must be elected at large. Two directors elected at the election for the organization of the district serve until the first Tuesday in April following the first regular district election, and three serve until the first Tuesday in April following the second regular election.

If an irrigation district contains twenty thousand irrigable acres [8093.72 irrigable hectares] or more, it must be divided into five or seven divisions or precincts, as the case may be, and one director must be elected from and by the electors of each division or precinct.

If an irrigation district contains twenty thousand irrigable acres [8093.72 irrigable hectares] or more and is divided into five divisions or precincts, the board of directors of the irrigation district consists of five directors. Two directors elected at the election for the organization of the district serve until the first Tuesday in April following the first regular district election, and three directors serve until the first Tuesday in April following the second regular district election.

If an irrigation district contains twenty thousand irrigable acres [8093.72 irrigable hectares] or more and is divided into seven divisions or precincts, the board of directors of the irrigation district consists of seven directors. Three directors elected at the election for the organization of the district serve until the first Tuesday in April following the first regular district election, and four directors serve until the first Tuesday in April following the second regular district election.

The terms of office of the directors elected at the first election for the organization of the district must be determined by lot at their first meeting. Directors elected at subsequent elections serve for four years and until their successors are duly elected and qualified. In case the office of any director becomes vacant, the remaining members of the board shall fill the vacancy by appointment. A director appointed to fill a vacancy serves the unexpired term of the director whose office that director has been appointed to fill. If vacancies occur in the offices of a majority of the directors of an irrigation district, the remaining members and the ~~state engineer~~director of the department of water resources shall fill the vacancies; and if the offices of all the directors become vacant, the ~~state engineer~~director of the department of water resources shall appoint the members of the board ~~and they who shall~~ serve until the next regular election of the district. ~~Their~~The successors ~~in office must then of the appointed directors must~~ be elected to serve the unexpired term of the directors whose offices became vacant. The unexpired term of office that each director ~~thus~~ elected ~~in this manner~~ fills must be determined by lot.

SECTION 122. AMENDMENT. Section 61-06-03 of the North Dakota Century Code is amended and reenacted as follows:

61-06-03. Oath and bond of boards of directors - Filing.

After receiving a certificate of election each director shall take the oath prescribed for civil officers, and shall be bonded in the sum of one thousand dollars. ~~Such~~The oath of office and bond ~~shall~~must be filed in the office of the ~~state engineer~~department of water resources.

SECTION 123. AMENDMENT. Section 61-06-04 of the North Dakota Century Code is amended and reenacted as follows:

61-06-04. Meeting of directors - Organization - Officers - Quorum - Term of officers.

The directors elected at the first election in an irrigation district shall meet at the time and place designated by the ~~state engineer~~department of water resources and shall organize by selecting one of their members as chairman of the board. A temporary secretary ~~shall~~must be designated until a permanent secretary of the board has been appointed. After the organization of the board, a majority of the directors ~~shall constitute~~constitutes a quorum for the transaction of such business ~~as may come before~~ of the board. The board shall appoint ~~and fix the compensation of~~ a secretary, a treasurer, and an assessor of the district and ~~such other officers or employees as the board shall deem~~deems necessary for the efficient conduct of the district's business ~~and shall fix their compensation~~. Officers and employees appointed by the board shall hold office ~~during~~at the pleasure of the board. The office of secretary, assessor, and treasurer may be held by the same person. Each succeeding board of directors shall choose or appoint its officers as ~~herein provided in this section~~.

SECTION 124. AMENDMENT. Section 61-06-05 of the North Dakota Century Code is amended and reenacted as follows:

61-06-05. Official bonds of assessor, district treasurer, and other employees - Approval and filing of bonds.

The assessor ~~shall~~must be bonded in the amount of five hundred dollars, and the district treasurer ~~shall~~must be bonded in an amount not less than double the amount of money that may come into the treasurer's hands, the amount to be determined by the board of directors; but ~~such bond shall not be less than one thousand dollars.~~ Other employees and ~~appointive~~appointed officers ~~shall~~must be bonded in such amounts ~~as prescribed by the board may prescribe.~~ The official bonds of the assessor, treasurer, and other officers and employees ~~shall~~must be approved by the board. ~~Such bonds shall be and filed in the office of the state engineer~~department of water resources.

SECTION 125. AMENDMENT. Section 61-06-19 of the North Dakota Century Code is amended and reenacted as follows:

61-06-19. Secretary of board of directors to declare result of election - Contents.

1. The secretary of the board of directors, as soon as the result of the election is declared, ~~shall enter upon the records of the board a statement of such result which shall show~~record the election results including:
 1. a. The whole number of votes cast in the district.
 2. b. The names of the persons ~~voted for~~who received votes.
 3. c. Each question voted upon.
 4. d. The number of votes cast for each person ~~and the~~.
 - e. The number of votes cast for and against each question ~~voted upon at the election.~~
2. A copy of ~~such~~the statement ~~shall of election results must~~be recorded in a permanent record of the board to be kept for that purpose. ~~Such~~The statement ~~shall~~must be signed by the secretary of the board and authenticated by the seal of the district. A copy of ~~such~~the signed and authenticated statement ~~thus signed and authenticated shall~~must be filed with the county auditor of each county ~~wherein in which~~the irrigation district is situated, and ~~a like copy shall~~another copy must be mailed to the ~~state engineer~~department of water resources.

SECTION 126. AMENDMENT. Section 61-07-08 of the North Dakota Century Code is amended and reenacted as follows:

61-07-08. Surveys, examinations, and plans made to determine cost of construction in district - ~~State engineer~~Department of water resources to prepare report.

~~For the purpose of ascertaining~~To ascertain the cost of any irrigation construction work in a district, the board shall ~~cause~~cause such surveys, examinations, and plans to be made as may demonstrate the practicability of the plan and furnish the proper basis for an estimate of the cost of carrying out the plan. All surveys, examinations, maps, plans, and estimates must be made under the direction of a registered professional engineer, who may be ~~the state engineer~~an employee of the department of water

resources, and must be certified by the registered professional engineer. The board shall submit a copy to the ~~state engineer~~ department of water resources, which shall prepare a summary report and file the report with the board. The report must contain such matters as in the judgment of the ~~state engineer~~ department are desirable ~~the matter required by the department~~. Upon receiving the report, the board of directors shall determine the amount of money required to be raised.

SECTION 127. AMENDMENT. Section 61-07-19 of the North Dakota Century Code is amended and reenacted as follows:

61-07-19. Petition for specific orders or changes in canals or other conveyance systems - Methods.

Upon the filing of a petition in the office of the board of any irrigation district, signed by electors who own a majority of the total number of acres [hectares] subject to assessment for construction or other costs; ~~and requesting that rules be adopted by the board~~ adopt rules permitting and providing for any of the following specific orders or changes in the method of operating its canal, pipeline, or other conveyance system, ~~such~~ the board immediately shall provide for the adoption and enforcement of the ~~same~~ rules:

1. That a measuring device of a type approved by the ~~state engineer~~ department of water resources be placed in or near the headgate of any main diverting gate of the main canal, or in any pipeline, or other main conveyance system in order ~~that so the district will keep a continuous record shall be kept by such district of the amount of water received into the canal or pipeline for the use of the lands in such~~ the district.
2. That a measuring device of a type approved by the ~~state engineer~~ department of water resources be placed in the headgates or valves of all main laterals and distributing laterals within the district from and by which water is diverted to tracts or units of twenty acres [8.09 hectares]; or more, for the purpose of determining at all times the amount of water going to or being received upon ~~any and all such~~ the tracts of land, and that it ~~be made the duty of the district to~~ shall keep a separate and correct record of the amount of water delivered through each of ~~such~~ the headgates and valves at all times; and ~~to file the same~~ the record in the office of the board for public inspection.

SECTION 128. AMENDMENT. Section 61-07-27 of the North Dakota Century Code is amended and reenacted as follows:

61-07-27. Conclusion of hearing - Findings - Decree - Costs of hearing - Filing copies of findings.

Upon the conclusion of the hearing provided for in section 61-07-24, the court shall determine the legality and validity of the proceedings had for the issuance of bonds or improvement warrants, the making of any contract, or the levying of any assessments, as the case may be, and shall determine the validity and legality of any other matter properly before the court. The court shall prepare its findings of fact and conclusions of law, and ~~shall any necessary order that the decree of the court be entered in conformity therewith. The court may apportion the costs of the proceeding; in the discretion of the court, may be allowed and apportioned between to the parties thereto. The secretary of the board of directors of the district shall file with the state engineer~~ department of water resources a certified copy of the court's findings of fact, conclusions of law, and order; ~~and decree.~~

SECTION 129. AMENDMENT. Section 61-09-02 of the North Dakota Century Code is amended and reenacted as follows:

61-09-02. District assessor to make list or prepare map to show apportionment of assessments - Filing.

The assessor shall make, or cause to be made, a list showing the apportionment or distribution of assessments, ~~and containing with~~ with a description of each unit or tract of land assessed in the district, and the name of the record owner thereof, ~~or of each unit or tract. Alternatively,~~ the assessor may prepare a map on a convenient scale showing each unit or tract of land with the amount per acre [.40 hectare] apportioned ~~thereto to the unit or tract. Such~~ Where practicable, the units of land shall, ~~wherever practicable, must~~ must consist of governmental subdivisions of forty acres [16.19 hectares] or more. If all lands on ~~such~~ the statement or map are assessed at the same amount or rate per acre [.40 hectare], a general statement to that effect ~~shall be~~ is sufficient. A copy of ~~such~~ the list or map ~~shall~~ must be filed in the office of the county auditor of each county in which the district is situated, ~~one copy shall be filed in the office of the state engineer, and one copy shall remain and another copy must be filed in the department of water resources. One copy must remain~~ in the office of the board for public inspection.

SECTION 130. AMENDMENT. Section 61-10-27 of the North Dakota Century Code is amended and reenacted as follows:

61-10-27. Board may include lands in district.

If the board of directors deems it ~~not for the best interest of the district that a change in its district boundaries be made so as to include any of the lands mentioned in the petition, or any part thereof, it is not in the best interests of the district, the board~~ shall reject the petition. If it deems it for the board deems the change is in the best interest of the district, the board shall grant the petition in whole or in part and by resolution direct the chairman and the secretary of the board to issue its an order, including all or any part of the lands mentioned in the petition in the district, unless electors who together own at least ten percent of the whole number of acres [hectares] in the district subject to assessment for irrigation costs object in writing at or before the time of hearing to the inclusion of such the lands. When lands are included in a district, the order of the board of directors allowing inclusion shall must be filed with the ~~state engineer~~ department of water resources and with the county auditor of each county in which ~~such the~~ the lands are situated and ~~shall~~ shall. The order also must be filed and recorded in the office of the recorder of each such county.

SECTION 131. AMENDMENT. Section 61-10-30 of the North Dakota Century Code is amended and reenacted as follows:

61-10-30. Result of election - Duty of the board and secretary.

If a majority of the votes cast at the election ~~shall be~~ are against the inclusion of the land described in the resolution of the board of directors, the board shall deny the petition and ~~shall may not~~ shall not proceed no further in the matter. If, ~~however,~~ a majority of the votes cast at the election ~~shall be~~ are in favor of including ~~such the~~ the lands in the district, the board shall issue its order setting forth the filing of the petition, the action of the board ~~thereon on the petition, and~~ on the petition, and the result of the election, and shall order ~~such the~~ the lands added to the district. The order ~~shall must~~ must describe the lands to be included in the district. A certified copy of the order of the board ~~shall must~~ must be filed with the ~~state engineer~~ department of water resources and the county auditor of each county in which the included lands lie. A certified copy of ~~such the~~ the order ~~shall~~ shall also must be filed and recorded in the office of the recorder in each such county.

SECTION 132. AMENDMENT. Section 61-10-35 of the North Dakota Century Code is amended and reenacted as follows:

61-10-35. Outstanding bonds or improvement warrants or contractual obligations - Order excluding lands - Assent.

If the holders of outstanding bonds or improvement warrants, or of contracts obligating the district, consent in writing to exclusion of lands mentioned in the petition, the board of directors may by resolution direct the chairman and the secretary of the board to execute ~~its~~the board's order excluding ~~such~~the lands from the district. The assent in writing of holders of district bonds or improvement warrants, or of anyone interested in a contract obligating the district, ~~shall~~must be filed with the secretary of the district and ~~shall be~~ copied in the minutes of the board, and ~~such~~the minutes or a certified copy ~~thereof shall be~~of the minutes are admissible in evidence with the same effect as the written assent. If ~~such~~ assent is not given, the board shall deny and dismiss the petition. When lands are excluded from the district, a certified copy of the order of the board ~~shall~~must be filed in the ~~offices of the state engineer~~department of water resources and the county auditor of each county in which the excluded lands are situated and filed and recorded in the office of the recorder of each ~~such county~~of those counties.

SECTION 133. AMENDMENT. Section 61-10-37 of the North Dakota Century Code is amended and reenacted as follows:

61-10-37. Result of election - Order excluding lands.

If at an election for exclusion of lands from an irrigation district, a majority of the votes cast ~~shall be~~are against exclusion, the board shall dismiss the petition and ~~may not proceed no further in the matter, but if~~. If a majority of ~~such~~the votes ~~shall be~~are in favor of excluding ~~such~~the lands from the district, the board shall issue its order setting forth the filing of the petition, the action of the board ~~thereon~~on the petition, and the result of the election, and shall order ~~such~~the lands excluded from the district. A certified copy of ~~such~~the order ~~shall~~must be filed in the ~~offices of the state engineer~~department of water resources and the county auditor of each county in which the excluded lands lie and ~~shall~~must be filed and recorded in the office of the recorder of each such county.

SECTION 134. AMENDMENT. Section 61-11-04 of the North Dakota Century Code is amended and reenacted as follows:

61-11-04. Conduct of election - Canvassing and reporting result of election.

An election on the question of dissolution in all respects ~~shall~~must be conducted, and the votes ~~therefrom~~ canvassed, in the same manner as provided for a regular election of the district. A certified copy of the statement of the election result by the district's board of directors and all ballots, lists, tally sheets, and other documents pertaining to the election ~~shall~~must be forwarded to the ~~state engineer~~department of water resources by registered or certified mail or express.

SECTION 135. AMENDMENT. Section 61-11-08 of the North Dakota Century Code is amended and reenacted as follows:

61-11-08. Sale of district property authorized - Appraisers appointed - Oath - Compensation.

If a majority of the votes cast at an election for dissolution of a district favor dissolution and sale, the irrigation works, franchises, and other property of the district

may be sold at not less than a valuation to be determined by a board of three appraisers. One member of ~~such~~the board of appraisers ~~shall~~must be appointed by the board of directors of the district, one ~~shall~~must be appointed by the ~~state engineer~~director of the department of water resources, and the two ~~appointed~~ appraisers ~~thus selected~~ shall choose the third appraiser. The board of appraisers ~~shall~~must be sworn by an officer who is authorized to administer oaths and who has an official seal. ~~Such~~The board shall appraise the irrigation works, franchises, and all other property of the district at ~~its~~their cash value, and ~~to determine such value~~, with the consent of the board of directors of the district, may employ engineers, accountants, and ~~such other~~ expert assistance as ~~may be necessary~~. The ~~board of directors shall fix the~~ compensation of ~~such~~the appraisers, engineers, accountants, and others shall be fixed by the board of directors.

SECTION 136. AMENDMENT. Section 61-11-09 of the North Dakota Century Code is amended and reenacted as follows:

61-11-09. Appraisal of property by appraisers - Report to board - Advertising property for sale - Opening of bids.

The board of appraisers shall appraise all of the property of the district and shall make a report of ~~its appraisal~~the appraisal to the board of directors. A copy of ~~such~~the report shall ~~must~~ be filed by the secretary of the district with the ~~state engineer~~department of water resources. The board of directors shall advertise for sale all of the property of the district and shall publish a notice once each week for two consecutive weeks specifying that sealed bids will be received, opened, and considered by the board at the time and place specified in ~~such~~the notice, and ~~setting forth a description of~~describing the property. At the time and place designated in ~~such~~the notice, or as soon ~~thereafter~~after the time as the board can meet, ~~it~~the board shall open and consider all bids received for the purchase of the property, and ~~it~~the board may reject ~~any and all~~ bids which do not, in the judgment of the board, offer a fair and just consideration.

SECTION 137. AMENDMENT. Section 61-11-15 of the North Dakota Century Code is amended and reenacted as follows:

61-11-15. Report of dissolution when - Where filed - Contents - Recording of in office of recorder.

After all the property of an irrigation district ~~shall have been~~is disposed of upon dissolution and all the obligations ~~thereof shall have been~~of the district are paid, the directors of ~~such~~the district shall file in the office of the county auditor of each county in which ~~such~~the district is situated, and in the office of the ~~state engineer~~department of water resources, a report signed by the chairman of the board and attested by the secretary, and bearing the seal of the district, stating ~~that the district has disposed of its property and franchises, that all of the obligations of the district have been paid fully paid, and that the district has been disorganized and dissolved.~~ ~~Such~~The report shall ~~must~~ be recorded in the miscellaneous records of the recorder in each of the counties in which the district is located, and from and after ~~such~~the filing and recording, ~~such~~the irrigation district shall ~~be~~is deemed to be dissolved.

SECTION 138. AMENDMENT. Section 61-12-46 of the North Dakota Century Code is amended and reenacted as follows:

61-12-46. ~~State engineer~~Department of water resources to assist county board of flood irrigation.

The ~~state engineer department~~ of water resources, upon the request of the board of flood irrigation of any county in this state, shall assist ~~said~~ the board in determining whether or not the construction of any proposed dams, gates, and necessary ditches and canals for the purpose of controlling, regulating, and forcing the overflow of water in non-navigable rivers or streams within this state would be conducive to the public health, convenience, or welfare.

SECTION 139. AMENDMENT. Section 61-14-01 of the North Dakota Century Code is amended and reenacted as follows:

61-14-01. Units of measurement.

The standard of measurement for the flow and volume of water shall be established by rule by the ~~state engineer department of water resources~~.

SECTION 140. AMENDMENT. Section 61-14-03 of the North Dakota Century Code is amended and reenacted as follows:

61-14-03. Amount of water for irrigation.

~~In the issuance of~~When issuing a permit to appropriate water for irrigation or in the adjudication of ~~adjudicating~~ the rights to the use of water for such purpose, the amount of water allowed by the state engineer shall not be in excess of ~~use water for irrigation, the department of water resources may not allow more than~~ two acre-feet [2466.96 cubic meters] of water per acre [.40 hectare] per year, or the equivalent thereof, ~~to be delivered on the land, except that during periods of sufficient water supply the state engineer department may allow up to three acre-feet per acre [3700.45 cubic meters per .40 hectare] per irrigation season to be delivered on the land for a specified period of time,~~ in accordance with the method of irrigation being used, the type of soil to which the water is to be applied, and other criteria established by the state engineer, ~~may increase the amount of water allowed to three acre-feet per acre [3700.45 cubic meters per .40 hectare], per irrigation season, for a specified period of time which in no event shall be of greater duration than the period of sufficient water supply. Notwithstanding any other provision of this section, the state engineer may not allow more of an amount of water than can be beneficially used~~department. ~~The department may not allow more water to be delivered on the land than can be used beneficially.~~

SECTION 141. AMENDMENT. Section 61-14-06 of the North Dakota Century Code is amended and reenacted as follows:

61-14-06. Measuring devices - Unlawful to take water without using.

Every ditch owner shall construct and maintain a substantial headgate at the point where the water is diverted and shall construct a measuring device, of a design approved by the ~~state engineer department of water resources~~, at the most practicable point or points for measuring and apportioning the water as determined by the ~~state engineer department~~. The ~~state engineer department~~ may order the construction of ~~such~~the measuring device by the ditch owner, and if construction is not completed within twenty days ~~thereafter~~after receipt of the order, the person in charge of the irrigation works, upon instructions from the ~~state engineer department~~, shall refuse to deliver water to ~~such~~the ditch owner. The ~~taking of water by such ditch owner may not take water from the irrigation works~~ until the ~~construction of such~~measuring device and the approval thereof by the state engineer ~~shall be unlawful~~is constructed and the department approves the device. ~~Such~~Measuring devices shall be ~~so must be arranged that~~so they can be locked in place, and when locked by the person in charge of the irrigation works or that person's authorized agent, for the measurement

or apportionment of water, ~~it shall be unlawful to other persons may not interfere with, disturb, or change the same, and the devices. The use of water through such a measuring device after having been that was interfered with, disturbed, or changed shall be constitutes prima facie evidence of the guilt of the person benefited by such the interference, disturbance, or change violated this section.~~

SECTION 142. AMENDMENT. Section 61-14-07 of the North Dakota Century Code is amended and reenacted as follows:

61-14-07. Unlawful interference with rights to use of water - Penalty.

Any person interfering with or injuring or destroying any headgate, weir, benchmark, well, or other appliance or works for the appropriation, diversion, storage, apportionment, or measurement of water, or for any hydrographic or hydrologic surveys, ~~or who shall interfere interfering with any person engaged in the discharge of duties connected therewith with a headgate, weir, benchmark, well, or other appliance or works for those purposes, shall be is guilty of a class A misdemeanor; and also shall be liable for the injury or damage resulting from such the unlawful act. The state engineer department of water resources and the person in charge of an irrigation work, and their authorized assistants and agents, may enter upon private property for the performance of their respective duties, but shall do no unnecessary injury thereto may not damage the property unnecessarily.~~

SECTION 143. AMENDMENT. Section 61-14-13 of the North Dakota Century Code is amended and reenacted as follows:

61-14-13. Seepage water.

~~In the case of seepage water from any constructed works, any party desiring to use the same shall make application to the state engineer, as in the case of unappropriated water, and such party shall~~ A person wishing to use seepage water from a constructed works shall apply to the department of water resources for the use in the same manner as applying for a permit to use unappropriated water and shall pay to the owner of such the works a reasonable charge for the storage or carriage of such the water in such the works, if the appearance of such the seepage water can be traced beyond reasonable doubt to the storage or carriage of water in such the works. The state engineer shall department of water resources may not issue a permit to appropriate such the seepage waters until any agreement for the payment of such charges shall have been entered into by the said parties reasonable charges required by this section is executed.

SECTION 144. AMENDMENT. Section 61-15-03 of the North Dakota Century Code is amended and reenacted as follows:

61-15-03. Water and wildlife conservation projects - Supervision.

The authority, control, and supervision of all water and wildlife conservation projects and wildlife reservations ~~shall be is vested in the state engineer department of water resources. The state engineer department may accept cooperation, aid, and assistance from the United States of America, its instrumentalities or agencies, in the construction, maintenance, and operation of any structure for the purposes set forth in this chapter, and may do any act necessary to make such aid, assistance, and cooperation from the federal government available, and shall have the right to. The department may grant such easements to the United States of America, its instrumentalities or agencies, as may be required.~~

SECTION 145. AMENDMENT. Section 61-15-09 of the North Dakota Century Code is amended and reenacted as follows:

61-15-09. Conservation of lakes and streams of Turtle Mountain region.

~~The state engineer of this state~~department of water resources shall take ~~such any necessary~~ action ~~as may be necessary~~ to conserve the water levels and rehabilitate the streams and brooks in the Turtle Mountain region of North Dakota lying in Bottineau and Rolette Counties, ~~and shall do any act necessary to bring about such rehabilitation of streams, lakes, and brooks.~~

SECTION 146. AMENDMENT. Section 61-16-06.1 of the North Dakota Century Code is amended and reenacted as follows:

61-16-06.1. Consolidation of water resource districts.

1. Any two or more water resource districts may be consolidated into a single district, or existing districts may be adjusted to reflect watershed boundaries, as determined by the ~~state engineer~~department of water resources, by filing with the state water commission a petition signed by:
 - a. ~~A~~ a majority of the members of the board of each of the districts; or
 - b. ~~Fifty~~ fifty percent or more of the landowners within each of the districts.

When the petition is filed by the district boards, it must be accompanied by a certified copy of the resolution of the governing boards authorizing the signing of the petition. The petition must contain a detailed plan for the disposition of the property, assets, and liabilities of each of the districts. This plan must be as equitable as practicable to every landowner within the districts and must fully protect creditors and the holders of improvement warrants of the petitioning districts. The plan may provide for a continuance of assessments upon properties in the petitioning districts to retire outstanding obligations, or for the assumption of outstanding obligations and the spreading of assessments for the payment ~~thereof of the outstanding obligations~~ over properties in the newly created district. ~~No petition may be approved by the~~The state water commission may not approve the petition unless it~~the~~ petition fully meets the requirements of this section.

2. The state water commission shall fix a time and place for a public hearing on a petition filed under this section at a site convenient and accessible for a majority of the affected individuals. At least fifteen days prior to the date of hearing, the commission shall publish notice of the hearing in at least one newspaper of general circulation in each of the districts being consolidated or adjusted. Additional notice of the hearing may be given in a manner prescribed by the state water commission.
3. Prior to the hearing, the ~~state engineer~~department of water resources shall make, or cause to be made, an investigation of the need for consolidation of the petitioning districts and shall submit a report of the findings to the state water commission. This report must be presented at the petition hearing. If the state water commission finds it is not feasible, desirable, or practical to consolidate the petitioning districts, ~~it~~the commission shall deny the petition and state the reasons for denial. ~~If, however,~~ the state water commission finds that problems of flood control, watershed development or improvement, drainage, water supply, or other reasons make consolidation or boundary

adjustment and establishment of the proposed water resource district desirable, ~~if the commission~~ shall grant the petition and create the district. Upon creation of the new water resource district, the state water commission shall dissolve the included districts or make necessary boundary adjustments to existing districts.

SECTION 147. AMENDMENT. Subsection 1 of section 61-16.1-09.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A water resource board may undertake the snagging, clearing, and maintaining of natural watercourses and the debris removal of bridges and low-water crossings. The board may finance the project in whole or in part with funds raised through the collection of a special assessment levied against the land and premises benefited by the project. The benefits of a project must be determined in the manner provided in section 61-16.1-17. Revenue from an assessment under this section may not be used for construction of a drain or reconstruction or maintenance of an existing assessment drain. Any question as to whether the board is maintaining a natural watercourse or is constructing a drain or reconstructing or maintaining an existing assessment drain must be ~~determined~~resolved by the ~~state engineer~~department of water resources. All provisions of this chapter apply to assessments levied under this section except:
 - a. An assessment may not exceed fifty cents per acre [.40 hectare] annually on agricultural lands and may not exceed fifty cents annually for each five hundred dollars of taxable valuation of nonagricultural property; and
 - b. If the assessment is for a project costing less than one hundred thousand dollars, no action is required for the establishment of the assessment district or the assessments except the board must approve the project and assessment by a vote of two-thirds of the members and the board of county commissioners of the county in which the project is located must approve and levy the assessments to be made by a vote of two-thirds of its members.
 - (1) If a board that undertakes a project finds that the project will benefit lands outside water resource district boundaries, the board shall provide notice to the water resource board where the benefited lands are located together with the report prepared under section 61-16.1-17.
 - (2) The board of each water resource district containing lands benefited by a project must approve the project and assessment by a vote of two-thirds of its members. The board of county commissioners in each county that contains lands benefited by a project must approve and levy the assessment to be made by a vote of two-thirds of its members.
 - (3) If a project and assessment is not approved by all affected water resource boards and county commission boards, the board of each water resource district and the board of county commissioners of each county shall meet to ensure that all common water management problems are resolved pursuant to section 61-16.1-10. In addition, the water resource board that undertakes the project may proceed with the project if the board finances the cost of the project and does not assess land outside the boundaries of the district.

- c. All revenue from an assessment under this section must be exhausted before a subsequent assessment covering any portion of lands subject to a prior assessment may be levied.

SECTION 148. AMENDMENT. Section 61-16.1-23 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-23. Appeal to state engineer~~department of water resources~~.

After the hearing provided for in section 61-16.1-22, affected landowners and any political subdivision subject to assessment, having not less than twenty percent of the possible votes, as determined by section 61-16.1-20, who believe that the assessment ~~had not been~~was not made fairly or equitably made, ~~or that~~or the project is not properly located or designed properly, may appeal to the ~~state engineer~~department of water resources by petition, within ten days after the hearing on assessments, to make a review of the assessments and to examine the location and design of the proposed project. Upon receipt of ~~such~~the petition the ~~state engineer~~department shall examine the lands assessed and the location and design of the proposed project, and if it appears that the assessments ~~have not been~~were not made equitably, the ~~state engineer~~department may proceed to correct the ~~same~~assessments, and the ~~state engineer's~~department's correction and adjustment of ~~said~~the assessment is final. ~~Should it appear that, in the judgment of the state engineer,~~If the department believes the project ~~has been improperly~~was located or designed improperly, the ~~state engineer~~department may order a relocation and redesign. ~~Such relocation and redesign that~~must be followed in the construction of the proposed project. Upon filing a bond for two hundred fifty dollars with the board for the payment of the costs of the state engineerdepartment in the matter, any landowner or political subdivision ~~who or which claims that~~claiming the landowner or political subdivision will receive no benefit at all from the construction of a new project may appeal that issue to the ~~state engineer~~department within ten days after the hearing on assessments, ~~the question of whether there is any benefit. The state engineer may not determine the specific amount of benefit upon~~Upon an appeal by an individual landowner or political subdivision, ~~but shall only~~the department may determine ~~if whether~~whether there is any benefit to the landowner or political subdivision, ~~and~~but not the specific amount of benefit. The determination of the state engineer upon such questiondepartment regarding whether there is a benefit is final.

SECTION 149. AMENDMENT. Section 61-16.1-37 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-37. Commission, state engineer~~department of water resources~~, and water resource board shall encourage both structural and nonstructural alternatives.

The commission, ~~state engineer~~department of water resources, and the appropriate water resource board shall encourage both structural and nonstructural solutions to water management problems within the district by federal and state agencies, private individuals, ~~public and private corporations, and limited liability companies and other persons~~, and shall lend their aid, counsel, and assistance to any ~~such~~facilitate appropriate solutions. All structural alternatives, including dams, dikes, drains, and other works, whether constructed by public authorities or private persons, ~~unless specifically exempted therefrom, shall be~~are subject to all the provisions of this chapter unless specifically exempted.

SECTION 150. AMENDMENT. Section 61-16.1-38 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-38. Permit to construct or modify dam, dike, or other device required - Penalty - Emergency.

No dikes, dams, or other devices for water conservation, flood control regulation, watershed improvement, or storage of water which are capable of retaining, obstructing, or diverting more than fifty acre-feet [61674.08 cubic meters] of water or twenty-five acre-feet [30837.04 cubic meters] of water for a medium-hazard or high-hazard dam, may be constructed within any district except in accordance with the provisions of this chapter. An application for the construction of any dike, dam, or other device, along with complete plans and specifications, must be presented first to the state-engineerdepartment of water resources. Except for low-hazard dams less than ten feet [3.05 meters] in height or agricultural dikes less than two feet [0.61 meters] in height, the plans and specifications must be completed by a professional engineer registered in this state. After receipt, the state-engineerdepartment shall consider the application in such detail as the state-engineerdepartment deems necessary and proper. The state-engineerdepartment shall refuse to allow the construction of any unsafe or improper dike, dam, or other device which would interfere with the orderly control of the water resources of the district, or may order such changes, conditions, or modifications as in the judgment of the state-engineerdepartment may be necessary for safety or the protection of property. Within forty-five days after receipt of the application, except in unique or complex situations, the state-engineerdepartment shall complete the state-engineer's initial review of the application and forward the application, along with any changes, conditions, or modifications, to the water resource board of the district within which the contemplated project is located. The board thereupon shall consider; the application within forty-five days, the application, and suggest any changes, conditions, or modifications to the state-engineerdepartment. If the board approves the application meets with the board's approval, the board shall forward the approved application to the state-engineerdepartment. If the board fails to respond within forty-five days, it shall be determined the board has will be deemed to have no changes, conditions, or modifications to make. The state-engineerdepartment shall make the final decision on the application and forward that decision to the applicant and the local water resource board. The state-engineerdepartment may issue temporary permits for dikes, dams, or other devices in cases of an emergency. Any person constructing a dam, dike, or other device, which is capable of retaining, obstructing, or diverting more than fifty acre-feet [61674.08 cubic meters] of water or twenty-five acre-feet [30837.04 cubic meters] of water for a medium-hazard or high-hazard dam, without first securing a permit to do so, as required by this section, is liable for all damages proximately caused by the dam, dike, or other device, and is guilty of a class B misdemeanor.

SECTION 151. AMENDMENT. Section 61-16.1-39 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-39. Dams or other devices constructed within a district shall come under control of a water resource board.

All dams, dikes, and other water conservation and flood control works or devices constructed within any district, unless specifically exempted therefrom, shall, without affecting the commission's or the state engineer's authority relative to such works, automatically come, are under the jurisdiction of the water resource board for the district within which the dam, dike, works, or device exists or is to be constructed. The district's jurisdiction over the dam, dike, works, or device does not affect the commission's or department's authority relative to the dam, dike, works, or device. No changes or modification of any existing dams, dikes, or other works or devices shall may be made without complying fully with the provisions of this chapter.

SECTION 152. AMENDMENT. Section 61-16.1-53.1 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-53.1. Appeal of board decisions - ~~State engineer~~Department of water resources review - Closing of noncomplying dams, dikes, or other devices for water conservation, flood control, regulation, and watershed improvement.

1. The board shall make the decision required by section 61-16.1-53 within a reasonable time, not exceeding one hundred twenty days, after receiving the complaint. The board shall notify all parties of its decision by certified mail. Any aggrieved party may appeal the board's decision to the ~~state engineer~~department of water resources. The appeal to the ~~state engineer~~department must be made within thirty days from the date notice of the board's decision has been received. The appeal must be made by submitting a written notice to the ~~state engineer~~department which must state specifically ~~set forth~~ the reason why the board's decision is erroneous. The appealing party ~~shall~~ shall submit copies of the written appeal notice to the board and to all nonappealing parties. Upon receipt of this notice the board, if it has ordered removal of a dam, dike, or other device, is relieved of its obligation to procure the removal of the dam, dike, or other device. The ~~state engineer~~department shall handle the appeal by conducting an independent investigation and making an independent determination of the matter. The ~~state engineer~~department may enter property affected by the complaint to investigate the complaint.
2. If the board fails to investigate and make a determination concerning the complaint within a reasonable time, not exceeding one hundred twenty days, the person filing the complaint may file the complaint with the ~~state engineer~~department of water resources within one hundred fifty days of the submittal date of the original complaint. ~~The state engineer shall, without~~Without reference to chapter 28-32, the department shall cause the investigation and determination to be made, either by action against the board or by conducting the investigation and making the determination.
3. If the ~~state engineer~~department of water resources determines that a dam, dike, or other device has been constructed or established by a landowner or tenant contrary to title 61 or any rules adopted by the board, the ~~state engineer~~department shall take one of these three actions:
 - a. Notify the landowner by certified mail at the landowner's post-office address of record;
 - b. Return the matter to the jurisdiction of the board along with the investigation report; or
 - c. Forward the dam, dike, or other device complaint and investigation report to the state's attorney.
4. If the ~~state engineer~~department of water resources decides to notify the landowner, the notice must specify the nature and extent of the noncompliance and state that if the dam, dike, or other device is not removed within a reasonable time as determined by the ~~state engineer~~department, but not less than thirty days, the ~~state engineer~~department shall procure the removal of the dam, dike, or other device and assess the cost of removal against the responsible landowner's property. The notice from the ~~state engineer~~department also must state that, within fifteen days of the date the

notice is mailed, the affected landowner may demand, in writing, a hearing on the matter. Upon receipt of the demand, the ~~state engineer~~department shall set a hearing date within fifteen days from the date the demand is received. If, in the opinion of the ~~state engineer~~department, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Upon assessment of costs, the ~~state engineer~~department shall certify the assessment to the county auditor of the county where the noncomplying dam, dike, or other device is located. The county auditor shall extend the assessment against the property assessed. Each assessment must be collected and paid as other property taxes are collected and paid. Assessments collected must be deposited with the state treasurer and credited to the contract fund established by section 61-02-64.1. Any person aggrieved by action of the ~~state engineer~~department under this section may appeal the decision of the ~~state engineer~~department to the district court under chapter 28-32. A hearing by the ~~state engineer~~department as provided for in this section is a prerequisite to an appeal.

5. If the ~~state engineer~~department of water resources, after completing the investigation required under this section, decides to return the matter to the board, a complete copy of the investigation report must be forwarded to the board and it must include the nature and extent of the noncompliance. Upon having the matter returned to its jurisdiction, the board shall carry out the ~~state engineer's~~department's decision under the terms of this section.
6. If the ~~state engineer~~department of water resources, after completing the investigation required under this section, decides to forward the dam, dike, or other device complaint to the state's attorney, a complete copy of the investigation report must also be forwarded, ~~which~~ and must include the nature and extent of the noncompliance. The state's attorney shall prosecute the complaint under the statutory responsibilities prescribed in chapter 11-16.
7. In addition to the penalty imposed by the court on conviction under this statute, the court shall order the dam, dike, or other device removed within a reasonable time period as the court determines, but not less than thirty days. If the dam, dike, or other device is not removed within the time prescribed by the court, the court shall procure the removal of the dam, dike, or other device, and assess the cost against the property of the landowner responsible, in the same manner as other assessments under chapter 61-16.1 are levied. If, in the opinion of the court, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners.

SECTION 153. AMENDMENT. Section 61-16.2-01 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-01. Legislative intent and purpose.

The legislative assembly finds and declares that a large portion of the state's land resources is subject to recurrent flooding by overflow of streams and other watercourses causing loss of life and property, disruption of commerce and governmental services, unsanitary conditions, and interruption of transportation and communications, all of which are detrimental to the health, safety, welfare, and property of the occupants of flooded lands and the people of this state. The legislative assembly further finds that public interest necessitates that the floodplains of this

state be developed in a manner which will alleviate loss of life and threat to health, and reduce private and public economic loss caused by flooding.

It is ~~therefore~~ the policy of this state and the purpose of this chapter to guide development of the floodplains of this state in accordance with the enumerated legislative findings, to reduce flood damages through sound floodplain management, stressing nonstructural measures such as floodplain zoning and floodproofing, acquisition and relocation, and flood warning practices; and to ensure as far as practicable that the channels and those portions of the floodplains of watercourses which are the floodways are not inhabited and are kept free and clear of interference or obstructions which may cause any undue restriction of the capacity of the floodways.

It is also the policy of this state and purpose of this chapter to provide state coordination and assistance to communities in floodplain management activities, to encourage communities to adopt, administer, and enforce sound floodplain management ordinances, and to provide the ~~state engineer with~~ department of water resources the authority necessary to carry out and enforce a floodplain management program for the state and to coordinate federal, state, and local floodplain management activities in this state.

SECTION 154. AMENDMENT. Section 61-16.2-02 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-02. Definitions.

1. In this chapter, unless the context or subject matter otherwise provides:
1. a. "Commission" means state water commission.
2. b. "Community" means any political subdivision that has the authority to zone.
3. c. "Conveyance" or "hydraulic conveyance" means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.
4. d. "Department" means the department of water resources.
- e. "District" means a water resource district, as defined in chapter 61-16.1.
5. f. "Flood fringe" means that portion of a floodplain outside of the floodway.
6. g. "Floodway" or "regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot [30.48 centimeters].
7. h. "Person" means any person, firm, partnership, association, corporation, limited liability company, agency, or any other private or governmental organization, which includes any agency of the United States, a state agency, or any political subdivision of the state.
8. ~~"State engineer" means the state engineer appointed pursuant to section 61-03-01, who is also the chief executive officer of the commission, or, for the purpose of this chapter, the state engineer's designee.~~

2. For the purposes of this chapter, the ~~state engineer~~department shall, ~~in addition to the definitions listed above,~~ follow the definitions in this section and the definitions under the national flood insurance program [42 U.S.C. 4001 et seq.] and implementing regulations, ~~which are hereby incorporated into and made a part of this chapter by reference.~~

SECTION 155. AMENDMENT. Section 61-16.2-03 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-03. Duties of ~~state engineer~~the department.

The ~~state engineer~~department shall:

1. Collect and distribute information relating to flooding and floodplain management.
2. Coordinate local, state, and federal floodplain management activities to the greatest extent possible, and encourage appropriate federal agencies to make their flood control planning data available to communities and districts for planning purposes, in order to allow adequate local participation in the planning process and in the selection of desirable alternatives.
3. Assist communities and districts in their floodplain management activities within the limits of available appropriations and personnel in cooperation with the division of homeland security.
4. Do all other things, within lawful authority, which are necessary or desirable to manage the floodplains for uses compatible with the preservation of the capacity of the floodplain to carry and discharge the base flood. In cooperation with communities and districts, the ~~state engineer~~department shall conduct, whenever possible, periodic inspections to determine the effectiveness of local floodplain management programs, including an evaluation of the enforcement of and compliance with local floodplain management ordinances.

SECTION 156. AMENDMENT. Section 61-16.2-04 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-04. Delineation of floodplains and floodways.

The ~~state engineer~~department shall assist communities in preparing and obtaining data and other necessary information for the delineation of floodplains and floodways. When the ~~state engineer~~department determines that sufficient technical information is available for the delineation of floodplains and floodways on a watercourse or lake, the ~~state engineer shall then~~department shall consult with the appropriate district and each affected community. The ~~state engineer~~department, the affected community, and the appropriate district shall consider flooding experiences, plans to avoid potential hazards, estimates of economic impacts of flooding on the community, both historical and prospective, and ~~such~~ other data as the district and community may consider appropriate. Upon obtaining and developing the necessary information for delineation of the floodplain and floodway, the ~~state engineer~~department and the affected community shall notify the appropriate federal agency and request that ~~such material~~the information be used to delineate the floodplain and floodway under the national flood insurance program [42 U.S.C. 4001 et seq.]. The regulatory floodway must be able to carry the waters of the base flood without cumulatively increasing the water surface elevation of the base flood more than one foot [30.48 centimeters] at any point.

SECTION 157. AMENDMENT. Section 61-16.2-05 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-05. Floodplain management ordinances.

1. Each community shall submit the floodplain management ordinances adopted under the national flood insurance program [42 U.S.C. 4001 et seq.] to the state engineer department for review.
2. If the state engineer department determines that there is a failure by a community to comply with the intent, purposes, and provisions of this chapter and the minimum ordinances adopted under the national flood insurance program [42 U.S.C. 4001 et seq.], the state engineer department shall notify the appropriate federal agency and the community of those findings. The state engineer shall also department also shall notify the community of the state and federal penalties for such noncompliance and shall work with the community until such time as the state engineer department determines that the community will comply or is complying.

SECTION 158. AMENDMENT. Subsection 1 of section 61-16.2-09 of the North Dakota Century Code is amended and reenacted as follows:

1. It is unlawful for any person to establish any use ~~which is not in accordance with that does not comply with~~ this chapter within any floodplain without prior written approval of the affected community. Every use placed in the floodplain in violation of this chapter or a floodplain management ordinance adopted under or in compliance with the provisions of this chapter, or adopted under the national flood insurance program [42 U.S.C. 4001 et seq.], is a public nuisance, and the construction or installation ~~thereof the use~~ may be enjoined by an action brought by the state engineer department or the appropriate community. The state engineer department or community may obtain a court order directing the removal or elimination of ~~such the~~ public nuisance, or authorizing the state engineer department or community to remove the public nuisance, or cause the public nuisance to be removed, at the expense of the owner. A person who violates any of the provisions of this chapter is guilty of a class B misdemeanor.

SECTION 159. AMENDMENT. Section 61-16.2-11 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-11. Authority to enter and investigate lands or waters.

The state engineer department or any community must notify all landowners prior to making any entry upon any lands and waters in the state for the purpose of making an investigation, survey, removal, or repair contemplated by this chapter. An investigation of a nonconforming use or existing construction or structure ~~shall~~ must be made by the state engineer department either on the state engineer's department's own initiative, on the written request of an owner of land abutting the watercourse involved, or on the written request of a community.

SECTION 160. AMENDMENT. Section 61-16.2-13 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-13. Flood insurance.

Communities that have residential and nonresidential structures in areas subject to excessive flooding, as determined by the state engineer department, shall

participate in the national flood insurance program [Pub. L. 90-448] and Acts amendatory thereof or supplementary thereto, so that the people of North Dakota may have the opportunity to indemnify themselves from future flood losses through the purchase of this insurance administered by the federal emergency management agency. A community is not required to participate in the program if all of the land under the jurisdiction of the community is enrolled as a result of another community's participation in the program.

SECTION 161. AMENDMENT. Section 61-16.2-14 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-14. State engineer Department review of development in regulatory floodways - Exceptions.

Before issuing a permit or authorization to allow a use in a regulatory floodway, the community responsible for permitting or authorizing such the use shall notify the state engineer department of the proposed use. The state engineer department shall determine whether a functioning hydraulic model is needed to measure the effect of the proposed use. Upon the request of the state engineer department, the community shall submit to the state engineer department for review all technical documentation, including a functioning hydraulic model and other technical information needed for the state engineer's department's review to analyze the proposed use and to identify its proposed impact. The state engineer department shall complete the state engineer's review within thirty days after receiving the technical documentation. Upon completion of the state engineer's review, the state engineer department shall notify the community whether the proposed use is in compliance with state and federal law. A community may apply to the state engineer department for an exemption on a case-by-case basis from this section. The state engineer department may grant the exemption if the state engineer department determines that the community, by using its own technical review, can determine if whether the proposed use is in compliance with state and federal law.

SECTION 162. AMENDMENT. Section 61-20-02 of the North Dakota Century Code is amended and reenacted as follows:

61-20-02. Drilling artesian or flowing well - Requirements.

Every person, stock company, association, corporation, or limited liability company that shall drill an artesian or flowing well shall comply with the rules of the state engineer department of water resources regarding such activity.

SECTION 163. AMENDMENT. Section 61-20-03 of the North Dakota Century Code is amended and reenacted as follows:

61-20-03. Wild wells.

The provisions of this chapter shall apply to a wild well, or a well out of control, except that if it is determined by the state engineer that such department of water resources the well cannot be repaired for use, no valve shall may be attached, but every effort shall must be made by the owner to seal, plug, or cut off the same well. Old wells which that might be damaged by so doing need not be shut off, but such wells shall must be put in repair at the earliest possible date and shall must be regulated thereafter after the repair.

SECTION 164. AMENDMENT. Section 61-20-06 of the North Dakota Century Code is amended and reenacted as follows:

61-20-06. Duties of ~~state engineer~~the department of water resources.

The ~~state engineer~~department of water resources shall advise the citizens of the state as to the practicability of measures affecting the underground waters of this state. ~~The state engineer shall by:~~

1. ~~Counsel and consult with the owner and assist~~Counseling, consulting, and assisting the owner to work out the most desirable control and use of the owner's well.
2. ~~Select~~Selecting at least three representative flowing wells in each county having that number, and as many more as ~~it~~the department may deem advisable.
3. ~~Cause~~Causing the record of ~~their~~the wells' flows and pressures to be taken, from time to time, to learn as much as possible of the decline, fluctuations, and permanence of the artesian supply.
4. ~~Plan and conduct such~~Planning and conducting other investigations as ~~it~~the department may find advisable to ascertain the best method of prolonging the utility of the same.
5. ~~Keep~~Keeping a record of the location, size, depth, flow, size of flow, character of water, construction, and history of all artesian wells of the state, and ~~keep~~keeping the record on file for public reference.
6. ~~Secure~~Securing the enforcement of all laws pertaining to artesian and phreatic waters of the state.
7. ~~Publish from time to time, as it may deem advantageous,~~Publishing bulletins containing information concerning the artesian wells and phreatic waters of the state as often as the department deems advantageous.

The state engineer may make such

8. Making any additional, reasonable rules and regulations governing such artesian wells as it shall determine as the department determines are necessary.

SECTION 165. AMENDMENT. Section 61-20-07 of the North Dakota Century Code is amended and reenacted as follows:

61-20-07. Enforcement of chapter ~~by state engineer~~ - Appeal.

The provisions of this chapter must be enforced by the ~~state engineer~~department of water resources. The ~~state engineer~~department may issue administrative orders requiring compliance with this chapter. An appeal from the ~~engineer's~~department's ruling of the department may be taken under the provisions of chapter 28-32.

SECTION 166. AMENDMENT. Section 61-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

61-21-02.1. Assessment drain culverts.

As part of the design and construction of a proposed assessment drain or the maintenance or reconstruction of an existing assessment drain, the board, upon approval of the appropriate road authority, may locate, relocate, size, and install

culverts through roads which are not on the routes of assessment drains but which are within the assessment area and which are necessary for surface water to reach the assessment drain. The design and installation of culverts under this section must be consistent with chapters 24-03 and 24-06 and the streamcrossing and construction site protection standards prepared by the department of transportation and the state engineerdepartment of water resources.

SECTION 167. AMENDMENT. Section 61-21-22 of the North Dakota Century Code is amended and reenacted as follows:

61-21-22. Hearing on assessment - Appeal to state engineer - Correction of assessments - Relocating drain - Fees of state engineer.

At the hearing provided for in section 61-21-21, the board shall proceed to hear all complaints relative to the percentage assessments and shall correct or confirm the same. Should landowners subject to assessment or whose property is subject to condemnation for the construction of the proposed drain having a majority of the possible votes, as determined by section 61-21-16, believe that the assessment had not been fairly or equitably made, or that the drain is not properly located or designed, they may appeal to the state engineerdepartment of water resources by petition within ten days after the hearing on assessments, to ~~make a review of such~~the percentage assessments and to examine the location and design of the proposed drain. Upon the receipt of ~~such~~the petition, the state engineerdepartment shall proceed to examine the lands assessed and the location and design of the proposed drain, and should it appear to the ~~state engineer~~that ~~such~~the department determine the assessments have not been made equitably, the state engineerdepartment may proceed to correct the ~~same~~assessments, and the state engineer's department's correction and adjustment of said assessments shall ~~be~~are final. Should it appear that, in the judgment of the ~~state engineer~~the department determine the drain has been improperly located or designed, the state engineerdepartment may order a relocation and redesign. ~~Such~~The relocation and redesign shallmust be followed in the construction of the proposed drain. For the state engineer's department's services in ~~making such review of~~reviewing the assessments and examination ofexamining the location and design, the state engineershall be alloweddepartment is entitled to ten dollars per day and actual and necessary expenses during the time the state engineerdepartment is engaged upon ~~such~~the work. All moneys received by the state engineershalldepartment must be paid into the state treasury and credited to the general fund. After the hearing provided in this section, the board shall make a finding that the benefits to all tracts of land will exceed the costs that will be assessed against the lands. Any landowner who ~~may claim that~~claims the landowner will receive no benefit at all from the construction of a new drain may appeal the question of whether there is any benefit to the state engineerdepartment upon the filing of a bond in the sum of two hundred fifty dollars with the board for the payment of the costs of the state engineerdepartment in the matter. The state engineershalldepartment may not determine the specific amount of benefits upon an appeal by an individual landowner, but shall ~~only~~determine if only whether there is any benefit to the landowner, and the determination of the state engineerupon ~~such~~question shall ~~be~~department is final.

SECTION 168. AMENDMENT. Section 61-21-34 of the North Dakota Century Code is amended and reenacted as follows:

61-21-34. Procedure to construct or extend a drain through or into two or more counties.

In order to construct or extend a drain through or into two or more counties in this state, a petition shallmust be presented to the several boards for the establishment of

~~such the~~ drain in their several counties as provided in this chapter. The boards of ~~such several the~~ counties shall hold a joint meeting and shall determine the necessity or expediency of the establishment of ~~such the~~ drain. The several boards of all counties through or into which ~~such the~~ proposed drain may run shall agree upon the proportion of damages and benefits to accrue to the lands affected in each county, and for this purpose ~~they the boards~~ shall consider the entire course of ~~said the~~ drain through all ~~said the~~ counties as one drain. Should the boards fail to agree upon the benefits to accrue to the lands in each county, ~~they the boards~~ shall submit the points in controversy to the ~~state engineer of the state water commission~~ department of water resources, and the ~~state engineer's decision thereon shall be~~ department's decision is final. ~~They~~ The boards may apportion the cost of establishing and constructing ~~such the~~ entire drain ratably and equitably upon the lands in each ~~such~~ county in proportion to the benefits to accrue to ~~such the~~ county's lands. When ~~they the boards~~ have so apportioned the same, ~~they costs, the boards~~ shall make written reports of ~~such the~~ apportionment to the auditors of the several counties affected, ~~which. The reports shall~~ must show the portion of cost of ~~such the~~ entire drain to be paid by taxes upon the lands in each of ~~such the~~ counties and ~~such reports shall~~ must be signed by the boards of all counties affected. Upon the filing of ~~such the~~ reports, the several boards shall meet and assess against the lands in each of ~~such the~~ counties, ratably and equitably as provided by this chapter, an amount sufficient to pay the proportion of the cost of ~~such the~~ drain in each of ~~such counties so fixed by all said boards~~ county. The provisions of this chapter relating to drains within a single county shall govern the establishment, construction, maintenance, repair, and cleanout of ~~such the~~ drains.

SECTION 169. AMENDMENT. Section 61-24-07 of the North Dakota Century Code is amended and reenacted as follows:

61-24-07. Attorney general shall act as legal adviser - ~~Chief engineer of state water commission~~ Department of water resources to assist board - Employment of counsel and engineers.

The attorney general shall, ~~as far as the attorney general's duties permit,~~ act as the legal adviser of the board to the extent the duties of the attorney general permit. ~~The chief engineer of the state water commission~~ department of water resources shall furnish such engineering services and assistance ~~as to the extent~~ the duties of the ~~chief engineer's office~~ department permit. When the district has funds available, the board of directors may employ other counsel to advise and represent ~~it the board~~ in ~~its the board's~~ proceedings and affairs, and may employ other engineers and engineering services in connection with ~~its the board's~~ work and the affairs of the district.

SECTION 170. AMENDMENT. Section 61-24.3-01 of the North Dakota Century Code is amended and reenacted as follows:

61-24.3-01. Legislative findings and intent.

The legislative assembly finds that adequate water supplies for municipal, domestic, livestock, rural, irrigation, industrial, and other uses are essential for the social stability and economic security of the people of the state of North Dakota. It is further found that the development and utilization of the water resources of this state are necessary for the protection of health, property, and enterprise, and for the promotion of prosperity and general welfare of the people of the state of North Dakota, and that such development and utilization of water resources in this state involves, ~~necessitates,~~ and requires the exercise of the sovereign powers of the state and concern a public purpose. ~~Therefore, it is hereby declared~~ It is necessary that the

southwest pipeline project, as authorized and approved pursuant to this chapter, be established and constructed, to provide for the supplementation of the water resources of a portion of the area of North Dakota south and west of the Missouri River with water supplies from the Missouri River for multiple purposes, including domestic, rural, and municipal uses. In furtherance of this public purpose, the state water commission may provide for the issuance of bonds not to exceed twenty-five million dollars in accordance with chapter 61-02 to finance the cost of the project. The provisions of this chapter may not be construed to, ~~in any manner,~~ abrogate or limit the rights, powers, duties, or functions of the state water commission or the ~~state engineer department of water resources,~~ but are supplementary thereto ~~to the rights, powers, duties, or functions.~~ Nor may this chapter be construed as limiting or ~~in any way~~ affecting the laws of this state relating to the organization or operation of irrigation districts, water resource districts, or other political subdivisions.

SECTION 171. AMENDMENT. Section 61-24.5-01 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-01. Findings and declaration of policy.

It is hereby found and declared by the legislative assembly that many

1. ~~Many~~ areas and localities in southwestern North Dakota do not enjoy adequate quantities of high-quality drinking water. ~~It is also found and declared that other~~ Other areas and localities in southwestern North Dakota do not have sufficient quantities of water to ensure a dependable, long-term supply. ~~It is further found and declared that supplementation~~ Supplementation of the water resources of southwestern North Dakota, with water supplies from Lake Sakakawea and the Missouri River, utilizing a pipeline transmission and delivery system, is a feasible approach to provide southwestern North Dakota with a safe, good quality, dependable source, and adequate quantity of water.

~~It is further declared that opportunity~~

2. Opportunity for greater economic security, protection of health, property, enterprise, preservation of the benefits from the land and water resources of this state, and the promotion of the prosperity and general welfare of all of the people of North Dakota depends on the effective development and utilization of the land and water resources of this state, and ~~necessitate and require~~ the exercise of the sovereign powers of the state and concern a public purpose. ~~Therefore, in order to~~ To accomplish this public purpose, ~~it is hereby declared necessary that a project to supply and distribute water to southwestern North Dakota, as authorized by chapter 61-24.3, and acts amendatory thereof and supplementary thereto, must be established and constructed, to:~~
 4. a. Provide for the supply and distribution of water to the people of southwestern North Dakota through a pipeline transmission and delivery system for purposes including domestic, rural water, municipal, livestock, light industrial, mining, and other uses, with primary emphasis on domestic, rural water, and municipal uses.
 2. b. Provide for the future economic welfare and property of the people of this state, and particularly the people of southwestern North Dakota, by making available waters from Lake Sakakawea and the Missouri River for beneficial and public uses.

3. ~~It is also declared necessary to study and further develop water resources to provide adequate water supplies for energy, industrial, agriculture, and other opportunities in southwest North Dakota. The provisions hereof~~This section may not be construed to abrogate or limit the rights, powers, duties, and functions of the state water commission or the state engineer~~department of water resources, but must be considered supplementary thereto to those rights, powers, duties, and functions.~~

SECTION 172. AMENDMENT. Section 61-24.5-18 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-18. Easement granted for ditches, canals, tramways, and transmission lines on any public lands.

In connection with the construction and development of the southwest pipeline project, there is granted over all the lands belonging to the state, including lands owned or acquired for highway right-of-way purposes, a right of way for pipelines, connections, valves, and all other appurtenant facilities constructed as part of the southwest pipeline project, provided, however, ~~that the director of the department of transportation and the state engineer~~director of the department of water resources must approve the plans of the authority ~~with respect to~~regarding the use of ~~any and all right of way of roads prior to such~~before ~~the grant becoming~~is effective.

SECTION 173. AMENDMENT. Section 61-24.6-01 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-01. Findings and declaration of policy.

~~It is hereby found and declared by the legislative assembly that many~~Many areas and localities in northwestern North Dakota do not enjoy safe drinking water, and ~~that the water in these areas and localities contains iron, sulfates, alkali, salt, nitrates, fluoride, and other hazardous and discoloring substances. It is also found and declared that other~~Other areas and localities in northwestern North Dakota do not have sufficient quantities of water to ensure a dependable, long-term supply. ~~It is further found and declared that supplementation~~Supplementation of the water resources of northwestern North Dakota with water supplies from the Missouri River, utilizing a pipeline transmission and delivery system, may be the only alternative to provide northwestern North Dakota with a safe, good quality, dependable source, and adequate quantity of water.

~~It is further declared that effective~~Effective development and utilization of the land and water resources of this state; the opportunity for greater economic security; the protection of health, property, enterprise, and the preservation of the benefits from the land and water resources of this state; and the promotion of the prosperity and general welfare of all of the people of North Dakota involve, ~~neessitate,~~ and require the exercise of the sovereign powers of the state and concern a public purpose. ~~Therefore, in order to~~To accomplish this public purpose, ~~it is hereby declared necessary that a project be pursued that would~~to supply and distribute water to the people of northwestern North Dakota through a pipeline transmission and delivery system for purposes, including domestic, rural water districts, municipal, livestock, light industrial, mining, and other uses, with primary emphasis on domestic, rural water district, and municipal uses must be pursued. In furtherance of this public purpose, the state water commission may provide for the issuance of bonds in accordance with chapter 61-02 to finance the costs of the project.

~~The provisions of this~~ This chapter may not be construed to abrogate or limit the rights, powers, duties, and functions of the state water commission or the ~~state engineer~~ department of water resources, but must be considered supplementary to those rights, powers, duties, and functions.

³³⁸ **SECTION 174. AMENDMENT.** Section 61-24.6-02 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-02. Northwest area water supply advisory committee - Created.

The northwest area water supply advisory committee consists of the following representatives, appointed by the ~~state engineer~~ director of the department of water resources:

1. One person from the city of Minot recommended by the Minot city council.
2. One person from the city of Williston recommended by the Williston city council.
3. One person from the Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, or Williams County water resource districts recommended jointly by the governing boards of the Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, or Williams County water resource districts.
4. One representative of the state water commission recommended by the commission.
5. One representative of the Three Affiliated Tribes, representing that area of the Fort Berthold Indian Reservation north of the Missouri River and Lake Sakakawea recommended by the tribal council.
6. One representative of rural water distribution systems located in northwestern North Dakota. This representative must be a resident of Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, or Williams County.
7. One representative of a municipality other than the city of Minot, located in Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, or Williams County.
8. One representative of the Garrison Diversion Conservancy District recommended by the board of directors of the conservancy district.
9. One at-large representative.

³³⁹ **SECTION 175. AMENDMENT.** Section 61-24.6-03 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-03. Advisory committee - Officers - Meetings - Compensation.

³³⁸ Section 61-24.6-02 was also amended by section 1 of House Bill No. 1063, chapter 493.

³³⁹ Section 61-24.6-03 was also amended by section 2 of House Bill No. 1063, chapter 493.

The northwest area water supply advisory committee shall elect a chairman and vice chairman. The advisory committee shall meet at the times and places necessary to carry out the purposes of this chapter. The advisory committee members may be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09. The advisory committee members serve at the pleasure of the state engineer director of the department of water resources. Vacancies must be filled in the same manner as original appointments are made.

SECTION 176. AMENDMENT. Section 61-24.6-05 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-05. ~~State engineer~~ Department of water resources - Employment of staff.

The ~~state engineer~~ director of the department of water resources may employ full-time and other personnel ~~and may employ such other personnel as areas necessary for the administration of to administer~~ this chapter and as available funds permit. Notwithstanding section 61-02-64.1, funds disbursed from the contract fund or appropriated for purposes of administering this chapter may be used for salaries and expenses of persons employed pursuant to this chapter.

SECTION 177. AMENDMENT. Section 61-24.8-01 of the North Dakota Century Code is amended and reenacted as follows:

61-24.8-01. Definitions.

As used in this chapter:

1. "Auditor" means the county auditor.
2. "Board" means the board of directors of the Garrison Diversion Conservancy District.
3. "Bond" means any revenue bond, refunding bond, improvement bond, or other evidence of indebtedness, including indebtedness owed to banks, or other public or private lending sources, of the district issued under this chapter.
4. "Direct benefit" means water is delivered to a tract of land.
5. "Director" means a member of the board of directors.
6. "District" means the Garrison Diversion Conservancy District.
7. "Federal agency" includes the United States, the president of the United States, or any agency, instrumentality, or corporation of the United States which has been or may be designated or created by or pursuant to any act or acts or joint resolutions of the Congress of the United States or which may be owned or controlled, directly or indirectly, by the United States.
8. "Holder of bonds" or "bondholder", or any similar term, means any person who is the registered owner of any outstanding revenue bond, improvement bond, or refunding bond.
9. "Law" means any statute of this state.
10. "Project" means any work, undertaking, enterprise, or any combination of two or more projects, which the district is authorized to construct. The term

includes all irrigation improvements, betterments, extensions, and replacements of work, undertaking, or enterprises, and all appurtenances, facilities, easements, lands, rights in land, water rights, contract rights, approaches, dams, reservoirs, generating stations, trunk connections, other water mains, filtration works, pumping stations, equipment, franchises, and structures in connection with or incidental to any irrigation work, undertaking, or enterprise the district is authorized to construct.

11. "Refinancing" means funding, refunding, paying, or discharging by means of refunding bonds or the proceeds from the sale of refunding bonds, all or any part of any notes, bonds, or other obligations issued to finance or to aid in financing the acquisition, construction, or improvement of a project.
12. "Refunding bonds" means notes, bonds, certificates, or other obligations of the district issued under this chapter, the proceeds of which are to be used to pay the principal of or interest on any outstanding bonds or other obligations.
13. "Revenues" means all fees, tolls, rates, rentals, and charges levied and collected by the district in connection with, and all other income and receipts of whatever kind or character derived by the district from, the operation of any project.
14. "State engineer" has the same meaning as provided in chapter 61-03.
15. "Warrant" means an order drawn by the proper official of the district on its treasury, the warrant to be so drawn that when signed by the district treasurer in an appropriate place it becomes a check on the depository of the district, and a warrant upon the treasury may not be delivered or mailed to the payee or the payee's agent or representative until the warrant has been signed by the district treasurer and entered on the district's books as a check drawn on a bank depository.

SECTION 178. AMENDMENT. Section 61-24.8-18 of the North Dakota Century Code is amended and reenacted as follows:

61-24.8-18. Appeal to state engineer~~department~~ of water resources.

Within ten days after the hearing under section 61-24.8-17, affected landowners subject to assessment, who believe that the assessment has not been fairly or equitably made, or that the project is not properly located or designed, may petition the state engineer~~department of water resources~~ to review the assessments and examine the location and design of the proposed project. Upon receipt of a petition, the state engineer~~department~~ shall examine the lands assessed and the location and design of the proposed project. If it appears to the state engineer~~that department~~ the assessments have not been made equitably, the state engineer~~department~~ may proceed to correct the assessments. The state engineer's~~department's~~ correction and adjustment of assessments is final. If it appears to the state engineer~~that department~~ the project has been improperly located or designed, the state engineer~~department~~ may order a relocation and redesign, which must be followed in the construction of the proposed project. Any landowner claiming to receive no direct benefit from the project may appeal to the state engineer~~department~~ the question of whether there is any direct benefit. The appeal must be filed with the state engineer~~department~~ within ten days after the hearing on assessments in section 61-24.8-17. The state engineer~~department~~ may not determine the specific amount of benefit upon an appeal by an individual landowner and may determine only if there is any direct benefit to the

landowner. The determination of the ~~state-engineerdepartment~~ upon the appeal is final.

SECTION 179. AMENDMENT. Section 61-29-04 of the North Dakota Century Code is amended and reenacted as follows:

61-29-04. Administration.

This chapter must be administered by a Little Missouri River commission composed of the director of the parks and recreation department, the director of the department of environmental quality, the ~~chief engineer of the state water commission~~director of the department of water resources, or their designated representatives, and one member from each of the following counties: McKenzie, Billings, Slope, Golden Valley, Dunn, and Bowman. The commission members representing the above-mentioned counties must be appointed by their respective boards of county commissioners and shall serve without compensation except that each appointing board of county commissioners may reimburse its county representative for actual and necessary mileage to and from meetings of the commission at the same rate as state officers. The county representatives appointed must be resident landowners who live adjacent to the Little Missouri River with the exception of the Golden Valley County representative. A county representative unable to attend a meeting of the commission may be represented by a person who has a written proxy from the representative authorizing that person to act and vote for the representative. The proxy must be a resident landowner of the county that the proxy is representing, but need not live adjacent to the Little Missouri River. The county members shall serve terms of office as follows: two members shall serve one-year terms, two members shall serve two-year terms, and two members shall serve three-year terms.

SECTION 180. AMENDMENT. Subsection 6 of section 61-31-02 of the North Dakota Century Code is amended and reenacted as follows:

6. "State assessment team" means representatives from the department of agriculture, the game and fish department, the ~~state-engineer's staff~~department of water resources, the United States department of agriculture's soil conservation service, and the United States fish and wildlife service.

SECTION 181. AMENDMENT. Section 61-32-03 of the North Dakota Century Code is amended and reenacted as follows:

61-32-03. Permit to drain waters required - Penalty.

Any person, before draining a pond, slough, lake, or sheetwater, or any series thereof, which has a watershed area comprising eighty acres [32.37 hectares] or more, shall first secure a permit to do so. The permit application must be submitted to the ~~state-engineerdepartment of water resources~~. The ~~state-engineerdepartment~~ shall refer the application to the water resource district or districts within which is found a majority of the watershed or drainage area of the pond, slough, lake, or sheetwater for consideration and approval, but the ~~state-engineerdepartment~~ may require that applications proposing drainage of statewide or interdistrict significance be returned to the ~~state-engineerdepartment~~ for final approval. A permit may not be granted until an investigation discloses that the quantity of water which will be drained from the pond, slough, lake, or sheetwater, or any series thereof ~~those water bodies~~, will not flood or adversely affect downstream lands. If the investigation shows that the proposed drainage will flood or adversely affect lands of downstream landowners, the

water resource board may not issue a permit until flowage easements are obtained. The flowage easements must be filed for record in the office of the recorder of the county or counties in which the lands are situated. An owner of land proposing to drain shall undertake and agree to pay the expenses incurred in making the required investigation. This section does not apply to the construction or maintenance of any existing or prospective drain constructed under the supervision of a state or federal agency, as determined by the ~~state engineer~~department of water resources.

Any person draining, or causing to be drained, a pond, slough, lake, or sheetwater, or any series ~~thereof~~ those water bodies, which has a watershed area comprising eighty acres [32.37 hectares] or more, without first securing a permit to do so, as provided by this section, is liable for all damage sustained by any person caused by the draining, and is guilty of an infraction. As used in this section, sheetwater means shallow water that floods land not normally subject to standing water. The ~~state engineer~~department of water resources may adopt rules for temporary permits for emergency drainage.

³⁴⁰ **SECTION 182. AMENDMENT.** Section 61-32-03.1 of the North Dakota Century Code is amended and reenacted as follows:

61-32-03.1. Permit to drain subsurface waters required - Permit form - Penalty.

1. a. Installation of a subsurface water management system comprising eighty acres [32.37 hectares] of land area or more requires a permit. The watershed area drained by a subsurface water management system may not be used to determine whether the system requires a permit under this section.
- b. Subsurface water management systems that use surface intakes must be permitted exclusively under this section if the system will have a drainage coefficient of three-eighths of an inch [0.95 centimeters] or less. Subsurface water management systems that use surface intakes must be permitted exclusively under section 61-32-03 if the system will have a drainage coefficient exceeding three-eighths of an inch [0.95 centimeters].
- c. Installation of a subsurface water management system comprising less than eighty acres [32.37 hectares] of land area does not require a permit.
2. a. The ~~state engineer~~department of water resources shall develop an application form for a permit required under this section. A person seeking to construct a subsurface water management system that requires a permit under this section must submit a completed application to the water resource district board within which is found a majority of the land area for consideration and approval. The water resource district board may charge permit applicants a fee up to one hundred fifty dollars. Water resource districts shall forward copies of all approved permits to the ~~state engineer~~department of water resources.
- b. Upon submission of a completed application for a permit, the water resource district board immediately shall give notice and a copy of the submission via certified mail to each owner of land within one mile [1.61 kilometers] downstream of the proposed subsurface water management

³⁴⁰ Section 61-32-03.1 was also amended by section 2 of House Bill No. 1437, chapter 490.

system outlet unless the distance to the nearest waterway depicted as a perennial or intermittent stream or river on a United States geological survey topography map, assessment drain, natural watercourse, slough, or lake is less than one mile [1.61 kilometers], in which case notice and a copy of the submission must be given immediately to each owner of land between the outlet and the nearest assessment drain, natural watercourse, slough, or lake. The notice requirement in this section must be waived if the applicant presents signed, notarized letters of approval from all downstream landowners entitled to notice in this subsection.

3. a. If the water resource board receives notarized letters of approval from all downstream landowners entitled to notice, the board shall approve the completed permit application as soon as practicable but no later than thirty days after receipt of the last letter. Otherwise, the water resource board shall review the completed application at its next meeting that is at least thirty days after receipt of the application. The board shall consider any written, technical evidence provided by the applicant or a landowner notified under subsection 2 addressing whether the land of a notified landowner will be flooded or unreasonably harmed by the proposed subsurface water management system. For purposes of this section "technical evidence" means written information regarding the proposed subsurface water management system, prepared after consideration of the design and physical aspects of the proposed system, and any adverse hydraulic effects, including erosion, flood duration, crop loss, and downstream water control device operation impacts, which may occur to land owned by a landowner provided under subsection 2. Technical evidence must be submitted to the permit applicant, notified landowners, and the board within thirty days of the receipt of the completed permit application by the board. A notified landowner may not object to the proposed system unless the landowner presents technical evidence under this subsection.
- b. If the board finds, based on technical evidence, the proposed subsurface water management system will flood or unreasonably harm lands of a landowner notified under subsection 2, the board may require the applicant to obtain a notarized letter of approval before issuing a permit for the system. The board may not require a letter of approval for any land downstream of a system that outlets into an assessment drain, natural watercourse, or pond, slough, or lake if notified landowners did not provide technical evidence to the district.
- c. A water resource district may attach reasonable conditions to an approved permit for a subsurface water management system that outlets directly into a legal assessment drain or public highway right of way. For purposes of this subsection, "reasonable conditions" means conditions that address the outlet location, proper erosion control, reseeding of disturbed areas, installation of riprap or other ditch stabilization, and conditions that require all work to be done in a neat and professional manner. Any condition to locate the project a minimum distance from rural water supply lines may not extend beyond an existing easement for lines, or no greater than twenty feet [6.1 meters] from either side of the water line if the rural water line was installed under a blanket easement.
- d. A water resource district may require a subsurface water management system granted a permit under this section to incorporate a control

structure at the outlet into the design of the system and may require the control structure be closed during critical flood periods.

- e. A water resource district board may not deny a completed permit application under this section unless the board determines, based on technical evidence submitted by a landowner notified under subsection 2, the proposed water management system will flood or unreasonably harm land of a notified landowner, and a notarized letter of approval required by the board has not been obtained by the applicant. For purposes of this section, "unreasonable harm" is limited to hydraulic impacts, including erosion or other adverse impacts that degrade the physical integrity of a roadway or real property within one mile [1.61 kilometers] downstream of the system's outlet. The board shall include a written explanation of the reasons for a denial of a completed application and notify, by certified mail, the applicant and all landowners notified under subsection 2 of the approval or denial.
 - f. The board may not deny a permit more than sixty days after receipt of the completed application for the permit. If the board fails to deny the permit application within sixty days of receipt, the permit application is deemed approved.
4. A denial of a completed permit application by a water resource district board may be appealed, under section 28-34-01, to the district court of the county in which the permit application was filed. The court may approve a completed permit application denied by a water resource district board or the state-engineerdepartment of water resources if the application meets the requirements of this section.
 5. A water resource district board may not be held liable to any person for issuing a permit under this section.
 6. A person that installs a subsurface water management system requiring a permit under this section without first securing the permit is liable for all damages sustained by a person caused by the subsurface water management system.
 7. A person that installs a subsurface water management system requiring a permit under this section without first securing the permit is guilty of an infraction.

SECTION 183. AMENDMENT. Section 61-32-08 of the North Dakota Century Code is amended and reenacted as follows:

61-32-08. Appeal of board decisions - State-engineerDepartment of water resources review - Closing of noncomplying drains.

1. The board shall make the decision required by section 61-32-07 within a reasonable time, but not to exceed one hundred twenty days, after receiving the complaint. The board shall notify all parties of its decision by certified mail. Any aggrieved party may appeal the board's decision to the state-engineerdepartment of water resources. The appeal to the state-engineerdepartment must be made within thirty days from the date notice of the board's decision has been received. The appeal must be made by submitting a written notice to the state-engineerdepartment, which and the notice must specifically set forthspecify the reason why the board's decision is

erroneous. The appealing party also shall also submit copies of the written appeal notice to the board and to all nonappealing parties. Upon receipt of this notice the board, if it has ordered closure of a drain, lateral drain, or ditch, is relieved of its obligation to procure the closing or filling of the drain, lateral drain, or ditch. The ~~state engineer~~department shall handle the appeal by conducting an independent investigation and making an independent determination of the matter. The ~~state engineer~~department may enter property affected by the complaint to investigate the complaint.

2. If the board fails to investigate and make a determination concerning the complaint within a reasonable time, but not to exceed one hundred twenty days, the person filing the complaint may file the complaint with the ~~state engineer~~department of water resources within one hundred fifty days of the submittal date of the original complaint. The ~~state engineer~~department, without reference to chapter 28-32, shall cause the investigation and determination to be made, either by action against the board or by conducting the investigation and making the determination.
3. If the ~~state engineer~~department of water resources determines that a drain, lateral drain, or ditch has been opened or established by a landowner or tenant contrary to title 61 or any rules adopted by the board, the ~~state engineer~~department shall take one of three actions:
 - a. Notify the landowner by certified mail at the landowner's post-office address of record;
 - b. Return the matter to the jurisdiction of the board along with the investigation report; or
 - c. Forward the drainage complaint and investigation report to the state's attorney.
4. If the ~~state engineer~~department of water resources decides to notify the landowner, the notice must specify the nature and extent of the noncompliance and state that if the drain, lateral drain, or ditch is not closed or filled within a reasonable time as determined by the ~~state engineer~~department, but not less than thirty days, the ~~state engineer~~department shall procure the closing or filling of the drain, lateral drain, or ditch and assess the cost, against the responsible landowner's property. The notice from the ~~state engineer~~department must state that the affected landowner may demand in writing, within fifteen days of the date the notice is mailed, ~~demand in writing~~ a hearing on the matter. Upon receipt of the demand, the ~~state engineer~~department shall set a hearing date within fifteen days from the date the demand is received. If, in the opinion of the ~~state engineer~~department, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Upon assessment of costs, the ~~state engineer~~department shall certify the assessment to the county auditor of the county where the noncomplying drain, lateral drain, or ditch is located. The county auditor shall extend the assessment against the property assessed. Each assessment must be collected and paid as other property taxes are collected and paid. Assessments collected must be deposited with the state treasurer and credited to the contract fund established by section 61-02-64.1. Any person aggrieved by action of the ~~state engineer~~department under the provisions of this section may appeal the decision of the ~~state engineer~~department to the

district court under chapter 28-32. A hearing by the ~~state engineer as provided for in department under~~ this section is a prerequisite to an appeal.

5. If the ~~state engineer~~department of water resources, after completing the investigation required under this section, decides to return the matter to the board, a complete copy of the investigation report must be forwarded to the board and it must include the nature and extent of the noncompliance. Upon having the matter returned to its jurisdiction, the board shall carry out the ~~state engineer's~~department's decision under ~~the terms of~~ this section.
6. If the ~~state engineer~~department of water resources, after completing the investigation required under this section, decides to forward the drainage complaint to the state's attorney, a complete copy of the investigation report must also be forwarded, ~~which~~ and must include the nature and extent of the noncompliance. The state's attorney shall prosecute the complaint under the statutory responsibilities prescribed in chapter 11-16.
7. In addition to the penalty imposed by the court on conviction under this statute, the court shall order the drain, lateral drain, or ditch closed or filled within a reasonable time period as the court determines, but not less than thirty days. If the drain, lateral drain, or ditch is not closed or filled within the time prescribed by the court, the court shall procure the closing or filling of the drain, lateral drain, or ditch, and assess the cost against the property of the landowner responsible, in the same manner as other assessments under chapter 61-16.1 are levied. If, in the opinion of the court, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners.

SECTION 184. AMENDMENT. Section 61-33-01 of the North Dakota Century Code is amended and reenacted as follows:

61-33-01. Definitions.

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

1. "Board" means the sovereign lands advisory board.
2. "Board of university and school lands" means that entity created by section 15-01-01.
3. "Navigable waters" means waters that were in fact navigable at the time of statehood, and that are used, were used, or were susceptible of being used in their ordinary condition as highways for commerce over which trade and travel were or may have been conducted in the customary modes of trade on water.
4. "Ordinary high water mark" means that line below which the presence and action of the water upon the land is continuous enough so as to prevent the growth of terrestrial vegetation, destroy its value for agricultural purposes by preventing the growth of what may be termed an ordinary agricultural crop, including hay, or restrict its growth to predominantly aquatic species.
5. "Sovereign lands" means those areas, including beds and islands, lying within the ordinary high water mark of navigable lakes and streams. Lands established to be riparian accretion or reliction lands pursuant to section 47-06-05 are considered to be above the ordinary high water mark and are not sovereign lands.

6. "State engineer" means the person appointed by the state water commission pursuant to section 61-03-01.

SECTION 185. AMENDMENT. Section 61-33-01.1 of the North Dakota Century Code is amended and reenacted as follows:

61-33-01.1. Ordinary high water mark determination - Factors to be considered.

The ~~state engineer~~department of water resources shall maintain ordinary high water mark delineation guidelines consistent with this section.

1. When determining the ordinary high water mark for delineating the boundary of sovereign lands, vegetation and soils analysis must be considered the primary physical indicators. When considering vegetation, the ordinary high water mark is the line below which the presence and action of the water is frequent enough to prevent the growth of terrestrial vegetation or restrict vegetation growth to predominately aquatic species. Generally, land, including hay land, where the high and continuous presence of water has destroyed the value of the land for agricultural purposes must be deemed within the ordinary high water mark.
2. When feasible, direct hydrological and hydraulic measurements from stream gauge data, elevation data, historic records of water flow, high resolution light detection and ranging systems, prior elevation and survey maps, and statistical hydrological evidence must be considered when determining the ordinary high water mark. The ~~state engineer~~department of water resources shall establish appropriate guidelines, technical standards, and other criteria, including use of light detection and ranging systems or other future technological advancements, as necessary, for conducting hydrologic and hydraulic modeling required by this section.
3. Secondary physical indicators, including litter, debris, or staining, may be considered to supplement the analysis of the ordinary high water mark investigation but may not supersede primary physical indicators unless primary physical indicators are deemed inadequate or inconclusive. Physical indicators directly affected by influent non-navigable tributaries, adjoining water bodies, or wetlands may not be used to delineate the sovereign land boundary of a navigable body of water.

SECTION 186. AMENDMENT. Section 61-33-02 of the North Dakota Century Code is amended and reenacted as follows:

61-33-02. Administration of sovereign lands.

All sovereign lands of the state must be administered by the ~~state engineer~~department of water resources and the board of university and school lands subject to the provisions of this chapter. Lands managed pursuant to this chapter are not subject to leasing provisions found elsewhere in this code.

SECTION 187. AMENDMENT. Section 61-33-03 of the North Dakota Century Code is amended and reenacted as follows:

61-33-03. Transfer of possessory interests in real property.

All possessory interests now owned or that may be acquired except oil, gas, and related hydrocarbons, in the sovereign lands of the state owned or controlled by the

state or any of its officers, departments, or the Bank of North Dakota, together with any future increments, are transferred to the state of North Dakota, acting by and through the ~~state engineer~~director of the department of water resources. All such possessory interests in oil, gas, and related hydrocarbons in the sovereign lands of the state are transferred to the state of North Dakota, acting by and through the board of university and school lands. These transfers are self-executing. No evidence other than the provisions of this chapter is required to establish the fact of transfer of title to the state of North Dakota, acting by and through the ~~state engineer~~director of the department of water resources and board of university and school lands. Proper and sufficient delivery of all title documents is conclusively presumed.

SECTION 188. AMENDMENT. Section 61-33-05 of the North Dakota Century Code is amended and reenacted as follows:

61-33-05. Duties and powers of the ~~state engineer~~department of water resources.

The ~~state engineer~~department of water resources shall manage, operate, and supervise all properties transferred to it by this chapter; may enter into any agreements regarding ~~such~~the property; may enforce all rights of the owner in its own name; may issue and enforce administrative orders and recover the cost of the enforcement from the party against which enforcement is sought; and may make and execute all instruments of release or conveyance as may be required pursuant to agreements made with respect to ~~such~~the assets, whether ~~such~~the agreements were made heretofore, or are made hereafter~~before or after this section was enacted~~. The ~~state engineer~~department of water resources may enter agreements with the game and fish department or other law enforcement entities to enforce this chapter and rules adopted under this chapter.

SECTION 189. AMENDMENT. Section 61-33-05.1 of the North Dakota Century Code is amended and reenacted as follows:

61-33-05.1. Navigability determinations.

1. Before making a determination that a body of water or portion of a body of water is navigable, the ~~state engineer~~department of water resources shall:
 - a. Develop and deliver to the state water commission a preliminary finding regarding the navigability of the body of water or portion of a body of water and the legal rationale for the preliminary finding; and
 - b. Consult with the state water commission in an open meeting and demonstrate the public need and purpose for the determination to be made.
2. After completing the requirements of subsection 1, the ~~state engineer~~department of water resources may proceed with making a final determination of navigability by:
 - a. Providing reasonable public notice of the preliminary finding, legal rationale for the preliminary finding, and opportunity for the public to provide comments for no less than sixty days. The notice must:
 - (1) Include the address and electronic mail address to which public comments may be sent and the deadline by which public comments must be received;

- (2) Clearly identify the specific body of water or portion of a body of water for which the finding of navigability is sought;
 - (3) State the ~~state engineer~~department will hold a public hearing regarding the preliminary finding before a final determination of navigability is made, and provide the date, time, and location of the public hearing;
 - (4) Be provided to the governing body of each soil conservation district, water resource district, and county adjacent to the body of water or portion of a body of water for which the preliminary finding was made;
 - (5) Be published in the official county newspaper for each county adjacent to the body of water or portion of a body of water for which the preliminary finding was made; and
 - (6) Briefly state the purpose of the hearing and describe the impact or effect a determination of navigability will have on the property rights of persons who own property adjacent to the body of water or portion of a body of water for which the determination of navigability may be made; and
- b. Holding a public hearing regarding the preliminary finding.
3. After completing the requirements of subsection 2 and making a determination of navigability, the ~~state engineer~~department of water resources shall prepare a report regarding the determination, including summaries of the information provided to the state water commission, the public hearings held, and the public comments received. The ~~state engineer~~department shall provide the report to the state water commission, send the report by certified mail to any person that appeared at the public hearing required under subsection 2 or provided written comments by the deadline, make the report available to the public, including on the website for the office of the secretary of state, and provide public notice of the report's availability. The report is final on the date it is provided to the state water commission.
 4. A determination of navigability may be appealed directly to a court of competent jurisdiction in accordance with sections 28-32-42 through 28-32-46 and sections 28-32-50 and 28-32-51.

SECTION 190. AMENDMENT. Section 61-33-07 of the North Dakota Century Code is amended and reenacted as follows:

61-33-07. Deposit of income.

All income derived from the lease and management of the lands acquired by the ~~state engineer~~department of water resources and board of university and school lands pursuant to this chapter and not belonging to other trust funds must be deposited in the strategic investment and improvements fund.

SECTION 191. AMENDMENT. Section 61-33-08 of the North Dakota Century Code is amended and reenacted as follows:

61-33-08. Advisory board - Responsibilities.

There is created a sovereign lands advisory board. The board's responsibility is to advise the ~~state engineer~~department of water resources and the board of university

and school lands on general policies as well as specific projects, programs, and uses regarding sovereign lands. The board, being solely advisory, has no authority to require the ~~state-engineer~~department of water resources or the board of university and school lands to implement or otherwise accept the board's recommendations.

SECTION 192. AMENDMENT. Section 61-33-09 of the North Dakota Century Code is amended and reenacted as follows:

61-33-09. Members of the board - Organization - Meetings.

1. The board consists of the manager of the Garrison Diversion Conservancy District, the ~~state-engineer~~director of the department of water resources, the commissioner of university and school lands, the director of the parks and recreation department, the director of the game and fish department, and the director of the department of environmental quality, or their representatives.
2. The ~~state-engineer~~director of the department of water resources is the board's secretary.
3. The board shall meet at least once a year or at the call of the ~~state-engineer~~director of the department of water resources or two or more members of the board. The board shall meet at the office of the ~~state-engineer~~director of the department of water resources or at any other place decided upon by the board.
4. The board may adopt rules to govern its activities.

SECTION 193. AMENDMENT. Section 61-33-10 of the North Dakota Century Code is amended and reenacted as follows:

61-33-10. Penalty.

A person who violates this chapter or any rule implementing this chapter is guilty of a class B misdemeanor unless a lesser penalty is indicated. A civil penalty may be imposed by a court in a civil proceeding or by the ~~state-engineer~~department of water resources through an adjudicative proceeding pursuant to chapter 28-32. The assessment of a civil penalty does not preclude the imposition of other sanctions authorized by law, this chapter, or rules adopted under this chapter. The ~~state-engineer~~department of water resources may bring a civil action to recover damages resulting from violations and may also recover any costs incurred.

SECTION 194. AMENDMENT. Section 61-33.1-07 of the North Dakota Century Code is amended and reenacted as follows:

61-33.1-07. ~~State-engineer~~Department of water resources regulatory jurisdiction. (Retroactive application - [See note](#))

This chapter does not affect the authority of the ~~state-engineer~~department of water resources to regulate the historical Missouri riverbed channel, minerals other than oil and gas, or the waters of the state, provided the regulation does not affect ownership of oil and gas minerals in and under the riverbed or lands above the ordinary high water mark of the historical Missouri riverbed channel subject to inundation by Pick-Sloan Missouri basin project dams.

SECTION 195. AMENDMENT. Section 61-34-01 of the North Dakota Century Code is amended and reenacted as follows:

61-34-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Commission" means the state water commission.
2. "Program" means the drought disaster livestock water assistance program.
3. ~~"State engineer" means the state engineer appointed under section 61-03-01.~~

SECTION 196. AMENDMENT. Section 61-34-04 of the North Dakota Century Code is amended and reenacted as follows:

61-34-04. Eligibility - Application for assistance.

Applicants with livestock water supply problems caused by drought may apply for assistance from the program. An applicant must first apply for water cost-share assistance from the United States department of agriculture farm service agency. If cost-share assistance is denied by the agency, the applicant may forward the application to the commission for consideration. An application forwarded to the commission must include a document from the United States department of agriculture farm service agency stating the reason for denial of cost-share assistance. ~~The state engineer department of water resources~~ shall review all applications received by the commission. Notwithstanding any other provision of law, a water supply project commenced after application for funding is made but without prior approval of the ~~state engineer department~~ is eligible for funding consideration from the program. ~~The state engineer department~~ shall provide funds for approved applications in accordance with rules and criteria for eligibility and only to the extent that funding is available. A drought disaster livestock water assistance program project located on Indian land is eligible for the program.

SECTION 197. AMENDMENT. Section 61-35-01 of the North Dakota Century Code is amended and reenacted as follows:

61-35-01. Definitions.

As used in this chapter:

1. "Auditor" means the county auditor.
2. "Benefit unit" means the fee each member pays, for each service that is planned to be connected to the water system, for the privilege of using the district's facilities.
3. "Board" means the board of directors of a district.
4. "Bond" means any revenue bond, refunding bond, or improvement bond, or other evidence of indebtedness of a district issued under this chapter.
5. "Director" means a member of the board of directors.
6. "District" means a water district organized under this chapter.
7. "Federal agency" includes the United States, the president of the United States, or any agency, instrumentality, or corporation of the United States which has been or may be designated or created by or pursuant to any act or

acts or joint resolutions of the Congress of the United States or which may be owned or controlled, directly or indirectly, by the United States.

8. "Holder of bonds" or "bondholder", or any similar term, means any person who is the registered owner of any outstanding revenue bond, improvement bond, or refunding bonds.
9. "Law" means any statute of this state.
10. "Member" means an owner of real property that is located within a district, the tenant of the real property, or another person acting for the owner with the owner's written consent.
11. "Participating member" means a member who has subscribed to and paid the established fee for at least one benefit unit in a district, in the manner provided by this chapter.
12. "Project" means any work, undertaking, enterprise, or any combination of two or more projects which a district is authorized to construct and from which the district has derived or may derive revenues. "Project" includes all improvements, betterments, extensions, and replacements of work, undertaking, or enterprises, and all appurtenances, facilities, easements, lands, rights in land, water rights, contract rights, approaches, dams, reservoirs, generating stations, sewage disposal plants, intercepting sewers, trunk connections, other sewer and water mains, filtration works, pumping stations, equipment, franchises, and structures in connection with or incidental to any work, undertaking, or enterprise a district is authorized to construct.
13. "Refinancing" means funding, refunding, paying, or discharging, by means of refunding bonds or the proceeds from the sale of refunding bonds, all or any part of any notes, bonds, or other obligations issued to finance or to aid in financing the acquisition, construction, or improvement of a project and payable solely from all or any part of the revenue or interest on the revenue of the project in arrears or about to become due whether or not such interest is represented by interest certificates.
14. "Refunding bonds" means notes, bonds, certificates, or other obligations of a district issued under this chapter, the proceeds of which are to be used to pay the principal of or interest on any outstanding bonds or other obligations.
15. "Revenues" means all fees, tolls, rates, rentals, and charges levied and collected by a district in connection with, and all other income and receipts of whatever kind or character derived by a district from, the operation of any project.
16. "State engineer" has the same meaning as provided in chapter 61-03.
17. "Warrant" means an order drawn by the proper official of a district on its treasury, the warrant of order to be so drawn that when signed by the district treasurer in an appropriate place it becomes a check on the depository of such district, and a warrant upon the treasury may not be delivered or mailed to the payee or the payee's agent or representative until the warrant has been signed by the district treasurer and entered on the district's books as a check drawn on a bank depository.

SECTION 198. AMENDMENT. Section 61-35-02 of the North Dakota Century Code is amended and reenacted as follows:

61-35-02. Petition.

A petition may at any time be filed with the ~~state engineer~~department of water resources requesting the ~~state engineer~~department to organize a district encompassing an area in one county or in two or more adjacent counties for the purpose of providing an adequate supply of water for the residents of the area. An area to be included in a district may not include property then included in any other district or included in the service area of a nonprofit corporation or cooperative association established under title 10 to operate a rural water system, except as otherwise permitted under section 61-35-25.

SECTION 199. AMENDMENT. Section 61-35-02.1 of the North Dakota Century Code is amended and reenacted as follows:

61-35-02.1. Conversion of water resource district water supply system to water district.

A water resource district that has developed a water supply system under chapter 61-16.1 may convert that system to a water district as provided in this section. The water resource district board operating a water supply system may petition the ~~state engineer~~department of water resources to organize a district in the manner provided by section 61-35-02. The signatures of the water resource district's board of directors on the petition and a resolution adopted by the water supply system's users approving the petition suffice in lieu of signatures of owners of fifty percent of the real property in the proposed district, if the petition presenter provides evidence satisfactory to the ~~state engineer~~department that a sufficient number of members of the proposed district will subscribe or have subscribed to benefit units to make its operation feasible. The procedure for hearing and determination of disposition of the petition is as provided by this chapter. In any district organized upon the petition of a water resource board of directors, the following procedures apply:

1. After final approval of the petition by the ~~state engineer~~department of water resources, the secretary of the water resource board shall file a notice with the secretary of state.
2. Upon filing of the notice, the assets and liabilities of the water supply system become the assets and liabilities of the newly organized district without any further meetings, voting, notice to creditors, or other actions by the members of the board.
3. The officers and board of directors of the water resource district are the officers and board of the district.
4. The applicable laws of the state governing the water resource district board control the initial size and the initial terms of office of officers and the board, in lieu of sections 61-35-08 through 61-35-11.
5. The district shall bring its operation and structure into compliance with the requirements of section 61-35-08 regarding the number and qualification of directors, section 61-35-09 regarding new bylaws, section 61-35-10 regarding dividing its directors into classes, and section 61-35-11 regarding board meetings at the first annual meeting of the participating members and board. The new district has all the rights and all the property of the original water

supply system and is responsible for all its obligations. Title to any property is vested in the new district with no reversion or impairment of ownership rights caused by the conversion to a district. A water supply agreement entered by a water resource district is binding for its term on a successor district organized by the water resource district, unless otherwise agreed in writing by all parties to the agreement. The right of any creditor may not be impaired by this section without the creditor's consent.

SECTION 200. AMENDMENT. Section 61-35-04 of the North Dakota Century Code is amended and reenacted as follows:

61-35-04. Hearing after filing.

When a petition for the organization of a district is filed with the ~~state-engineer~~department of water resources, the ~~state-engineer~~department shall fix a time for a hearing on the petition not less than fifteen nor more than forty-five days after the filing of the petition. The ~~state-engineer~~department shall prepare a notice as required by section 61-35-05. At least seven days before the date fixed for the hearing on the petition, the notice must be published in the official county newspapers in the counties included within the district. The applicant shall pay all costs of the publication notice.

SECTION 201. AMENDMENT. Section 61-35-05 of the North Dakota Century Code is amended and reenacted as follows:

61-35-05. Contents of notice.

The notice prepared by the ~~state-engineer~~department of water resources must set forth:

1. The location of the area designated by the petitioners to be included in the proposed district, as described or shown by the original petition.
2. The time and place fixed by the ~~state-engineer~~department of water resources for the hearing on the petition.
3. That all owners or tenants of real property or other interested persons within the boundaries described may appear and be heard.
4. That the proposed district, if organized, has no power or authority to levy any taxes.

SECTION 202. AMENDMENT. Section 61-35-07 of the North Dakota Century Code is amended and reenacted as follows:

61-35-07. Findings - Order.

After the hearing, the ~~state-engineer~~department of water resources may strike off any part of the territory that testimony shows will not be benefited by the creation of the district. If the ~~state-engineer~~department does not find that the district is reasonably necessary, the ~~state-engineer~~department shall dismiss the petition. If the ~~state-engineer~~department finds that the required notice of the hearing has been given and that the proposed district is reasonably necessary for the public health, convenience, and comfort of the residents, the ~~state-engineer~~department shall make an order establishing the district as a political subdivision, designating its boundary, and identifying it by name or number. The order ~~shall~~must be published in the same newspaper or newspapers that published the notice of hearing. The applicant shall

pay all costs of the publication of the order. The ~~state engineer~~department shall prepare and preserve a complete record of the hearing on the petition and the ~~state engineer's department's~~ findings and action.

SECTION 203. AMENDMENT. Section 61-35-08 of the North Dakota Century Code is amended and reenacted as follows:

61-35-08. Meeting of members - Election of board.

As a part of the order organizing the district, the ~~state engineer~~department of water resources shall fix the time and place at which the members shall meet to select from their number a board of directors. Selection of the initial board may not be later than thirty days after the order is issued. The number of directors on the board, not to exceed nine, must be determined by a majority vote of those members present. Any member elected a director who fails to become a participating member, within thirty days after entry in the minutes of the board of a declaration of availability of benefit units for subscription, forfeits the office of director.

SECTION 204. AMENDMENT. Section 61-35-16 of the North Dakota Century Code is amended and reenacted as follows:

61-35-16. Plans and specifications.

As soon as reasonably possible after organizing a district, the board shall file with the ~~state engineer~~department of water resources copies of the plans and specifications for, and estimates of the cost of, any improvements authorized by this chapter which the board proposes to construct or acquire. The board shall determine a reasonable fee that each member shall pay for the privilege of utilizing the district's facilities, which shall be known as a benefit unit. By publication in the official county newspaper of each county in which all or part of the district is located, the board shall ~~generally~~ describe generally the planned improvements, the area to be served, and the fee members will be required to pay for each service connected to the water system.

SECTION 205. AMENDMENT. Section 61-35-18 of the North Dakota Century Code is amended and reenacted as follows:

61-35-18. Inclusion of property in district - Inclusion of municipality - Merger.

1. Owners of real property outside any district which can ~~economically~~ economically be served by the facilities of the district may petition to be attached to the district. The petition must be filed with the ~~state engineer~~department of water resources, and the ~~state engineer~~department shall proceed in substantially the same manner as is provided by this chapter for filing of and proceeding on a petition for organization of a district.
2. All or part of an incorporated city may be included in the boundaries of any existing district or a district being newly organized, provided the governing body of the city by resolution or ordinance gives its consent.
3. Boards of two or more districts by concurrent action and by approval of the ~~state engineer~~department of water resources may merge their districts into one. In case of merger, the members of the boards of the merged districts may serve until the next annual meeting at which time the district shall comply with the requirements of section 61-35-08 regarding the number and eligibility of directors, adopt new bylaws, and set the terms of the new board according to section 61-35-10. The resulting district shall take over all the assets and

legal liabilities of the districts joining in the merger. Obligations of any district secured by the revenue of the systems operated by the district must continue to be required, or a sinking fund must be established for that purpose created from revenue from the system operated over the same area by the resulting district in accordance with the laws under which the obligations were issued, until all obligations of the old district have been retired.

4. If there is a conflict between two or more districts concerning which district will serve an area, the ~~state engineer~~department of water resources, after a public hearing, shall determine which district can provide services more adequately and economically ~~provide service~~ within the area.

SECTION 206. AMENDMENT. Section 61-35-20 of the North Dakota Century Code is amended and reenacted as follows:

61-35-20. Exclusion of real property from district.

If it becomes apparent that any real property included within a district but contiguous to a border cannot economically or adequately be served by the facilities of the district, the owners of the real property or the board may file with the ~~state engineer~~department of water resources a petition to the ~~state engineer~~ requesting that the real property be excluded from the district. The petition must:

1. Describe by full and partial section and by township and range, or by lot number and subdivision, ~~as the case may be~~, the real property that it is ~~proposed~~the petitioner proposes to exclude from the district.
2. State that the real property cannot be served economically or adequately be served by the facilities of the district, and that it is not feasible for the district to enlarge or extend its facilities to serve economically and adequately serve the real property.
3. Be signed by the owners of all the real property that it is ~~desired to exclude~~proposed to be excluded from the district or by all of the board.

SECTION 207. AMENDMENT. Section 61-35-21 of the North Dakota Century Code is amended and reenacted as follows:

61-35-21. Inactive district dissolved.

A petition may be filed with the ~~state engineer~~department of water resources requesting the ~~state engineer~~department to dissolve an inactive district. The petition must:

1. List all real and personal property of any kind exclusive of records, maps, plans, and files and state that all of its debts and obligations have been fully paid fully.
2. State that the district is not functioning and probably will ~~probably~~ continue to be inoperative.
3. Be signed by three-fourths of the members of the district.

SECTION 208. AMENDMENT. Section 61-35-22 of the North Dakota Century Code is amended and reenacted as follows:

61-35-22. Hearing.

1. Upon the filing with the state engineer department of water resources of a petition under section 61-35-20 or 61-35-21, the state engineer department shall fix a time for consideration of the petition. The state engineer department may hold a hearing on the petition. After consideration of the petition, and after the hearing if one is held, the state engineer department shall ascertain whether:
 - 1- a. The petition meets all of the requirements prescribed by section 61-35-20 or 61-35-21.
 - 2- b. It appears from all information available to the state engineer department that each allegation included in the petition is factual.
2. If the state engineer's department's finding on each of the foregoing points is positive, the state engineer department shall declare the real property described in the petition detached from the district or declare the district dissolved, ~~as the case may be~~. The state engineer department shall notify the secretary of the district of the state engineer's department's action, and the secretary shall amend the records of the district to show that the real property described in the petition has been detached from the district. Within thirty days, the secretary shall deliver to the state engineer department all records, maps, plans, and files of the dissolved district.

SECTION 209. AMENDMENT. Section 61-35-23 of the North Dakota Century Code is amended and reenacted as follows:

61-35-23. Disposition of assets.

If a district is dissolved, the state engineer department of water resources shall provide for the disposition of any property owned by the district and for the apportionment of the proceeds and any other moneys belonging to the district to an adjoining district. If there is no adjoining district, the state engineer department shall apportion and dispose of the property and proceeds to the general fund of each county in the district in proportion to the county's area in the district. Any pledge or lien given with respect to any outstanding bonds of the district remains and any property so encumbered must be handled in conformity with the bond resolution or trust indenture. Money, property, or the proceeds from property may not be distributed to any private interests.

SECTION 210. AMENDMENT. Section 61-35-25 of the North Dakota Century Code is amended and reenacted as follows:

61-35-25. Alternate operation by nonprofit corporation or cooperative.

A nonprofit corporation or cooperative association established under title 10 for the specific purpose of operating a rural water system may petition the state engineer department of water resources to organize a district, in the manner provided by section 61-35-02. The signatures of the corporation's or cooperative's officers on the petition and a resolution adopted by the members in the manner provided in section 10-15-37 for amendments to articles or in the manner provided in chapter 10-33 for dissolution, ~~as the case may be~~, approving the petition suffice in lieu of signatures of owners of fifty percent of the real property in the proposed district, if the petition presenter provides evidence satisfactory to the state engineer department that a sufficient number of members of the proposed district will subscribe or have subscribed to benefit units to make its operation feasible. The procedure for hearing and determination of disposition of the petition is as provided by this chapter. In any

district organized upon the petition of a nonprofit corporation or cooperative association, the following procedures apply:

1. After final approval of the petition by the ~~state engineer department~~, the secretary of the corporation or cooperative shall file a notice with the secretary of state or attorney general, if applicable, in accordance with title 10.
2. Upon filing of the notice, the nonprofit corporation or cooperative ceases to exist as a title 10 entity and all assets and liabilities of the nonprofit corporation or cooperative become the assets and liabilities of the newly organized district without any further meetings, voting, notice to creditors, or other actions by the members of the board.
3. The officers and board of directors of the corporation or cooperative are the officers and board of the district.
4. The applicable laws of the state and the articles of incorporation and bylaws of the corporation or cooperative control the initial size and initial term of office of officers and the board, in lieu of sections 61-35-08 through 61-35-11.
5. The district shall bring its operation and structure into compliance with the requirements of section 61-35-08 regarding the number and qualification of directors, section 61-35-09 regarding new bylaws, section 61-35-10 regarding dividing its directors into classes, and section 61-35-11 regarding board meetings at the first annual meeting of the participating members and board. The new district has all the rights and all the property of the original corporation or cooperative and is responsible for all its obligations. Title to any property is vested in the new district with no reversion or impairment of ownership rights caused by the conversion to a district. A water supply agreement entered by a nonprofit corporation or cooperative association is binding for its term on a successor district organized by the nonprofit corporation or cooperative association, unless otherwise agreed in writing by all parties to the agreement. The right of any creditor may not be impaired by this section without the creditor's consent.

SECTION 211. AMENDMENT. Section 61-35-63 of the North Dakota Century Code is amended and reenacted as follows:

61-35-63. Appeal to ~~state engineer department~~ of water resources.

Within ten days after the hearing under section 61-35-62, affected landowners and any political subdivision subject to assessment, having not less than twenty-five percent of the possible votes as determined under section 61-35-60, who believe that the assessment has not been fairly or equitably made, or that the project is not properly located or designed, may appeal to the ~~state engineer department of water resources~~ by petition, to review the assessments and examine the location and design of the proposed project. Upon receipt of a petition, the ~~state engineer department~~ shall examine the lands assessed and the location and design of the proposed project, and if it appears that the assessments have not been made equitably, the ~~state engineer department~~ may proceed to correct the assessments, and the ~~state engineer's department's~~ correction and adjustment of assessments is final. If it appears to the ~~state engineer that department~~ the project has been ~~improperly~~ located or designed ~~improperly~~, the ~~state engineer department~~ may order a relocation and redesign, which must be followed in the construction of the proposed project. Upon filing a bond for two hundred fifty dollars with the board for the payment of the costs of the ~~state engineer department~~ in the matter, any landowner or political

subdivision claiming to receive no benefit from the project may appeal to the ~~state engineer~~department the question of whether there is any benefit. The appeal must be filed with the ~~state engineer~~department within ten days after the hearing on assessments in section 61-35-62. The ~~state engineer~~department may not determine the specific amount of benefit upon an appeal by an individual landowner or political subdivision ~~and but~~ may determine only if there is any benefit to the landowner or political subdivision. The determination of the ~~state engineer~~department upon the appeal is final.

SECTION 212. AMENDMENT. Section 61-38-01 of the North Dakota Century Code is amended and reenacted as follows:

61-38-01. Definitions. (Contingent effective date - [See note](#))

The ~~state engineer~~department of water resources shall adopt definitions that are consistent with federal law for, among other words: "dredged material", "fill material", "general permit", "person", "waters of the state", and "wetlands".

SECTION 213. AMENDMENT. Section 61-38-02 of the North Dakota Century Code is amended and reenacted as follows:

61-38-02. Powers. (Contingent effective date - [See note](#))

The ~~state engineer~~department of water resources has the following powers:

1. To exercise general supervision of the administration and enforcement of this chapter and all rules and orders adopted pursuant to this chapter.
2. To advise, consult, and cooperate with other agencies of the state, the federal government, and other states and interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter.
3. To accept and administer loans and grants from the federal government and from other sources, public or private, for carrying out any of its functions, ~~which. The~~ loans and grants may not be expended for ~~other than the purposes other than those~~ for which the loans and grants were provided.
4. To enter upon or through a permittee's premises where dredged or fill material is discharged, after written notice to the permittee. ~~Such power may be exercised by authorized agents, representatives, and employees of the state engineer.~~
5. To exercise all incidental powers necessary to carry out the purposes of this chapter.
6. To make rules governing the application, issuance, denial, modification, or revocation of permits for the discharge of dredged or fill material into waters of the state and for the administration of this chapter.
7. To hold any hearings necessary for the administration of this chapter.
8. To initiate actions in court for the enforcement of this chapter, including actions to enjoin any threatened or continuing violation of any requirement.
9. To issue administrative orders to restrain any person from engaging in any unauthorized activity.

10. To take all action necessary or appropriate to secure to the state the benefits of section 404 of the Clean Water Act [33 U.S.C. 1344].

³⁴¹ **SECTION 214. AMENDMENT.** Section 61-38-03 of the North Dakota Century Code is amended and reenacted as follows:

61-38-03. Permits - Certification from state department of health required. (Contingent effective date - [See note](#))

The ~~state engineer~~department of water resources may not issue a permit under this chapter without a certification from the state department of health that the permitted activity will not adversely affect water quality.

SECTION 215. AMENDMENT. Section 61-38-04 of the North Dakota Century Code is amended and reenacted as follows:

61-38-04. Specification of disposal sites. (Contingent effective date - [See note](#))

The ~~state engineer~~department of water resources shall specify a disposal site for each permit issued. Each disposal site must be specified for each permit through application of rules adopted by the ~~state engineer~~department. The rules must be consistent with federal law. The ~~state engineer~~department may prohibit the specification of any defined area as a disposal site, withdraw any defined area from specification as a disposal site, or deny or restrict the use of any defined area for specification as a disposal site ~~whenever the state engineer~~when the department determines, after notice and opportunity for public hearing, ~~that the discharge of dredged or fill materials will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas.~~

SECTION 216. AMENDMENT. Section 61-38-05 of the North Dakota Century Code is amended and reenacted as follows:

61-38-05. Discharge of dredged or fill material - Permit required - Exceptions. (Contingent effective date - [See note](#))

1. Except as otherwise provided by this chapter, no person may discharge dredged or fill material into waters of the state unless that person has a permit from the ~~state engineer~~department of water resources. No person may discharge dredged or fill material in violation of a permit. A permit is not required for:
 - a. The discharge of dredged or fill material when an activity is authorized by a general permit issued pursuant to section 61-38-06;
 - b. Normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;
 - c. Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levies, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures, which does not change the character, scope, or size of the original fill design;

³⁴¹ Section 61-38-03 was also amended by section 507 of House Bill No. 1247, chapter 352.

- d. Construction or maintenance of farm or stock ponds or irrigation ditches or the maintenance of drainage ditches;
 - e. Construction of temporary sedimentation basins on a construction site ~~which that~~ does not include placement of fill material into waters of the state;
 - f. Construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where ~~such the~~ roads are constructed and maintained, in accordance with best management practices, to assure ~~that~~ flow and circulation patterns and chemical and biological characteristics of the waters of the state are not impaired, ~~that~~ the reach of the waters of the state is not reduced, and ~~that~~ any adverse effect on the aquatic environment will be otherwise minimized; or
 - g. The placement of fill material associated with activities ~~which~~ the state regulates by requiring best management practices under chapter 61-28.
2. Any discharge of dredged or fill material into waters of the state incidental to any of the activities identified in subdivisions a through g of subsection 1 must have a permit if it is part of an activity ~~whose purpose is to convert~~ with the purpose of converting an area of waters of the state into a use to which it was not previously subject, where the flow or circulation of waters of the state may be impaired or the reach of such waters reduced, or if the discharge contains a toxic pollutant. Where the proposed discharge will result in significant discernible alterations to flow or circulation, the presumption is ~~that~~ flow or circulation may be impaired by ~~such the~~ alteration.

SECTION 217. AMENDMENT. Section 61-38-06 of the North Dakota Century Code is amended and reenacted as follows:

61-38-06. General permits. (Contingent effective date - [See note](#))

- 1. In carrying out the functions relating to the discharge of dredged or fill material, ~~the state engineer may~~ department of water resources, after notice and opportunity for public hearing, ~~may~~ may issue general permits on a state or regional basis for any category of activities involving discharges of dredged or fill material if the ~~state engineer~~ department determines ~~that~~ the activities in the category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal accumulative adverse effects on the environment. Any general permit issued under this section must set forth the requirements and standards ~~which apply~~ applicable to any activity authorized by the general permit. General permits must be issued pursuant to rules adopted by the ~~state engineer~~ department which are consistent with federal law.
- 2. A general permit may be revoked or modified by the ~~state engineer~~ department of water resources, after opportunity for public hearing, ~~the state engineer if the department~~ determines that the activities authorized by the general permit have an adverse impact on the environment or ~~such activities~~ are authorized more appropriately ~~authorized~~ by individual permits.
- 3. The ~~state engineer~~ department of water resources may require an individual permit for any proposed activity under a general permit where the nature or location of the activity makes an individual permit more appropriate.

SECTION 218. AMENDMENT. Section 61-38-07 of the North Dakota Century Code is amended and reenacted as follows:

61-38-07. Emergency permits. (Contingent effective date - [See note](#))

The ~~state engineer~~department of water resources may issue a temporary emergency permit for the discharge of dredged or fill material if unacceptable harm to life or severe loss of physical property is likely to occur before a permit could be issued or modified under procedures normally required.

SECTION 219. AMENDMENT. Section 61-38-08 of the North Dakota Century Code is amended and reenacted as follows:

61-38-08. Permit application - Notice - Hearing. (Contingent effective date - [See note](#))

Any person desiring to discharge dredged or fill material for which a permit is required shall file an application with the ~~state engineer~~department of water resources. The application must be on a form prescribed by the ~~state engineer~~department and must include information required by the ~~state engineer~~department. The ~~state engineer~~department may issue a permit after notice and opportunity for public hearing. Within fifteen days of receipt of all the information required to complete an application for a permit, the ~~state engineer~~department shall publish the notice.

SECTION 220. AMENDMENT. Section 61-38-09 of the North Dakota Century Code is amended and reenacted as follows:

61-38-09. Proceedings. (Contingent effective date - [See note](#))

1. Any proceeding to determine compliance with or violation of the provisions of this chapter or any rule, order, or condition in a permit issued pursuant to this chapter by the ~~state engineer~~department of water resources must be conducted in accordance with chapter 28-32.
2. Any person claiming to be aggrieved or adversely affected by actions taken or by any rule or order issued pursuant to this chapter may request a hearing by the ~~state engineer~~department of water resources if no hearing on the matter resulting in the action has been held. If a hearing has been held, the person claiming to be aggrieved or adversely affected may petition for reconsideration and may appeal in accordance with chapter 28-32.

SECTION 221. AMENDMENT. Section 61-38-10 of the North Dakota Century Code is amended and reenacted as follows:

61-38-10. Penalties. (Contingent effective date - [See note](#))

The ~~state engineer~~department of water resources may assess or sue to recover civil penalties and seek criminal remedies as provided in this section.

1. The ~~state engineer~~department may assess or recover civil penalties for discharges of dredged or fill material without a required permit or in violation of any permit condition of up to five thousand dollars per day of such violation.
2. The ~~state engineer~~department may seek criminal fines against any person who willfully or with criminal negligence discharges dredged or fill material

without a required permit or violates any permit condition issued under this chapter of up to ten thousand dollars per day of such ~~the~~ violation.

3. The ~~state engineer~~department of water resources may seek criminal fines against any person who knowingly makes a false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or any rules adopted pursuant to this chapter, or falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under the permit of up to five thousand dollars for each instance of violation.

SECTION 222. AMENDMENT. Section 61-38-11 of the North Dakota Century Code is amended and reenacted as follows:

61-38-11. Restoration. (Contingent effective date - [See note](#))

In lieu of or in addition to the penalties authorized under section 61-38-10, the ~~state engineer~~department of water resources may require restoration of areas in which dredged or fill material has been ~~illegally~~ discharged ~~illegally~~. If the ~~state engineer~~department determines that any person has discharged dredged or fill material without a permit or in violation of any permit condition, the ~~state engineer~~department shall notify the person by registered or certified mail. The notice must specify the nature and extent of noncompliance and state that the area in which the dredged or fill material is located must be restored to the satisfaction of the ~~state engineer~~department within thirty days of receipt of the notice. If the area is not restored as required, the ~~state engineer~~department shall cause the restoration of the area and assess the cost of the restoration against the person ~~or persons~~ responsible for the illegal discharge.

SECTION 223. AMENDMENT. Section 61-39-01 of the North Dakota Century Code is amended and reenacted as follows:

61-39-01. Findings and declaration of policy.

The legislative assembly declares that many areas and localities in eastern and central North Dakota do not enjoy adequate quantities of high-quality drinking water; that other areas and localities in eastern and central North Dakota do not have sufficient quantities of water to ensure a dependable, long-term supply; that greater economic security and the protection of health and property benefits the land and water resources of this state; and that the promotion of the prosperity and general welfare of all of the people of this state depend on the effective development and utilization of the land and water resources of this state and ~~neecessitates and~~ requires the exercise of the sovereign powers of this state and concern a public purpose. To accomplish this public purpose, ~~it is declared necessary that a water authority is needed to store and distribute water to eastern and central North Dakota be established to provide for the supply and distribution of water to the people of eastern and central North Dakota for purposes, including domestic, rural water, municipal, livestock, industrial, and other uses, with primary emphasis on domestic, rural water, and municipal uses; and provide for the future economic welfare and prosperity of the people of this state, and particularly the people of eastern and central North Dakota, by the bulk purchase of water from the Garrison Diversion Conservancy District delivered by the Red River valley water supply project for beneficial and public uses. The Garrison Diversion Conservancy District may acquire, construct, and improve, and own the Red River valley water supply project and may enter water supply contracts with member cities and water districts for the sale of water for consumption within or outside the district or the state, including with Canada. Alternatively, the Lake~~

Agassiz water authority may enter one or more contracts to provide for the authority to acquire bulk water from the Garrison Diversion Conservancy District and may enter water supply contracts with member cities and water districts for the resale of this water for consumption within or outside the state.

The legislative assembly acknowledges that North Dakota and Minnesota communities jointly use the Red River as a water resource. It is in the best interest of eastern North Dakota also to study and possibly provide for the water needs of those Minnesota communities through a Red River valley water supply project, particularly if that project maintains the use of the Red River for North Dakota communities.

In furtherance of this public purpose, the state water commission may provide for the issuance of bonds in accordance with chapter 61-02 to finance the costs of any project to deliver water to eastern and central North Dakota or utilize other financing as addressed in this chapter. This chapter does not abrogate or limit the rights, powers, duties, and functions of the state water commission or ~~state engineer~~ department of water resources, but is supplementary to those rights, powers, duties, and functions.

SECTION 224. AMENDMENT. Section 61-40-07 of the North Dakota Century Code is amended and reenacted as follows:

61-40-07. Easement granted for pipelines and appurtenant facilities on any public lands.

In connection with the construction and development of the project, there is granted over all the lands belonging to the state, including lands owned or acquired for highway right-of-way purposes, a right of way for pipelines, connections, valves, and all other appurtenant facilities constructed as part of the project. However, ~~the director of the department of transportation and the state engineer must approve the plans of the authority with respect to the use of right of way of roads must be approved by the director of the department of transportation and the director of the department of water resources~~ before the grant becomes effective.

³⁴² **SECTION 225. REPEAL.** Sections 61-03-01, 61-03-02, and 61-03-05.1 of the North Dakota Century Code are repealed.

Approved April 19, 2021

Filed April 20, 2021

³⁴² Section 61-03-05.1 was also repealed by section 15 of Senate Bill No. 2035, chapter 56.

CHAPTER 489

HOUSE BILL NO. 1088

(Energy and Natural Resources Committee)
(At the request of the State Water Commission)

AN ACT to amend and reenact section 61-02-01.3 of the North Dakota Century Code, relating to the state water commission's comprehensive water development plan; and to repeal section 61-02-01.5 of the North Dakota Century Code, relating to North Dakota outdoor heritage fund grants and their effect on state water commission cost-share amounts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-02-01.3 of the North Dakota Century Code is amended and reenacted as follows:

61-02-01.3. Comprehensive water development plan.

Biennially, the commission shall develop and maintain a comprehensive water development plan organized on a river basin perspective, including an inventory of future water projects for budgeting and planning purposes. As part of the commission's planning process, to facilitate local project sponsor participation and project prioritization and to assist in education regarding life cycle analyses for municipal water supply projects, and economic analyses for flood control and water conveyance projects expected to cost more than one million dollars, the commission shall develop a policy that outlines procedures for commissioner-hosted meetings within the upper Missouri River, lower Missouri River, James River, upper Red River, lower Red River, James River, Mouse River, upper Missouri River, lower Missouri River, and Devils Lake, Little Missouri River, upper Heart River, and upper Cannonball River drainage basins.

SECTION 2. REPEAL. Section 61-02-01.5 of the North Dakota Century Code is repealed.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 490

HOUSE BILL NO. 1437

(Representatives Schreiber-Beck, D. Anderson, Beltz, D. Johnson, J. Nelson, O'Brien, Schmidt)
(Senators Klein, Kreun)

AN ACT to create and enact section 61-32-03.2 of the North Dakota Century Code, relating to small subsurface water management systems; to amend and reenact subsection 3 of section 61-02-01.4 and section 61-32-03.1 of the North Dakota Century Code, relating to large subsurface water management system permits and the state water commission cost-share policy; to provide a penalty; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 61-02-01.4 of the North Dakota Century Code is amended and reenacted as follows:

3. Must consider all project costs potentially eligible for reimbursement, except the commission shall exclude operations expense, regular maintenance, and removal of vegetative materials and sediment, for assessment drains, and may exclude operations expense and regular maintenance for other projects. Snagging and clearing of watercourses are not regular maintenance and deepening or widening of existing drains are eligible for reimbursement. The commission shall require a water project sponsor to maintain a capital improvement fund from the rates charged customers for future extraordinary maintenance projects as condition of funding an extraordinary maintenance project.

³⁴³ **SECTION 2. AMENDMENT.** Section 61-32-03.1 of the North Dakota Century Code is amended and reenacted as follows:

61-32-03.1. Permit to drain subsurface waters required - Permit form - Penalty.

- 1.a. Installation of a subsurface water management system comprising eighty acres [32.37 hectares] of land area or more requires a permit. ~~The watershed area drained by a subsurface water management system may not be used to determine whether the system requires a permit under this section. A person that violates this section is guilty of an infraction.~~
- b. Subsurface water management systems that use surface intakes or lift stations must be permitted exclusively under this section if the system will have a drainage coefficient of three-eighths of an inch [0.95 centimeters] or less. Subsurface water management systems that use surface intakes must be permitted exclusively under section 61-32-03 if the system will have a drainage coefficient exceeding three-eighths of an inch [0.95 centimeters].

³⁴³ Section 61-32-03.1 was also amended by section 182 of House Bill No. 1353, chapter 488.

- ~~c. Installation of a subsurface water management system comprising less than eighty acres [32.37 hectares] of land area does not require a permit.~~
- 2. For purposes of this section, a "natural watercourse" includes, in addition to watercourses defined in section 61-01-06, any waterway depicted as a perennial or intermittent stream or river on a United States geological survey topography map.
- 3. a. The state engineer shall develop an application form for a permit required under this section. A person seeking to construct a subsurface water management system that requires a permit under this section must~~shall~~submit a completed application to the water resource district board within which is found a majority of the land area for consideration and approval. The water resource district board may charge permit applicants a fee up to one hundred fifty dollars. Water resource districts shall forward copies of all approved permits to the state engineer. The fee must be paid before the water resource district may approve the application.
- ~~b. Upon submission of a completed application for a permit, the water resource district board immediately shall give notice and a copy of the submission via certified mail to each owner of land within one mile [1.61 kilometers] downstream of the proposed subsurface water management system outlet unless the distance to the nearest waterway depicted as a perennial or intermittent stream or river on a United States geological survey topography map, assessment drain, natural watercourse, slough, or lake is less than one mile [1.61 kilometers], in which case notice and a copy of the submission must be given immediately to each owner of land between the outlet and the nearest assessment drain, natural watercourse, slough, or lake. The notice requirement in this section must be waived if the applicant presents signed, notarized letters of approval from all downstream landowners entitled to notice in this subsection.~~
- ~~3. a. If the water resource board receives notarized letters of approval from all downstream landowners entitled to notice, the board shall approve the completed permit application as soon as practicable but no later than thirty days after receipt of the last letter. Otherwise, the water resource board shall review the completed application at its next meeting that is at least thirty days after receipt of the application. The board shall consider any written, technical evidence provided by the applicant or a landowner notified under subsection 2 addressing whether the land of a notified landowner will be flooded or unreasonably harmed by the proposed subsurface water management system. For purposes of this section "technical evidence" means written information regarding the proposed subsurface water management system, prepared after consideration of the design and physical aspects of the proposed system, and any adverse hydraulic effects, including erosion, flood duration, crop loss, and downstream water control device operation impacts, which may occur to land owned by a landowner provided under subsection 2. Technical evidence must be submitted to the permit applicant, notified landowners, and the board within thirty days of the receipt of the completed permit application by the board. A notified landowner may not object to the proposed system unless the landowner presents technical evidence under this subsection.~~

- b. If the board finds, based on technical evidence, the proposed subsurface water management system will flood or unreasonably harm lands of a landowner notified under subsection 2, the board may require the applicant to obtain a notarized letter of approval before issuing a permit for the system. The board may not require a letter of approval for any land downstream of a system that outlets into an assessment drain, natural watercourse, or pond, slough, or lake if notified landowners did not provide technical evidence to the district.
 - c. A water resource district may attach reasonable conditions to an approved permit for a subsurface water management system that outlets directly into a legal assessment drain or public highway right of way. For purposes of this subsection, "reasonable conditions" means conditions that address the outlet location, proper erosion control, reseeding of disturbed areas, installation of riprap or other ditch stabilization, and conditions that require all work to be done in a neat and professional manner. Any condition to locate the project a minimum distance from rural water supply lines may not extend beyond an existing easement for lines, or no greater than twenty feet [6.1 meters] from either side of the water line if the rural water line was installed under a blanket easement.
 - d. A water resource district may require a subsurface water management system granted a permit under this section to incorporate a control structure at the outlet into the design of the system and may require the control structure be closed during critical flood periods.
 - e. A water resource district board may not deny a completed permit application under this section unless the board determines, based on technical evidence submitted by a landowner notified under subsection 2, the proposed water management system will flood or unreasonably harm land of a notified landowner, and a notarized letter of approval required by the board has not been obtained by the applicant. For purposes of this section, "unreasonable harm" is limited to hydraulic impacts, including erosion or other adverse impacts that degrade the physical integrity of a roadway or real property within one mile [1.61 kilometers] downstream of the system's outlet. The board shall include a written explanation of the reasons for a denial of a completed application and notify, by certified mail, the applicant and all landowners notified under subsection 2 of the approval or denial.
 - f. The board may not deny a permit more than sixty days after receipt of the completed application for the permit. If the board fails to deny the permit application within sixty days of receipt, the permit application is deemed approved.
- 4. A denial of a completed permit application by a water resource district board may be appealed, under section 28-34-01, to the district court of the county in which the permit application was filed. The court may approve a completed permit application denied by a water resource district board or the state engineer if the application meets the requirements of this section.
 - 5. A completed permit application includes:
 - (1) A completed application form signed by an applicant and filed with the district;

- (2) Evidence of ownership for each parcel to be tiled according to the tax rolls of the county in which the parcel is located;
 - (3) A project design, including:
 - (a) A detailed drawing depicting the subsurface water management system's location overlain on an aerial photograph of the parcel;
 - (b) The system's location by legal description identifying either the relevant quarter, section, township, and range or the relevant block and lot number;
 - (c) The physical footprint of the system's layout;
 - (d) The tile-main sizes and locations;
 - (e) The laterals to the tile-main sizes and locations;
 - (f) Surface inlet sizes and locations; and
 - (g) Outlet sizes, locations, and types;
 - (4) A downstream flow map or depiction of the flow direction from each outlet location for one mile [1.61 kilometers] downstream which includes the location of the downstream parcels by legal description identifying either the relevant quarter, section, township, and range or the relevant block and lot number; and
 - (5) Evidence of ownership for each parcel within one mile [1.61 kilometers] downstream of each project outlet according to the tax rolls for the county in which the parcel is located, unless the distance to the nearest assessment drain, natural watercourse, slough, or lake is less than one mile [1.61 kilometers] downstream of a proposed outlet, in which case the applicant shall provide evidence of ownership for each parcel between the outlet and the nearest assessment drain, natural watercourse, slough, or lake.
- c. Unless the district notifies an applicant the application is incomplete and provides a list of information required to complete the application within three business days after the day the district receives the application, the application is deemed complete.
- d. Detailed drawings submitted pursuant to subparagraph a of paragraph 3 of subdivision b as part of an application for a permit under this section after the effective date of this Act are exempt records under section 44-04-18 and may be provided to individuals only as necessary to make a decision whether to approve the permit.
- 4. A district may attach conditions to an approved permit for a subsurface water management system if the conditions address:
 - a. Outlet locations including requirements for pump and control structures to be installed no closer than twenty-five feet [7.62 meters] from the top of the back slope of an assessment drain;

- b. Installation and maintenance of proper erosion control at all outlets;
- c. Re-establishment of disturbed areas to previous conditions;
- d. The minimum distance from rural water supply lines. However, a district may not attach a condition requiring a system to extend beyond an existing easement for a rural waterline, or, if the rural waterline was installed under a blanket easement, requiring a system to extend beyond twenty feet [6.1 meters] from either side of a rural waterline;
- e. Installation and operation of control structures at project outlets including requirements for control structures to be closed or pump outlets to be turned off during critical flood periods;
- f. Requirements for a permittee to obtain an amendment to a permit for alterations to outlet locations, new outlets, or improvements resulting in drainage of additional acres;
- g. If the subsurface water management system will discharge into the watershed area of an assessment drain, inclusion of the relevant property into the assessment district for the assessment drain in accordance with the benefits the property receives, provided the property is not assessed already for the assessment drain. The water resource district may include the new property into the assessment district, and determine the benefits and assessment amounts under chapters 61-21 and 61-16.1, without conducting the reassessment of benefit proceedings under sections 61-21-44 and 61-16.1-26, provided the property is not assessed already for the assessment drain.
- h. Requirements for a permittee to remove silt and vegetation, or repair erosion and scour damages directly caused by the subsurface water management system, up to one mile [1.61 kilometers] downstream from a proposed outlet, unless the distance to the nearest assessment drain, natural watercourse, slough, or lake is less than one mile [1.61 kilometers] downstream of the proposed outlet, in which case the district may require silt and vegetation removal or erosion and scour damage repair between the outlet and the nearest assessment drain, natural watercourse, slough, or lake. For purposes of this subdivision and subdivision i:
 - (1) Downstream damage repair does not include deepening or widening a road ditch or existing drain;
 - (2) The timing and method of silt and vegetation removal or damage repair in a county or township road ditch must be preapproved by the appropriate road authority; and
 - (3) The applicant shall follow any construction site protection requirements of the road authority.
- i. If a downstream landowner or road authority presents substantial evidence a subsurface water management system directly has caused accumulation of silt, vegetation erosion, or scouring, the requirement or authorization of the applicant to remove the silt and vegetation or repair the erosion and scour damages directly caused by the system. However, the applicant may

not spread silt, vegetation, or debris along adjoining land without the permission of all parties having a legal interest in the land.

5. A district shall approve a permit, including any permissible conditions, within thirty days after the district receives the completed application. If the district fails to approve the permit application within that period, the permit is deemed approved with no conditions.
6. Upon approval of a permit, the district shall forward notice of the approved permit and the downstream flow map to the state engineer and to each landowner who owns property within one mile [1.61 kilometers] downstream of each project outlet according to the tax rolls of the county in which the property is located, unless the distance to the nearest assessment drain, natural watercourse, slough, or lake is less than one mile [1.61 kilometers] downstream of the proposed outlet, in which case the district shall provide notice to landowners with property between the outlet and the nearest assessment drain, natural watercourse, slough, or lake. The district shall send copies of the notice by first-class mail, attested by an affidavit of mailing. The district does not need to provide copies of the permit application under this subsection.
7. An amendment of a previously approved subsurface water management system permit must be made according to the provisions for approving a permit under this section.
8. A water resource district board may not be held liable to any person for issuing a permit under this section.
- ~~6. A person that installs a subsurface water management system requiring a permit under this section without first securing the permit is liable for all damages sustained by a person caused by the subsurface water management system.~~
- ~~7. A person that installs a subsurface water management system requiring a permit under this section without first securing the permit is guilty of an infraction.~~
9. Approval of a permit under this section does not prohibit a downstream party unreasonably damaged by the discharge of water from a subsurface water management system from seeking damages in a civil action.
10. This section applies only to subsurface water management systems that drain, in whole or in part, platted or unplatted lands used for raising agricultural crops or grazing farm animals.

SECTION 3. Section 61-32-03.2 of the North Dakota Century Code is created and enacted as follows:

61-32-03.2. Smaller subsurface water management systems - Notification and conditions - Penalty.

1. A person may not install a subsurface water management system comprising less than eighty acres [32.37 hectares] of land area until the person has notified the board of the water resource district within which is found a majority of the land area of the system of the following information:

- a. The system's total acreage and legal description of the land being drained;
 - b. The outlet locations and types; and
 - c. The flow direction from each outlet location.
2. A person required to notify the board under subsection 1 shall install the subsurface water management system such that:
 - a. Pump and control structures at pump outlets are installed no closer than twenty-five feet [7.62 meters] from the top of the back slope of an assessment drain;
 - b. Proper erosion controls are installed and maintained at all outlets; and
 - c. Pumps and control structures at project outlets are closed or turned off during critical flood periods.
3. If a subsurface water management system for which notification is required under subsection 1 will discharge into the watershed area of an assessment drain, the water resource board that receives the notice may require the relevant property to be included in the assessment district for the assessment drain in accordance with the benefits the property receives, provided the property is not assessed already for the assessment drain. The water resource district also may include the property in the assessment district and determine the benefits and assessment amounts under chapters 61-21 and 61-16.1, without conducting the reassessment of benefit proceedings under sections 61-21-44 and 61-16.1-26, provided the property is not assessed already for the assessment drain.
4. The board of the water resource district within which the subsurface water management system is located may order the system's owner or operator to bring the system into compliance with subsection 2 if the board finds the system violates that subsection.
5. A person that violates this section is guilty of an infraction.
6. This section applies only to subsurface water management systems that drain, in whole or in part, platted or unplatted lands used for raising agricultural crops or grazing farm animals.
7. This section does not apply to a subsurface water management system that discharges into a body of water completely encompassed by land owned by the person that owns the land drained by the system.
8. The information that must be provided to a board of a water resource district under this section is an exempt record under section 44-04-18.

SECTION 4. EXPIRATION DATE. Section 3 of this Act is effective through December 31, 2022, and after that date is ineffective.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 491

HOUSE BILL NO. 1216

(Representatives Damschen, D. Anderson, Monson, Schauer, Westlund)
(Senators Dwyer, Oehlke)

AN ACT to amend and reenact subsection 2 of section 61-16-08 of the North Dakota Century Code, relating to compensation and reimbursement of water resource district board members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 61-16-08 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~Each~~While performing duties as a member of a water resource board shall, each member is entitled to receive the sum of at least seventy-five dollars but not more than one hundred thirty-five dollars per day while performing duties as a member of the board, and an allowance for meals and lodging expenses at the same rate and under the same conditions as provided for state officials and employees. The allowance for travel expenses shall be at the same rate as provided by section 11-10-15 and shall compensation of at least seventy-five dollars per day but not more than the rate set for a member of the legislative assembly under section 54-03-20, an allowance for meals at the same rates and under the same conditions as provided by law for state officials and employees, and reimbursement of lodging and other necessary travel expenses at the same rate and under the same conditions as provided by law for state officials and employees. A request for an allowance or reimbursement must be evidenced by a subvoucher or receipt as provided by section 21-05-01.

Approved March 16, 2021

Filed March 16, 2021

CHAPTER 492

SENATE BILL NO. 2081

(Energy and Natural Resources Committee)
(At the request of the State Water Commission)

AN ACT to amend and reenact sections 61-16.2-06 and 61-16.2-08 of the North Dakota Century Code, relating to permissible uses in the floodway and flood fringe under the national flood insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.2-06 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-06. Permissible floodway uses.

Upon delineation of the floodway under the national flood insurance program [42 U.S.C. 4001 et seq.], uses shall be permitted within the floodway to the extent that they do not cause any measurable decrease in the hydraulic conveyance in the affected areas result in any increase in flood levels during the occurrence of the base flood discharge. Any exception to the national flood insurance program [42 U.S.C. 4001 et seq.] in implementing regulations granted by the appropriate federal agency to a community participating in the national flood insurance program is an approved exception pursuant to this section.

SECTION 2. AMENDMENT. Section 61-16.2-08 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-08. Community standards - Permissible uses within flood fringe.

1. Upon delineation of the floodplain or floodway under the national flood insurance program [42 U.S.C. 4001 et seq.], the following uses ~~shall~~must be permitted within the flood fringe to the extent ~~that they~~the uses are not prohibited by any other ordinance, regulation, or statute:
1. a. Any use permitted in the regulatory floodway pursuant to section 61-16.2-06.
2. b. Structures, including residential and nonresidential structures; provided,~~that:~~
 - a. (1) Residential structures are constructed ~~such that~~so the lowest floor, including basements, is elevated to at least one foot [30.48 centimeters] above the base flood elevation unless granted a residential basement floodproof exception under the national flood insurance program.
 - b. (2) Nonresidential structures are either are constructed as specified in subdivision a and elevated to at least one foot [30.48 centimeters] above the base flood elevation or are ~~adequately~~adequately floodproofed up to an elevation no lower than two feet [.61 meter] above

the base flood elevation. ~~Such~~The floodproofing shall~~must~~ be in accordance with the standards either adopted by the community under the national flood insurance program [42 U.S.C. 4001 et seq.] or under this chapter, whichever are more restrictive.

2. Any exception to this section must be approved by the regulatory authority as a variance, established in local floodplain development ordinances.
3. Any exception to the national flood insurance program [42 U.S.C. 4001 et seq.] in implementing regulations granted by the appropriate federal agency to a community participating in the national flood insurance program is an approved exception under this section.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 493

HOUSE BILL NO. 1063

(Energy and Natural Resources Committee)
(At the request of the State Water Commission)

AN ACT to amend and reenact sections 61-24.6-02, 61-24.6-03, 61-24.6-04, 61-24.6-06, 61-24.6-07, 61-24.6-08, 61-24.6-09, 61-24.6-10, and 61-24.6-11 of the North Dakota Century Code, relating to the northwest area water supply advisory committee and the areas to be served by the northwest area water supply project; to provide for legislative management reports; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁴⁴ **SECTION 1. AMENDMENT.** Section 61-24.6-02 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-02. Northwest area water supply advisory committee - Created.

The northwest area water supply advisory committee consists of the following representatives, appointed by the state engineer:

1. One person from the city of Minot recommended by the Minot city council.
2. ~~One person from the city of Williston recommended by the Williston city council.~~
3. One person from the Bottineau, Burke, ~~Divide~~, McHenry, McLean, ~~Mountrail~~, Pierce, Renville, and Ward, or Williams County water resource districts recommended jointly by the governing boards of the Bottineau, Burke, ~~Divide~~, McHenry, McLean, ~~Mountrail~~, Pierce, Renville, and Ward, or Williams County water resource districts.
- ~~4.3.~~ One representative of the state water commission recommended by the commission.
- ~~5.4.~~ One representative of the ~~Three Affiliated Tribes, representing that area of the Fort Berthold Indian Reservation north of the Missouri River and Lake Sakakawea~~ Turtle Mountain Band of Chippewa Indians recommended by the tribal council who will serve as a nonvoting member.
- ~~6.5.~~ One representative of rural water distribution systems located in northwestern North Dakota. This representative must be a resident of Bottineau, Burke, ~~Divide~~, McHenry, McLean, ~~Mountrail~~, Pierce, Renville, or Ward, or Williams County.

³⁴⁴ Section 61-24.6-02 was also amended by section 174 of House Bill No. 1353, chapter 488.

- 7-6. One representative of a municipality other than the city of Minot, located in Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, or Ward, or Williams County.
- 8-7. One representative of the Garrison Diversion Conservancy District recommended by the board of directors of the conservancy district.
- 9-8. One at-large representative.

³⁴⁵ **SECTION 2. AMENDMENT.** Section 61-24.6-03 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-03. Advisory committee - Duty - Officers - Meetings - Compensation - Staffing.

The northwest area water supply advisory committee shall develop recommendations for the legislative management regarding the transition of long-term operations and management of the northwest area water supply project. The advisory committee shall elect a chairman and vice chairman. The advisory committee shall and meet no less than once per quarter at the times and places necessary to carry out the purposes of this chapter. The advisory committee members may be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09. The advisory committee members serve at the pleasure of the state engineer. Vacancies must be filled in the same manner as original appointments are made. The state water commission shall provide staffing and support for the advisory committee.

SECTION 3. AMENDMENT. Section 61-24.6-04 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-04. Powers of the state water commission in consultation with the northwest area water supply advisory committee.

The state water commission ~~may, in consultation,~~ shall consult with the northwest area water supply advisory committee regarding the following duties of the commission:

1. Accept funds, property, services, or other assistance, financial or otherwise, from federal, state, tribal, and other public or private sources for the purpose of aiding and promoting the development of a project to deliver water to northwestern North Dakota.
2. Cooperate and contract with the state, its agencies, or its political subdivisions, the Three Affiliated Tribes, or any agency of the United States, in research and investigation or other activities promoting the development of a project to deliver water to northwestern North Dakota.
3. Appoint and procure the services of engineers, attorneys, and others to assist in developing a project to deliver water to northwestern North Dakota.
4. Exercise such other powers as may be necessary for, or incidental to, the achievement of the purposes of this chapter.

³⁴⁵ Section 61-24.6-03 was also amended by section 175 of House Bill No. 1353, chapter 488.

5. Construct, operate, and manage a project to deliver water throughout ~~northwestern North Dakota~~the project area.

SECTION 4. AMENDMENT. Section 61-24.6-06 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-06. Commission to fix water rates for the northwest area water supply project.

The state water commission, after consulting with the northwest area water supply advisory committee, shall establish the payments for water service to be paid by water user entities for purchase of water from the northwest area water supply project. The payments for water service must include each water user entity's proportionate share of the operation, maintenance, and replacement costs, and also include a component for payment for capital costs. The commission shall include in its determination of each water user entity's share of operation, maintenance, and replacement costs an amount to be deposited in the northwest area water supply project reserve fund for replacement, as established by section 61-24.6-07, for replacement and extraordinary maintenance of northwest area water supply project works. The amount of the reserve fund for replacement must be determined by the commission.

SECTION 5. AMENDMENT. Section 61-24.6-07 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-07. Operation and maintenance fund - Deposit - Use.

Revenues received by the state water commission from water user entities or otherwise for operation and maintenance of the northwest area water supply project must be maintained, as a part of the moneys of the state received and kept by the state treasurer in a fund to be designated as the northwest area water supply project operation and maintenance fund. All moneys received by the state treasurer for operation and maintenance of the northwest area water supply project and the interest on moneys in the fund must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for paying for costs and expenditures for operation and maintenance of the northwest area water supply project.

SECTION 6. AMENDMENT. Section 61-24.6-08 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-08. Reserve fund for replacement - Deposit - Use.

Revenues received by the state water commission from water user entities or otherwise for replacement and extraordinary maintenance of the northwest area water supply project may be held pursuant to the terms of a resolution or trust indenture adopted by the commission. Any money not held pursuant to the terms of a resolution or trust indenture must be deposited by the commission and maintained, as a part of the moneys of the state received and kept by the state treasurer, in a fund designated as the northwest area water supply project reserve fund for replacement. All moneys received by the state treasurer for replacement and extraordinary maintenance of the northwest area water supply project and the interest on the moneys must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for replacement and extraordinary maintenance of the northwest area water supply project.

SECTION 7. AMENDMENT. Section 61-24.6-09 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-09. Capital costs - Deposit - Use.

Money derived and received from water user entities or otherwise for capital costs or construction of the northwest area water supply project may be held pursuant to the terms of a resolution or trust indenture adopted by the state water commission. Any money not held pursuant to the terms of a resolution or trust indenture must be deposited by the commission and maintained, as part of the moneys of the state received and kept by the state treasurer, in a fund designated as the northwest area water supply project fund for capital costs and construction. All moneys received by the state treasurer for capital costs and construction of the northwest area water supply project, and all interest on the moneys, must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for capital costs and construction of the northwest area water supply project.

SECTION 8. AMENDMENT. Section 61-24.6-10 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-10. Areas served by the northwest area water supply project.

The commission may provide, as part of the northwest area water supply project, delivery, distribution, and treatment of water from the Missouri River or other sources, to areas in Bottineau, Burke, ~~Divide~~, McHenry, McLean, ~~Mountrail~~, Pierce, Renville, ~~and Ward, and Williams~~ Counties. The facilities for delivery of water may be from a pipeline transmission and delivery system or through other works, as determined by the commission.

SECTION 9. AMENDMENT. Section 61-24.6-11 of the North Dakota Century Code is amended and reenacted as follows:

61-24.6-11. Commission has authority to sell property.

If the state water commission determines property acquired for the northwest area water supply project is no longer necessary for project purposes and the unnecessary parcel is five contiguous acres [2.03 hectares] or less, sections 54-01-05.2 and 54-01-05.5 do not apply. The commission shall have the authority to sell, transfer, or exchange the unnecessary parcel to the current owner of the parent parcel from which the unnecessary parcel was taken. If the parent parcel's current owner does not accept the commission's offer within sixty days, the commission may offer the property to any other adjacent property owner for a period of sixty days. If no offers are accepted within sixty days, the property sale will be governed by sections 54-01-05.2 and 54-01-05.5.

SECTION 10. LEGISLATIVE MANAGEMENT REPORT - NORTHWEST AREA WATER SUPPLY TRANSITION. Before August 1, 2022, the northwest area water supply advisory committee shall provide a report to the legislative management regarding recommendations for transition of the long-term operation and management of the northwest area water supply project.

SECTION 11. LEGISLATIVE MANAGEMENT REPORT - INTERIM STATUS OF NORTHWEST AREA WATER SUPPLY ADVISORY COMMITTEE. During the 2021-22 interim, the northwest area water supply advisory committee shall provide a report to an interim committee designated by the legislative management regarding the status of the advisory committee's responsibilities under section 2 of this Act.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 29, 2021

Filed March 30, 2021

WEAPONS

CHAPTER 494

HOUSE BILL NO. 1248

(Representative B. Koppelman)

AN ACT to amend and reenact section 62.1-01-03 of the North Dakota Century Code, relating to the authority of a political subdivision regarding firearms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 62.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

62.1-01-03. Limitation on authority of political subdivision regarding firearms - Civil action.

1. A political subdivision, including home rule cities or counties, may not enact a zoning ordinance or any other ordinance relating to the purchase, sale, ownership, possession, transfer of ownership, registration, or licensure of firearms and ammunition which is more restrictive than state law. All such existing ordinances are void.
2. A person aggrieved under subsection 1 may bring a civil action against a political subdivision for damages as a result of an unlawful ordinance.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 495

HOUSE BILL NO. 1383

(Representatives Becker, Dockter, Kasper, Nehring, Rohr, M. Ruby, Steiner)
(Senators Elkin, Kannianen, Meyer, Wobbema)

AN ACT to create and enact a new section to chapter 62.1-01 of the North Dakota Century Code, relating to the limitation on enforcing or providing assistance regarding violations of federal firearm laws; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 62.1-01 of the North Dakota Century Code is created and enacted as follows:

Federal firearms laws - Limitations on enforcement.

1. As used in this section, "firearm accessory" means an item used in conjunction with or mounted on a firearm but is not essential to the basic function of a firearm. The term includes a detachable firearm magazine.
2. An agency or political subdivision of the state and a law enforcement officer or individual employed by an agency or political subdivision of the state may not provide assistance to a federal agency or official or act independently with respect to the investigation, prosecution, or enforcement of a violation of a federal statute, order, rule, or regulation purporting to regulate a firearm, firearm accessory, or firearm ammunition enacted after January 1, 2021, if the federal statute, order, rule, or regulation is more restrictive than state law, unless:
 - a. The federal agency appeals to the federal district court of the federal district in which the violation or possible violation occurred or would occur and the court finds probable cause that a national security threat exists;
 - b. The violation also is a violation under this title; or
 - c. The violation also is a violation of chapter 12.1-16, 12.1-17, 12.1-18, 12.1-20, 12.1-41, or 19-03.1.
3. This section does not prohibit an agency or political subdivision of the state or a law enforcement officer or individual employed by an agency or political subdivision of the state from providing assistance to a federal agency or official for an offense not related to firearms or an offense to which firearms are incidental, including a drug offense, homicide, assault, kidnapping, sex offense, or human trafficking.
4. This section does not prohibit law enforcement from providing assistance to a federal agency or official if the investigation also pertains to a felony violation of state law.

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

Approved April 22, 2021

Filed April 23, 2021

CHAPTER 496

HOUSE BILL NO. 1297

(Representative B. Koppelman)

AN ACT to amend and reenact section 62.1-02-05 of the North Dakota Century Code, relating to the possession of firearms or dangerous weapons at a public gathering.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁴⁶ **SECTION 1. AMENDMENT.** Section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-05. Possession of a firearm or dangerous weapon at a public gathering - Penalty - Application.

1. ~~An individual who knowingly possesses a firearm or dangerous weapon at a public gathering is guilty of an infraction. For the purpose of this section, "public gathering" means an~~ may not possess a firearm or dangerous weapon at:
 - ~~a. athletic or sporting~~ A school or school-sponsored event on school property;
 - a;
 - ~~b. school, a~~ A church or other place of worship, and a; or
 - ~~c. A~~ A publicly owned or operated building.
2. This section does not apply to:
 - a. A law enforcement officer, or a correctional officer employed by the department of corrections and rehabilitation or by a correctional facility governed by chapter 12-44.1. A correctional officer employed by the department of corrections and rehabilitation may carry a firearm only as authorized in section 12-47-34. A correctional officer employed by a correctional facility governed by chapter 12-44.1 may carry a firearm or dangerous weapon only as authorized in section 12-44.1-30;
 - b. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty;
 - c. A competitor participating in an organized sport shooting event;
 - d. A gun or antique show;
 - e. A participant using a blank cartridge firearm at a sporting or theatrical event;

³⁴⁶ Section 62.1-02-05 was also amended by section 2 of House Bill No. 1463, chapter 497.

- f. A firearm or dangerous weapon carried in a temporary residence or motor vehicle;
 - g. A student and an instructor at a hunter safety class;
 - h. Private and public security personnel while on duty;
 - i. A state or federal park;
 - j. An instructor, a test administrator, an official, or a participant in educational, training, cultural, or competitive events involving the authorized use of a dangerous weapon if the event occurs with permission of the person or entity with authority over the function or premises in question;
 - k. An individual in a publicly owned or operated rest area or restroom;
 - l. ~~An individual possessing a valid concealed weapons license from this state who is authorized under section 62.1-04-02 to carry a firearm or dangerous weapon concealed~~ or who has reciprocity under section 62.1-04-03.1 authorizing the individual to carry a firearm or dangerous weapon concealed if the individual is in a church building or other place of worship and ~~has the approval to carry in the church building or other place of worship by a primary religious leader of the church or other place of worship or the primary religious leader or the governing body of the church or other place of worship approves the individual or group of individuals to carry a firearm or dangerous weapon through a policy or any other means;~~
 - m. A state, federal, or municipal court judge, a district court magistrate judge or judicial referee, and a staff member of the office of attorney general if the individual maintains the same level of firearms proficiency as is required by the peace officer standards and training board for law enforcement officers. A local law enforcement agency shall issue a certificate of compliance under this section to an individual who is proficient;
 - n. An individual's storage of a firearm or dangerous weapon in a building that is owned or managed by the state or a political subdivision, provided:
 - (1) The individual resides in the building;
 - (2) The storage is inside the individual's assigned residential unit; and
 - (3) The storage has been consented to by the state, the governing board, or a designee; and
 - o. An individual authorized to carry a concealed weapon on school property under section 62.1-02-14.
3. This section does not prevent any political subdivision from enacting an ordinance that is less restrictive than this section relating to the possession of firearms or dangerous weapons at a public gathering. An enacted ordinance supersedes this section within the jurisdiction of the political subdivision.

4. Notwithstanding any other provision of law, a church or place of worship may not be held liable for any injury or death or damage to property caused by an individual permitted to carry a dangerous weapon concealed under this section.
5. This section does not prevent the governing body of a school or the entity exercising control over a publicly owned or operated building or property from authorizing the use of a less than lethal weapon as part of the security plan for the school, building, or property.
6. An individual who knowingly violates this section is guilty of an infraction.

Approved April 22, 2021

Filed April 23, 2021

CHAPTER 497

HOUSE BILL NO. 1463

(Representatives Heinert, Howe, Meier, Pyle, M. Ruby)
(Senators Larson, Myrdal, Bell)

AN ACT to create and enact a new subsection to section 43-30-16 and a new subdivision to subsection 2 of section 62.1-02-05 of the North Dakota Century Code, relating to application and renewal fees for armed first responder course instructor certification and possession of a concealed firearm or dangerous weapon; and to amend and reenact subsection 7 of section 62.1-02-14 of the North Dakota Century Code, relating to licensing of instructors of armed first responders in schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁴⁷ **SECTION 1.** A new subsection to section 43-30-16 of the North Dakota Century Code is created and enacted as follows:

The initial application fee for a certified course instructor for an armed first responder training certification may not exceed four hundred dollars. A fee for renewal of a course instructor certification for an armed first responder program may not exceed three hundred dollars.

³⁴⁸ **SECTION 2.** A new subdivision to subsection 2 of section 62.1-02-05 of the North Dakota Century Code is created and enacted as follows:

An individual who is on an ambulance or firefighter crew while the individual is on duty if:

- (1) The individual has written permission from the governing body or owner of the fire department or ambulance service;
- (2) The individual possesses a valid class 1 concealed weapons license;
- (3) The individual has successfully completed a weapons training course developed by the North Dakota private investigative and security board; and
- (4) The governing body or owner of the fire department or ambulance crew provides written notice to the bureau of criminal investigation of the individuals authorized or no longer authorized to carry a firearm or dangerous weapon under this section, including that all training and certification requirements have been satisfied.

³⁴⁷ Section 43-30-16 was also amended by section 4 of Senate Bill No. 2095, chapter 321, and section 1 of Senate Bill No. 2096, chapter 319.

³⁴⁸ Section 62.1-02-05 was also amended by section 1 of House Bill No. 1297, chapter 496.

³⁴⁹ **SECTION 3. AMENDMENT.** Subsection 7 of section 62.1-02-14 of the North Dakota Century Code is amended and reenacted as follows:

7. The plan submitted by the school to the superintendent of public instruction must require the selected individual to complete ~~training equivalent to the South Dakota school sentinel program as established on August 1, 2019, or~~ complete the course established by the private investigative and security board. The private investigative and security board shall establish standards equivalent to the South Dakota school sentinel program and may license and certify course instructors, audit the course, and set administrative fees for licensure and certification.

Approved April 19, 2021

Filed April 20, 2021

³⁴⁹ Section 62.1-02-14 was also amended by section 2 of Senate Bill No. 2096, chapter 321.

CHAPTER 498

HOUSE BILL NO. 1293

(Representatives Becker, Kasper, M. Ruby, Simons)

AN ACT to amend and reenact sections 62.1-02-10, 62.1-03-01, and 62.1-04-02 of the North Dakota Century Code, relating to handguns and carrying firearms or dangerous weapons concealed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 62.1-02-10 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-10. Carrying loaded firearm in certain vehicles prohibited - Penalty - Exceptions.

An individual may not keep or carry a loaded firearm in or on any motor vehicle, including an off-highway vehicle or snowmobile in this state. An individual violating this section is guilty of an infraction. This prohibition does not apply to:

1. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations while possessing the firearm issued to the member by the organization and while on official duty.
2. A law enforcement officer.
3. An individual possessing a valid concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1 with a handgun, ~~or with a rifle or shotgun if not in the field hunting or trapping.~~
4. An individual who possesses a rifle or shotgun, is not in the field hunting or trapping, and possesses a valid concealed weapons license from this state or has reciprocity under section 62.1-04-03.1.
5. An individual in the field engaged in lawful hunting or trapping of nongame species or fur-bearing animals.
- ~~5-6.~~ A security guard or private investigator properly licensed to carry firearms.
- ~~6-7.~~ An individual possessing a valid special permit issued pursuant to section 20.1-02-05.
- ~~7-8.~~ An individual with a handgun who is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under chapter 62.1-04 and who has possessed for at least ~~one year~~ thirty days a valid driver's license or nondriver identification card issued by the department of transportation.
9. An individual who possesses a rifle or shotgun, is not in the field hunting or trapping, and is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under chapter 62.1-04 and has possessed for

at least thirty days a valid driver's license or nondriver identification card issued by the department of transportation.

SECTION 2. AMENDMENT. Section 62.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

62.1-03-01. Carrying handgun - Limitations - Exceptions.

1. Unless otherwise prohibited by law, an individual may carry a handgun if:
 - a. ~~The handgun is unloaded, and in plain view or secured, and between the hours of one hour before sunrise and one hour after sunset.~~
 - b. ~~The handgun is unloaded and secured and between the hours of one hour after sunset and one hour before sunrise.~~
2. A limitation under ~~subdivision a or b of subsection 1~~ does not apply to:
 - a. An individual possessing a valid concealed weapons license from this state, an individual not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under chapter 62.1-04 and who has possessed for at least one year~~thirty days~~ a valid driver's license or nondriver identification card issued by the department of transportation, or an individual who has reciprocity under section 62.1-04-03.1.
 - b. An individual on that person's land, or in that individual's permanent or temporary residence, or fixed place of business.
 - c. An individual while lawfully engaged in target shooting.
 - d. An individual while in the field engaging in the lawful pursuit of hunting or trapping. However, nothing in this exception authorizes the carrying of a loaded handgun in a motor vehicle.
 - e. An individual permitted by law to possess a firearm while carrying the handgun unloaded and in a secure wrapper from the place of purchase to that person's home or place of business, or to a place of repair or back from those locations.
 - f. Any North Dakota law enforcement officer.
 - g. Any law enforcement officer of any other state or political subdivision of another state if on official duty within this state who possesses active law enforcement credentials.
 - h. Any armed security guard or investigator as authorized by law when on duty or going to or from duty.
 - i. Any member of the armed forces of the United States when on duty or going to or from duty and when carrying the handgun issued to the member.
 - j. Any member of the national guard, organized reserves, state defense forces, or state guard organizations, when on duty or going to or from duty and when carrying the handgun issued to the member by the organization.

- k. Any officer or employee of the United States duly authorized to carry a handgun.
- l. An individual engaged in manufacturing, repairing, or dealing in handguns or the agent or representative of that individual possessing, using, or carrying a handgun in the usual or ordinary course of the business.
- m. Any common carrier, but only when carrying the handgun as part of the cargo in the usual cargo carrying portion of the vehicle.

SECTION 3. AMENDMENT. Section 62.1-04-02 of the North Dakota Century Code is amended and reenacted as follows:

62.1-04-02. Carrying concealed firearms or dangerous weapons - License distinctions.

- 1. An individual, other than a law enforcement officer, may not carry a firearm or dangerous weapon concealed unless the individual is licensed to do so or exempted under this chapter.
- 2. An individual who is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license under this chapter and who has possessed for at least ~~one year~~ thirty days a valid driver's license or nondriver identification card issued by the department of transportation may carry a firearm concealed under this chapter.
- 3. An individual may carry a firearm concealed under this chapter if the individual qualifies for reciprocity under section 62.1-04-03.1 and the individual has the equivalent of a class 2 firearm and dangerous weapon license from the state in which the individual is a resident.
- 4. For purposes of this chapter, the difference between a class 1 and class 2 firearm and dangerous weapon license is only the extent to which a holder of either license may be eligible to receive reciprocal rights in other jurisdictions. A class 1 firearm and dangerous weapon licenseholder is eligible to receive reciprocal rights in more jurisdictions than a class 2 firearm and dangerous weapon licenseholder. The rights and privileges conveyed by a class 1 or class 2 firearm and dangerous weapon license within the state are identical.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 499

HOUSE BILL NO. 1450

(Representative B. Koppelman)

AN ACT to amend and reenact subsection 1 of section 62.1-04-03 of the North Dakota Century Code, relating to a license to carry a firearm or dangerous weapon concealed; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The director of the bureau of criminal investigation shall issue a license to carry a firearm or dangerous weapon concealed upon review of an application submitted to the director if the following criteria are met:
 - a. The applicant is at least twenty-one years of age for a class 1 firearm license or at least eighteen years of age for a class 2 firearm and dangerous weapon license;
 - b. The applicant can demonstrate that the applicant is a resident of this state by providing a copy of a valid driver's license or state-issued identification card from this state that establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address in this state or the applicant possesses a valid driver's license from the applicant's state of residence that establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address and a valid concealed weapons license from the applicant's state of residence, which state has reciprocity with this state under section 62.1-04-03.1;
 - c. The applicant is not an individual specified in section 62.1-02-01 and for a class 1 firearm license the applicant:
 - (1) Has not been convicted of a felony;
 - (2) Has not been convicted of a crime of violence;
 - (3) Has not been convicted of an offense involving the use of alcohol within ~~ten~~three years prior to the date of application;
 - (4) Has not been convicted of a misdemeanor offense involving the unlawful use of narcotics or other controlled substances within ten years prior to the date of application;
 - (5) Has not been convicted of an offense involving moral turpitude;
 - (6) Has not been convicted of an offense involving domestic violence;

- (7) Has not been adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and
- (8) Is qualified to purchase and possess a firearm under federal law;
- d. The applicant has successfully completed the testing procedure conducted by a certified test administrator. The person conducting the testing may assess a charge of up to fifty dollars for conducting this testing. The attorney general may certify a test administrator based upon criteria and guidelines prescribed by the director of the bureau of criminal investigation;
- e. The applicant satisfactorily completes the bureau of criminal investigation application form and has successfully passed the criminal history records check conducted by the bureau of criminal investigation and the federal bureau of investigation. The applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or alcohol or substance abuse. The applicant shall provide the director of the bureau of criminal investigation written authorizations for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records. The bureau may deny approval for a license if the bureau has reasonable cause to believe that the applicant or licenseholder has been or is a danger to self or others as demonstrated by evidence, including past pattern of behavior involving unlawful violence or threats of unlawful violence; past participation in incidents involving unlawful violence or threats of unlawful violence; or conviction of a weapons offense. In determining whether the applicant or licenseholder has been or is a danger to self or others, the bureau may inspect expunged or sealed records of arrests and convictions of adults and juvenile court records; and
- f. The applicant is not prohibited under federal law from owning, possessing, or having a firearm under that individual's control.

SECTION 2. EXPIRATION DATE. This Act is effective until the date the attorney general certifies to the legislative council that the enactment of section 1 impacts the reciprocity of class 1 firearm and dangerous weapons licenseholders carrying a concealed firearm or dangerous weapon in the state of Minnesota, and after that date is ineffective.

Approved April 19, 2021

Filed April 20, 2021

WORKFORCE SAFETY AND INSURANCE

CHAPTER 500

HOUSE BILL NO. 1084

(Industry, Business and Labor Committee)
(At the request of Workforce Safety and Insurance)

AN ACT to create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to charging fees for outgoing file copies; to amend and reenact paragraph 3 of subdivision b of subsection 11 of section 65-01-02, section 65-01-11, subsections 2 and 3 of section 65-04-33, subsection 7 of section 65-05-08, sections 65-05-09, 65-05-10, 65-05-32, and 65-05-33, subsection 1 of section 65-05-35, subsections 3 and 6 of section 65-05.1-01, and subsection 2 of section 65-05.1-06.1 of the North Dakota Century Code, relating to definition of compensable injury, burden of proof involving recreational marijuana use, an employer's willful misrepresentation by statement or omission, reapplications following a refusal of job offer, calculation of temporary total, permanent total, and temporary partial disability using average weekly wage from the definition section, release of claim file information to survivors in death claims, a person who claims benefits or the employer of a person who claims benefits and makes a false statement or omission, presumed closed claims, and reapplications following completion of a rehabilitation retraining program; to provide a penalty; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁵⁰ **SECTION 1. AMENDMENT.** Paragraph 3 of subdivision b of subsection 11 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

- (3) Any injury caused by the use of intoxicants, including recreational marijuana use, or the illegal use of controlled substances.

SECTION 2. AMENDMENT. Section 65-01-11 of the North Dakota Century Code is amended and reenacted as follows:

65-01-11. Burden of proof in compensation matters - Death certificate.

If the organization or an employer claims an employee is not entitled to the benefits of the North Dakota workforce safety and insurance law because the employee's injury was caused by the employee's willful intention to cause self-injury, or to injure another, or by reason of the voluntary impairment caused by use of alcohol, recreational marijuana use, or illegal use of a controlled substance by the employee, the burden of proving the exemption or forfeiture is on the organization or

³⁵⁰ Section 65-01-02 was also amended by section 508 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2148, chapter 501.

on the person alleging the same; however, an alcohol concentration level at or above the limit set by the United States secretary of transportation in the Code of Federal Regulations in effect on August 1, 2011, or a level of an illegally used controlled substance or recreational marijuana sufficient to cause impairment found by a test conducted by a physician, qualified technician, chemist, or registered nurse at or above the cutoff level in the Code of Federal Regulations in effect on August 1, 2011, creates a rebuttable presumption the injury was due to impairment caused by the use of alcohol, recreational marijuana use, or the illegal use of a controlled substance. An employer who has a mandatory drug alcohol testing policy for work accidents, or an employer or a health care provider who has reasonable grounds to suspect an employee's alleged work injury was caused by the employee's voluntary impairment caused by use of alcohol, recreational marijuana use, or illegal use of a controlled substance may request the employee undergo testing to determine if the employee had alcohol, marijuana, or the controlled substance in the employee's system at levels greater than the limit set by the United States department of transportation at the time of the injury. If an employee refuses to submit to a reasonable request to undergo a test to determine if the employee was impaired or if an employee refuses to submit to a test for drugs or alcohol after a work accident as mandated by company policy, the employee forfeits all entitlement to workforce safety and insurance benefits arising out of that injury. Any claimant against the fund, however, has the burden of proving by a preponderance of the evidence that the claimant is entitled to benefits. If a claim for death benefits is filed, the official death certificate must be considered as evidence of death and may not be used to establish the cause of death.

SECTION 3. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Fees for outgoing file copies.

The organization may charge a fee not exceeding twenty dollars for the first twenty-five pages and seventy-five cents per page after twenty-five pages when providing an outgoing file copy. In an electronic, digital, or other computerized format, the organization may charge a fee of thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages. The fees include any administration cost, retrieval fee, or postage expense.

SECTION 4. AMENDMENT. Subsections 2 and 3 of section 65-04-33 of the North Dakota Century Code is amended and reenacted as follows:

2. a. An employer that willfully misrepresents to the organization or its representative, by statement or omission, the amount of payroll upon which a premium under this title is based, or that willfully fails to secure coverage for employees, is liable to the state in the amount of five thousand dollars plus three times the difference between the premium paid and the amount of premium the employer should have paid.
- b. The organization shall collect a penalty imposed under this subsection in a civil action in the name of the state, and the organization shall deposit a penalty collected under this subsection to the credit of the workforce safety and insurance fund.
- c. An employer that willfully misrepresents to the organization or its representative, by statement or omission, the amount of payroll upon which a premium under this title is based, or that willfully fails to secure coverage for employees, is guilty of a class A misdemeanor. If the premium due exceeds one thousand dollars, the penalty for willful failure

to secure coverage or willful misrepresentation to the organization or its representative is a class C felony. If the employer is a corporation or a limited liability company, the president, secretary, treasurer, or person with primary responsibility is liable for the failure to secure workforce safety and insurance coverage under this subsection.

- d. In addition to the penalties prescribed by this subsection, the organization may initiate injunction proceedings as provided for in this title to enjoin an employer from unlawfully employing uninsured workers.
 - e. The cost of an investigation under this subsection which results in a criminal conviction may be charged to the employer's account and collected by civil action.
3. An employer that willfully makes a false statement or fails to make a statement in an attempt to preclude an injured worker from securing benefits or payment for services, or that willfully discharges or threatens to discharge an employee for seeking or making known the intention to seek workforce safety and insurance benefits is liable to the state in the amount of five thousand dollars. The organization shall collect a civil penalty imposed under this section in a civil action in the name of the state, and the organization shall deposit a penalty collected under this section to the credit of the workforce safety and insurance fund. A willful violation of this section is a class A misdemeanor. The cost of an investigation under this subsection which results in a criminal conviction may be charged to the employer's account and collected by civil action.

SECTION 5. AMENDMENT. Subsection 7 of section 65-05-08 of the North Dakota Century Code is amended and reenacted as follows:

7. If the employee voluntarily limits income or refuses to accept employment suitable to the employee's capacity, offered to or procured for the employee, the employee is not entitled to disability or vocational rehabilitation benefits during the limitation of income or refusal to accept employment unless the organization determines the limitation or refusal is justified. To receive additional disability or vocational rehabilitation benefits following an unjustified limitation or refusal, the employee shall meet the requirements of a reapplication for benefits as outlined in this section.

SECTION 6. AMENDMENT. Section 65-05-09 of the North Dakota Century Code is amended and reenacted as follows:

65-05-09. Temporary total or permanent total disability - Weekly and aggregate benefit.

1. If an injury causes temporary total or permanent total disability, the fund shall pay to the injured employee during that disability a weekly benefit equal to sixty-six and two-thirds percent of the gross average weekly wage of the injured employee, subject to a minimum of sixty percent and a maximum of one hundred twenty-five percent of the average weekly wage in the state. If an injured employee is disabled due to an injury, that injured employee's benefits will be based upon the injured employee's wage and the organization benefit rates in effect on the date of first disability.
- 4-2. Unless otherwise provided in this subsection, if an injured employee suffers disability but is able to return to employment for a period of three consecutive

calendar months or more, that injured employee's benefits will be based upon the wage received at the time of the recurrence of the disability. If the wage received at the time of the recurrence of the disability is lower than the ~~injured employee's average weekly wage received before the injury~~ and the lower wage is due to the physical limitations of the compensable injury, the injured employee's benefits must be based upon the ~~injured employee's average weekly wage the injured employee received before the injury~~. It is the burden of the injured employee to show the inability to earn as much as the injured employee ~~earned before the injury~~ employee's average weekly wage is due to the physical limitation related to the injury. The organization benefit rates are those in effect at the time of that recurrence.

- ~~2.3.~~ The disability benefit or the combined disability benefit and dependency award may not exceed the weekly wage of the injured employee after deductions for social security and federal income tax.
- ~~3.4.~~ When an injured employee is permanently and totally disabled, must be maintained in a nursing home or similar facility, and has no dependent parent, spouse, or children, as much of that injured employee's weekly benefit as is necessary may be used by the organization to help defray the cost of the nursing home care.

SECTION 7. AMENDMENT. Section 65-05-10 of the North Dakota Century Code is amended and reenacted as follows:

65-05-10. Partial disability - Weekly benefit.

- ~~1.~~ If the injury causes temporary partial disability resulting in decrease of earning capacity, the disability benefit is sixty-six and two-thirds percent of the difference between the injured employee's average weekly ~~wages before the injury~~ wage and the injured employee's wage-earning capacity after the injury in the same or another employment. Partial disability benefits are subject to a maximum of one hundred twenty-five percent of the average weekly wage in the state. The combined partial disability benefits, dependency allowance, and postinjury wage-earning capacity may not exceed ninety percent of the ~~preinjury~~ average weekly wage of the injured employee.
- ~~1-2.~~ The benefits provided by this section are available to any otherwise eligible worker, providing the loss of earning capacity occurs after July 1, 1989. Partial loss of earning capacity occurring prior to July 1, 1989, must be paid at a rate to be fixed by the organization.
- ~~2-3.~~ Benefits must be paid during the continuance of partial disability, not to exceed a period of five years. The organization may waive the five-year limit on the duration of partial disability benefits in cases of catastrophic injury as defined in section 65-05.1-06.1 or when the injured worker is working and has long-term restrictions verified by clear and convincing objective medical and vocational evidence that limits the injured worker to working less than twenty-eight hours per week because of the compensable work injury. This subsection is effective for partial loss of earnings capacity occurring after June 30, 1991.
- ~~3-4.~~ The employee's earnings capacity may be established by expert vocational evidence of a capacity to earn in the statewide job pool where the worker lives. Actual postinjury earnings are presumptive evidence of earnings capacity if the job employs the employee to full work capacity in terms of

hours worked per week, and if the job is in a field related to the employee's transferable skills. The presumption may be rebutted by competent evidence from a vocational expert that the employee's actual earnings do not fairly reflect the employee's earnings capacity in the statewide job pool, considering the employee's capabilities, education, experience, and skills.

SECTION 8. AMENDMENT. Section 65-05-32 of the North Dakota Century Code is amended and reenacted as follows:

65-05-32. Privacy of records and hearings - Penalty.

Information contained in the claim files and records of injured employees is confidential and is not open to public inspection, other than to organization employees or agents in the performance of their official duties. Providing further that:

1. Representatives of a claimant, whether an individual or an organization, may review a claim file or receive specific information from the file upon the presentation of the signed authorization of the claimant. However, reserve information may not be made available to the claimant or the claimant's representatives. Availability of this information to employers is subject to the sole discretion of the organization.
2. Employers or their duly authorized representatives who are required to have access to an injured employee's claim file for the performance of their duties may review and have access to any files of their own injured employees. An employer or an employer's duly authorized representative who willfully communicates information contained in an employee's claim file to any person who does not need the information in the performance of that person's duties is guilty of a class B misdemeanor.
3. Allied health care professionals treating or examining employees claiming benefits under this title, or allied health care professionals giving medical advice to the organization regarding any claim may, at the discretion of the organization, inspect the claim files and records of injured employees.
4. If an injured employee is deceased or is unable to communicate with the organization, the organization may provide the claim file to and communicate with relevant interested parties to properly adjudicate benefits.
5. Other persons may have access to and make inspections of the files, if such persons are rendering assistance to the organization at any stage of the proceedings on any matter pertaining to the administration of this title.
- ~~5-6.~~ The claimant's name; date of birth; injury date; employer name; type of injury; whether the claim is accepted, denied, or pending; and whether the claim is in active or inactive pay status will be available to the public. This information may not be released in aggregate form, except to those persons contracting with the organization for exchange of information pertaining to the administration of this title or except upon written authorization by the claimant for a specified purpose.
- ~~6-7.~~ At the request of a claimant, the organization may close the medical portion of a hearing to the public.

- ~~7-8.~~ The organization may release the social security number of an individual claiming entitlement to benefits under this title to health care providers or health care facilities for the purpose of adjudicating a claim for benefits.
- ~~8-9.~~ The organization may provide an injured employee's insurer information regarding the injured employee's claim.
- ~~9-10.~~ The organization may provide any state or federal agency any information obtained pursuant to the administration of this title. Any information so provided must be used for the purpose of administering the duties of that state or federal agency.

SECTION 9. AMENDMENT. Section 65-05-33 of the North Dakota Century Code is amended and reenacted as follows:

65-05-33. Filing false claim or false statement - Penalty.

1. A person who claims benefits or payment for services under this title or the employer of a person who claims benefits or payments for services is guilty of a class A misdemeanor if the person or employer does any one or more of the following:
 - a. Willfully files a false claim or makes a false statement or an omission in an attempt to secure payment of benefits or payment for services.
 - b. Willfully misrepresents that person's physical condition, including deceptive conduct which misrepresents that person's physical ability.
 - c. Has a claim for disability benefits that has been accepted by the organization and willfully fails to notify the organization of:
 - (1) Work or other activities as required under subsection 3 of section 65-05-08;
 - (2) The receipt of income from work; or
 - (3) An increase in income from work.
2. If any of the acts or omissions in subsection 1 are committed to obtain, or pursuant to a scheme to obtain, more than one thousand dollars in benefits or payment for services, the offense is a class C felony.
3. In addition to any other penalties provided by law, the person claiming benefits or payment for services in violation of this section shall reimburse the organization for any benefits paid based upon the false claim or, false statement, or omission, and, if applicable, under section 65-05-29 and shall forfeit any additional benefits relative to that injury.
4. For purposes of this section, "statement" includes any testimony, claim form, notice, proof of injury, proof of return-to-work status, bill for services, diagnosis, prescription, hospital or doctor records, x-ray, test results, or other evidence of loss, injury, or expense.

SECTION 10. AMENDMENT. Subsection 1 of section 65-05-35 of the North Dakota Century Code is amended and reenacted as follows:

1. A claim for benefits under this title is presumed closed if the organization has not paid any benefit or ~~received a demand for payment of any benefit~~ for a period of four years.

SECTION 11. AMENDMENT. Subsections 3 and 6 of section 65-05.1-01 of the North Dakota Century Code are amended and reenacted as follows:

3. It is the goal of vocational rehabilitation to return the disabled employee to substantial gainful employment with a minimum of retraining, as soon as possible after an injury occurs. "Substantial gainful employment" means bona fide work, for remuneration, which is reasonably attainable in light of the individual's injury, functional capacities, education, previous occupation, experience, and transferable skills, and which offers an opportunity to restore the injured employee as soon as practicable and as nearly as possible to ninety percent of the injured employee's average weekly earnings ~~at the time of injury~~ wage, or to sixty-six and two-thirds percent of the average weekly wage in ~~this~~ the state on the date the rehabilitation report is issued under section 65-05.1-02.1, whichever is less. The purpose of defining substantial gainful employment in terms of earnings is to determine the first appropriate priority option under subsection 4 which meets this income test set out above.
6. a. If the organization concludes that none of the priority options under subsection 4 are viable, and will not return the injured employee to the lesser of sixty-six and two-thirds percent of the average weekly wage in the state, or ninety percent of the injured employee's ~~preinjury earnings~~ average weekly wage, the employee shall continue to minimize the loss of earnings capacity, to seek, obtain, and retain employment:
 - (1) That meets the employee's functional capacities; and
 - (2) For which the employee meets the qualifications to compete.
- b. Under section 65-05-10, the organization shall award partial disability based on retained earnings capacity calculated under this section.
- c. For purposes of calculating partial disability based on a retained earnings capacity, an employee is presumed to be capable of earning the greater of the state's hourly minimum wage times the hours of release based on a valid functional capacities examination or the wages payable within the appropriate labor market. This presumption is rebuttable only upon a finding of clear and convincing medical and vocational evidence to the contrary. If the presumption is successfully rebutted, the employee may receive partial disability benefits based on a retained earnings capacity of zero.

SECTION 12. AMENDMENT. Subsection 2 of section 65-05.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

2. If the appropriate priority option is short-term or long-term training, the vocational rehabilitation award must be within the following terms:
 - a. For the employee's lost time, and in lieu of further disability benefits, the organization shall award a rehabilitation allowance. The rehabilitation allowance must be limited to the amount and purpose specified in the award, and must be equal to the disability and dependent benefits the employee was receiving, or was entitled to receive, prior to the award.

- b. The rehabilitation allowance must include, as chosen by the employee, an additional thirty percent of the rehabilitation allowance for expenses associated with maintaining a second domicile or for travel associated with attendance at a school or training institution when it is necessary for the employee to travel at least twenty-five miles [40.23 kilometers] one way. Travel must be calculated from the employee's residence to the school or training institution. If it is necessary for an employee to travel less than twenty-five miles one way to a school or training institution, the employee may qualify for an additional rehabilitation allowance as determined in accordance with the following schedule:

Round-trip mileage	Percentage increase in rehabilitation allowance
Under 10 miles	0
10 to 30 miles	10
31 to 49 miles	20

Travel must be calculated from the employee's residence to the school or training institution.

- c. The rehabilitation allowance must be limited to one hundred four weeks except in cases of catastrophic injury, in which case additional rehabilitation benefits may be awarded in the discretion of the organization. Catastrophic injury includes:
 - (1) Paraplegia; quadriplegia; severe closed head injury; total blindness in both eyes; or amputation of an arm proximal to the wrist or a leg proximal to the ankle, caused by the compensable injury, which renders an employee permanently and totally disabled without further vocational retraining assistance; or
 - (2) Those employees the organization so designates, in its sole discretion, provided that the organization finds the employee to be permanently and totally disabled without further vocational retraining assistance. There is no appeal from an organization decision to designate, or fail to designate, an employee as catastrophically injured under this subsection.
- d. Notwithstanding the one hundred four-week limit of subdivision c to facilitate the completion of a retraining program, the organization may award a rehabilitation extension allowance that may not exceed twenty weeks.
- e. The rehabilitation award must include the cost of books, tuition, fees, and equipment, tools, or supplies required by the educational institution. The award may not exceed the cost of attending a public college or university in the state in which the employee resides, provided an equivalent program exists in the public college or university.
- f. If the employee successfully concludes the rehabilitation program, the organization may make, in its sole discretion, additional awards for actual relocation expenses to move the household to the locale where the injured employee has actually located work.
- g. If the employee successfully concludes the rehabilitation program, the organization may make, in its sole discretion, an additional award, not to

exceed two months' disability benefit, to assist the employee with work search.

- h. If the employee successfully concludes the rehabilitation program, the employee is not eligible for further vocational retraining or total disability benefits unless the employee establishes a significant change in medical condition attributable to the work injury which precludes the employee from performing the work for which the employee was trained, or any other work for which the employee is suited and has sustained an actual wage loss caused by the significant change in the compensable medical condition. The organization may waive this section in cases of catastrophic injury defined by subdivision c.
- i. If the employee successfully concludes the rehabilitation program, the employee remains eligible to receive partial disability benefits, as follows:
 - (1) Beginning the date at which the employee completes retraining, until the employee acquires and performs substantial gainful employment, the partial disability benefit is sixty-six and two-thirds percent of the difference between the injured employee's average weekly ~~wages before the injury wage~~, and the employee's wage-earning capacity after retraining, as measured by the average wage in the employee's occupation, according to criteria established by job service North Dakota in its statewide labor market survey, or such other criteria the organization, in its sole discretion, deems appropriate. The average weekly wage must be determined on the date the employee completes retraining. The benefit continues until the employee acquires substantial gainful employment.
 - (2) Beginning the date at which the employee acquires substantial gainful employment, the partial disability benefit is sixty-six and two-thirds percent of the difference between the injured employee's average weekly wages before the injury wage, and the injured employee's wage-earning capacity after retraining, as determined under paragraph 1, or the injured employee's actual ~~postinjury~~ wage earnings after retraining, whichever is higher.
 - (3) The partial disability benefit payable under paragraphs 1 and 2 may not exceed the limitation on partial disability benefits contained in section 65-05-10.
 - (4) The partial disability benefits paid under paragraphs 1 and 2 may not together exceed one year's duration.
 - (5) For purposes of paragraphs 1 and 2, "substantial gainful employment" means full-time bona fide work, for a remuneration, other than make-work. "Full-time work" means employment for twenty-eight or more hours per week, on average.
 - (6) The organization may waive the one-year limit on the duration of partial disability benefits, in cases of catastrophic injury under subdivision c.

SECTION 13. APPLICATION. Sections 1, 2, 5, 6, 7, 8, 9, 10, 11, and 12 of this Act apply to all claims regardless of date of injury. Section 4 of this Act applies to all

payroll periods of employer accounts regardless of the date of the statement or omission and applies to all claims regardless of the date of injury.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 501

SENATE BILL NO. 2148

(Senators Burckhard, Bekkedahl, Oban)
(Representatives D. Anderson, Dobervich, Paur)

AN ACT to amend and reenact subsection 21 of section 65-01-02 of the North Dakota Century Code, relating to defining health care provider to include a physical therapist.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁵¹ **SECTION 1. AMENDMENT.** Subsection 21 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

21. "Health care provider" means a doctor of medicine or osteopathy, chiropractor, dentist, optometrist, podiatrist, or psychologist acting within the scope of the doctor's license, ~~or a physical therapist~~, an advanced practice registered nurse, or a certified physician assistant.

Approved March 29, 2021

Filed March 30, 2021

³⁵¹ Section 65-01-02 was also amended by section 1 of House Bill No. 1084, chapter 500, and section 508 of House Bill No. 1247, chapter 352.

CHAPTER 502

HOUSE BILL NO. 1040

(Legislative Management)
(Workers' Compensation Review Committee)

AN ACT to amend and reenact sections 65-01-16 and 65-04-32 of the North Dakota Century Code, relating to appealing a workforce safety and insurance decision; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-01-16 of the North Dakota Century Code is amended and reenacted as follows:

65-01-16. Decisions by organization - Disputed decisions.

The following procedures must be followed in claims for benefits, notwithstanding any provisions to the contrary in chapter 28-32:

1. The organization shall send a copy of each initial claim form filed with the organization to the claimant's employer, by regular mail, along with a form for the employer's response, if the employer's response has not been filed at the time the claim is filed. ~~Failure of the employer to file a response within fourteen days from the day the response form was mailed to the employer constitutes the employer's admission that the information in the claim form is correct.~~
2. The organization may conduct a hearing on any matter within its jurisdiction by informal internal review of the information of record.
3. The organization may issue a notice of decision for any decision made by informal internal review and shall serve the notice of decision on the parties by regular mail. A notice of decision must include a statement of the decision, a short summary of the reason for the decision, and notice of the right to reconsideration.
4. A party has ~~thirty~~thirty-four days from the day the notice of decision was mailed by the organization in which to file a written request for reconsideration. The employer is not required to file the request through an attorney. The request must state the reason for disagreement with the organization's decision and the desired outcome. The request may be accompanied by additional evidence not previously submitted to the organization. The organization shall reconsider the matter by informal internal review of the information of record. Absent a timely and sufficient request for reconsideration, the notice of decision is final and may not be reheard or appealed.
5. After receiving a request for reconsideration, the organization shall serve on the parties by regular mail a notice of decision reversing the previous decision or, in accordance with the North Dakota Rules of Civil Procedure, an administrative order that includes its findings, conclusions, and order. The organization may serve an administrative order on any decision made by

informal internal review without first issuing a notice of decision and receiving a request for reconsideration. If the organization does not issue an order within sixty days of receiving a request for reconsideration, any interested party may request, and the organization shall promptly issue, an appealable determination.

6. An employee has ~~thirty~~thirty-four days from the day the administrative order was mailed in which to file a request for assistance from the decision review office under section 65-02-27.
7. A party has ~~thirty~~thirty-four days, from the date of service of an administrative order or from the day the decision review office mails its notice that the office's assistance is complete, in which to file a written request for rehearing. The request must specifically state each alleged error of fact and law to be reheard and the relief sought. Absent a timely and sufficient request for rehearing, the administrative order is final and may not be reheard or appealed.
8. Rehearings must be conducted as hearings under chapter 28-32 to the extent the provisions of that chapter do not conflict with this section.
9. A party may appeal a posthearing administrative order to district court in accordance with chapter 65-10. Chapter 65-10 does not preclude the organization from appealing to district court a final order issued by a hearing officer under this title.
10. Any notice of decision, administrative order, or posthearing administrative order is subject to review and reopening under section 65-05-04.

SECTION 2. AMENDMENT. Section 65-04-32 of the North Dakota Century Code is amended and reenacted as follows:

65-04-32. Decisions by organization - Disputed decisions.

Notwithstanding any provisions to the contrary in chapter 28-32, the following procedures apply when the organization issues a decision under this chapter or section 65-04-04.4:

1. The organization may issue a notice of decision based on an informal internal review of the record and shall serve notice of the decision on the parties by regular mail. The organization shall include with the decision a notice of the employer's right to reconsideration.
2. An employer has ~~thirty~~thirty-four days from the day the notice of decision was mailed to file a written petition for reconsideration. The employer is not required to file the request through an attorney. The request must state the reason for disagreement with the organization's decision and the desired outcome. The request may be accompanied by additional evidence not previously submitted to the organization. The organization shall reconsider the matter by informal internal review of the information of record. Absent a timely and sufficient request for reconsideration, the notice of decision is final and may not be reheard or appealed.
3. After receiving a petition for reconsideration, unless settlement negotiations are ongoing, the organization shall serve on the parties by regular mail an administrative order including its findings of fact, conclusions of law, and order, in response to the petition for reconsideration. The organization may serve an

administrative order on any decision made by informal internal review without first issuing a notice of decision and receiving a request for reconsideration. If the organization does not issue an order within sixty days of receiving a request for reconsideration, a party may request, and the organization shall promptly issue, an appealable determination.

4. A party has ~~thirty~~forty-five days from the date of service of an administrative order to file a written request for rehearing. The request must state specifically each alleged error of fact and law to be reheard and the relief sought. Absent a timely and sufficient request for rehearing, the administrative order is final and may not be reheard or appealed.
5. Rehearings must be conducted as hearings under chapter 28-32 to the extent that chapter does not conflict with this section.
6. An employer may appeal a posthearing administrative order to district court in accordance with chapter 65-10. Chapter 65-10 does not preclude the organization from appealing to district court a final order issued by a hearing officer under this title.

SECTION 3. APPLICATION. This Act applies to all claims, regardless of date of injury, which have a notice of decision issued after July 31, 2021.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 503

HOUSE BILL NO. 1051

(Industry, Business and Labor Committee)
(At the request of Workforce Safety and Insurance)

AN ACT to create and enact two new sections to chapter 65-02 and a new section to chapter 65-04, of the North Dakota Century Code, relating to attorney's fees and reimbursement to employers, payment of fees associated with credit or debit card payments, and settlements regarding amounts owed by employers; to amend and reenact sections 65-04-19, 65-04-24, and 65-04-25 and subsection 1 of section 65-04-26.1 of the North Dakota Century Code, relating to audit of employers, workforce safety and insurance retaining counsel on employer files, and filing payroll reports; to provide a continuing appropriation; to provide for application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Attorney's fees reimbursement.

An employer that is insured and in good standing with the organization is eligible for reimbursement of reasonable legal costs and reasonable attorney's fees if the employer is found to be uninsured or noncompliant by the workers' compensation authorities of another state and hires an attorney to defend against the determination. A reimbursement may be made only if the organization determines the employer's employees did not regularly work in the other state.

SECTION 2. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Electronic transaction payment fees - Continuing appropriation.

Money in the workforce safety and insurance fund is appropriated on a continuing basis for payment of fees associated with credit or debit card payments made to the organization.

SECTION 3. AMENDMENT. Section 65-04-19 of the North Dakota Century Code is amended and reenacted as follows:

65-04-19. Organization to assign rate classifications, calculate premium, and determine premium due from employer - Audit - Notification of billing statement as notice of amount due.

1. The organization shall assign rate classifications based on information provided to the organization by the employer or information gathered through the organization's investigative process.
2. The organization shall determine the amount of premium due from every employer subject to this title for the twelve months next succeeding the date of

expiration of a previous period of insurance or next succeeding the date at which the organization received information an employer is subject to the title.

3. If the organization does not receive the payroll report or, in the case of a noncompliant employer, the organization does not receive reliable and accurate payroll information, the organization may calculate premium using the wage cap in effect per employee reported in the previous payroll report, using information obtained through the organization's investigative process, or using data obtained from job service North Dakota.
4. The organization may audit an employer conducting business in this state. Audit findings are applicable to the audited period and the subsequent payroll period only, unless the audit referral is made for a potential violation of section 65-04-33.
5. The organization shall send a copy of the billing statement to the employer. Sending the billing statement, by mail or electronically, constitutes notice to the employer of the amount due.

SECTION 4. AMENDMENT. Section 65-04-24 of the North Dakota Century Code is amended and reenacted as follows:

65-04-24. Notice of premium or assessment owing - Organization to bring suit for premiums in default.

The organization shall notify an employer of the amount of premium, assessment, penalty, and interest due the organization from the employer. If the employer fails to pay that amount within thirty days, the organization may collect the premium, assessment, penalties, and interest due by civil action. In any action for the collection of amounts due the organization under this title, the court may not review or consider the action of the organization regarding the acceptance or payment of any claim. The organization may adjust or compromise the account. The organization may retain counsel on a contingent or hourly fee basis to represent the organization in any proceeding relating to the collection of amounts due under this title. The organization shall charge attorney's fees and costs to the organization's general fund.

SECTION 5. AMENDMENT. Section 65-04-25 of the North Dakota Century Code is amended and reenacted as follows:

65-04-25. Service of nonresident employer in suit for premium or in suit against an uninsured employer.

If the employer in an action to collect delinquent premiums or for injuries sustained in the employer's employment for which the employer did not carry the required insurance is a nonresident of this state, or a foreign corporation or limited liability company doing business in this state, service of the summons may be made upon any agent, representative, or foreman of ~~said~~the employer in this state, or in the case of a foreign corporation, its director, and if there is no agent, representative, or foreman, or in the case of a foreign corporation, director, upon whom service can be made in this state, service upon the secretary of state constitutes personal service upon that nonresident employer or corporation's director who has either failed to secure the necessary coverage or who is delinquent in the employer's premiums, or service may be made in any other manner designated by law. The organization may retain counsel who is licensed in another state to represent the organization on a contingent or hourly fee basis in any proceeding relating to the collection of amounts

due the organization under this title. All attorney's fees and costs incurred under this section are a charge to the general fund.

SECTION 6. AMENDMENT. Subsection 1 of section 65-04-26.1 of the North Dakota Century Code is amended and reenacted as follows:

1. An officer or director of a corporation, or manager or governor of a limited liability company, or partner of a limited liability partnership, or employee of a corporation or limited liability company having twenty percent stock ownership who has control of or supervision over the filing of and responsibility for filing ~~premium~~payroll reports or making payment of premiums or reimbursements under this title and who fails to file the reports or to make payments as required, is personally liable for premiums under this chapter and reimbursement under section 65-04-04.4, including interest, penalties, and costs if the corporation or limited liability company does not pay to the organization those amounts for which the corporation or limited liability company is liable.

SECTION 7. A new section to chapter 65-04 of the North Dakota Century Code is created and enacted as follows:

Settlement in discretion of organization.

Notwithstanding the other provisions of this chapter, the organization may settle an amount owed by an employer to resolve a disputed issue at any time and on its own motion or by application of an employer.

SECTION 8. APPLICATION. Section 1 of this Act applies to attorney's fees incurred after July 31, 2021.

SECTION 9. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 15, 2021

Filed March 15, 2021

CHAPTER 504

HOUSE BILL NO. 1139

(Representative Keiser)
(Senator Klein)

AN ACT to create and enact section 65-05-40 of the North Dakota Century Code, relating to duration limits for opioid therapy and benzodiazepine; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 65-05-40 of the North Dakota Century Code is created and enacted as follows:

65-05-40. Opioid therapy and benzodiazepine duration limits - Termination of coverage.

1. The organization may not pay for opioid therapy that exceeds ninety morphine milligram equivalents of opioid medication per day, or more than a seven-day supply of an opioid medication within any single outpatient transaction during the initial thirty-day period of opioid therapy.
 - a. The limitations do not apply to:
 - (1) Opioid therapy prescribed for active and aftercare cancer treatment;
 - (2) End-of-life and hospice care;
 - (3) Treatment for substance use disorder;
 - (4) An emergency room setting;
 - (5) An inpatient hospital setting;
 - (6) A long-term care facility setting; or
 - (7) An assisted living facility setting.
 - b. Opioid therapy includes controlled substances listed in subsections 3 and 4 of section 19-03.1-07, subsection 6 of section 19-03.1-09, subsection 3 of section 19-03.1-11, subsections 3 and 4 of section 19-03.1-13, or any substance with similar properties or affects.
2. The organization may not pay for benzodiazepine therapy beyond a cumulative duration of four weeks, except when approved by the organization for the treatment of an anxiety disorder. Benzodiazepine therapy includes controlled substances contained in subdivisions a, i, j, k, l, p, r, v, x, ee, mm, qq, xx, yy, aaa, and ccc of subsection 4 of section 19-03.1-11, or any substance with similar properties or affects.

3. The organization may not pay for any combination therapies that include controlled substances from subsections 1 and 2 concurrently.
4. A review of requests to depart from the established limits in subsections 1, 2, and 3, upon a showing of medical necessity, are dispute resolution decisions under section 65-02-20.

SECTION 2. APPLICATION. An injured employee receiving any therapy exceeding the therapy limits in section 1 of this Act on the effective date of this Act must be in compliance with the limits by July 1, 2022, at which time the organization shall terminate coverage for any therapy exceeding the limits.

Approved March 31, 2021

Filed April 1, 2021

VETOED MEASURES

CHAPTER 505

HOUSE BILL NO. 1378

(Representative Marshall)

AN ACT to amend and reenact subsection 1 of section 54-03-02 of the North Dakota Century Code, relating to authority for the legislative assembly to conduct business in December of even-numbered years.

VETO

March 31, 2021

The Honorable Kim Koppelman
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, ND

Re: House Bill 1378

Dear Speaker Koppelman:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed House Bill 1378 and return it to the House.

Article IV of the North Dakota Constitution clearly states that members of the legislative assembly are to "meet in the seat of government in the month of December following the election of its members, thereof for organizational and orientation purposes."

At the conclusion of the organizational session, the legislative assembly "shall thereafter recess until twelve noon on the first Tuesday after the third day in January, or at such other time as may be prescribed by law but not later than the eleventh day in January."

House Bill 1378 attempts to circumvent the Constitution by allowing members of the legislative assembly to introduce, consider and vote on bills and resolutions in December of even-numbered years, as they would during the regular session that begins in January of odd-numbered years.

Introducing and acting on bills and resolutions is beyond the scope of the December "organizational and orientation purposes" as stated in the Constitution.

Currently, the North Dakota Century Code contains language that mirrors the Constitution, stating that after the December organizational session, the legislative assembly "shall thereafter recess" until January. House Bill 1378 attempts to sidestep the Constitution by replacing this explicitly mirrored language with conflicting direction that the assembly "then may recess" until January.

House Bill 1378 could have serious consequences. For example, because a newly elected governor and lieutenant governor, per the Constitution, are not sworn in until Dec. 15, House Bill 1378 could result in a new legislative assembly -including newly elected members - casting votes on new legislation in early December, to be acted upon by an outgoing governor just days before leaving office and before the new governor has an opportunity to consider the legislation.

Legislation worth considering in December should still be worth considering in January.

The existing process for convening a new legislative assembly as outlined in the North Dakota Constitution has served this state and its citizens well for decades and should remain intact.

For the reasons stated above, House Bill 1378 is vetoed.

Sincerely,

Doug Burgum

Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 54-03-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The legislative assembly shall meet at the seat of government in the month of December following the election of the members ~~thereof the legislative assembly~~ for organizational and orientation purposes and ~~shall thereafter then may recess until the time provided in subsection 2. The legislative assembly also may convene in December following the election of the members of the legislative assembly to consider and vote on bills and resolutions and conduct any other business the legislative assembly is authorized to conduct during a regular session.~~

Disapproved March 31, 2021

Filed May 3, 2021

CHAPTER 506

HOUSE BILL NO. 1298

(Representatives B. Koppelman, Meier, Paulson, Schauer, Skroch, Steiner, Vetter)
(Senators Clemens, Kannianen, Myrdal)

AN ACT to create and enact a new section to chapter 14-02.4 of the North Dakota Century Code, relating to participation in athletic events exclusively for males or females; and to provide for a legislative management study.

VETO

April 21, 2021

The Honorable Kim Koppelman
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, ND

Re: House Bill 1298

Dear Speaker Koppelman:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed House Bill 1298 and return it to the House.

North Dakota today has a level playing field and fairness in girls' sports. House Bill 1298 purports that this long fairness is in immediate danger. There is no evidence to suggest this is true.

North Dakota has fairness in girls' and boys' sports in large part because of the caring and thoughtful leadership of the North Dakota High School Activities Association (NDHSAA) Board and its members. We have every confidence they will continue to ensure a level playing field for the more than 27,000 students who participate in North Dakota high school sports.

To date there has not been a single recorded incident of a transgender girl attempting to play on a North Dakota girls' team. Further, the NDHSAA already has regulations in place for participation in sex-separated interscholastic contests by transgender students. These regulations require transgender girls to undergo testosterone suppression treatment for gender transition for a full calendar year before they are eligible to compete in girls' sports.

This bill's proposed blanket prohibitions do not extend to students attending tribal or privately funded schools, thereby creating the potential for an unlevel playing field.

The most responsive sports governance is the organization closest to the teams and athletes they govern. If a question should arise related to a transgender student and athletic competition, the NDHSAA, parents, child, their health care provider, their school and their coaches are in the best position to manage that unique situation, especially given the child's right to privacy.

This bill would unnecessarily inject the state into a local issue by creating a ban with myriad unforeseen consequences.

For the reasons stated above, House Bill 1298 is vetoed.

Sincerely,

Doug Burgum

Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 14-02.4 of the North Dakota Century Code is created and enacted as follows:

Athletic events exclusively for males or exclusively for females.

1. A public elementary or secondary school may not knowingly allow an individual of the opposite sex who is enrolled in a public elementary or secondary school to participate on a school-sponsored athletic team that is exclusively for females or exclusively for males.
2. For purposes of this section, sex means an individual's biological sex and is based solely on an individual's reproductive biology and genetics at birth.
3. This section may not be construed to prohibit a female from participating in a school-sponsored athletic team or event that is exclusively for males.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - STUDENT ATHLETIC EVENTS. During the 2021-22 interim, the legislative management shall consider studying student athletic events that are exclusively for males or exclusively for females and the impact of a policy that prohibits participation in those events by individuals who are of the opposite sex. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Disapproved April 21, 2021

Filed April 27, 2021

CHAPTER 507

SENATE BILL NO. 2030

(Legislative Management)
(Higher Education Committee)

AN ACT to provide an appropriation to the state board of higher education for the higher education challenge matching grant program; to create and enact paragraph 3 of subdivision b of subsection 1 of section 15-10-48 and paragraph 3 of subdivision b of subsection 1 of section 15-10-49 of the North Dakota Century Code, relating to institution eligibility for a matching grant for the advancement of academics; to amend and reenact subdivision c of subsection 1 of section 15-10-48 and section 15-18.2-05 of the North Dakota Century Code, relating to matching grants for the advancement of academics and state aid for institutions of higher education; to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code, relating to the eligibility of the university of North Dakota school of medicine and health sciences to receive a matching grant for the advancement of academics; and to provide a penalty.

VETO

May 7, 2021

The Honorable Brent Sanford
President of the Senate
North Dakota Senate Chambers
Bismarck, North Dakota

Dear President Sanford:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have signed Senate Bill 2030 - the higher education challenge grant bill - and filed it with the Secretary of State. I also have vetoed Section 5 of SB 2030, relating to multimillion-dollar penalties directed toward our public higher education institutions and mandatory criminal charges against state employees.

Signing SB 2030 approves the appropriation of \$11,150,000 within Section 1 for the successful challenge grant program. This program provides \$1 of state match funding for every \$2 in private funding raised by our 11 publicly funded colleges and universities for student scholarships and the advancement of academics. This significant appropriation has the potential to generate over \$33 million for aspiring students and institutions over the next two years.

North Dakota has strong pro-life public policies, and our administration has a strong record of signing pro-life legislation into law.

Sections 2 and 4 of SB 2030 affirm existing pro-life state policy from 2011 which states, "An agency of the state may not fund, endorse, or support any program that, between normal childbirth and abortion, does not give preference, encouragement, and support to normal childbirth." These sections also add clarity into law that unless institutions abide by the pro-life policies, they are ineligible to receive any challenge grant dollars.

The North Dakota legislature has made clear, and our administration agrees, that taxpayer funding should not go toward funding abortions. Challenge grant dollars have not, and cannot, be used for that purpose.

Section 3 clarifies that the allocation of challenge grants now includes a separate allocation for the UNO School of Medicine and Health Sciences.

Signing the bill enacts Sections 1, 2, 3 and 4 into law.

However, the penalty provision of SB 2030, in Section 5, which was amended into the challenge grant bill, is problematic for multiple reasons and has been vetoed.

Section 5 threatens a \$2,800,000 penalty on each of our institutions of higher education that is void of due process and egregious in its amount, threatens mandatory criminal charges for state employees, and may be in direct conflict with House Bill 1503.

Known as the campus free speech bill, HB 1503 reinforces and strengthens First Amendment rights on college campuses and was passed by a significant majority of the legislature and signed into law on April 19, 2021. With Section 5 of SB 2030 vetoed, institutions will not be forced to choose between protecting First Amendment rights and facing severe penalties. Further, the penalty in Section 5 is imposed without due process. The State Board of Higher Education is simply instructed to deduct the \$2.8 million without providing the institution with formal notice, an opportunity for hearing, or a determination by an objective fact finder.

The \$2.8 million fixed penalty also would disproportionately affect the university system's smaller institutions, representing an average of 15.3% of the total funding formula appropriation for the 2021-2023 biennium at nine of the system's 11 institutions.

Although Section 5 creates an appropriate and needed exception for the UND School of Medicine and Health Sciences, it fails to include the same needed exception for the NDSU College of Health Professionals, which includes North Dakota's only school of pharmacy.

Lastly, should a state employee signing a contract unknowingly run afoul of Section 5, the bill mandates that the state's attorney "shall prosecute" the individual for a criminal charge punishable by 30 days in jail and a \$1,500 fine. This overreach removes prosecutorial discretion. Not surprisingly, leaders of our higher education institutions have shared that their faculty, researchers and grant officers are unwilling to take such a personal risk, thereby jeopardizing hundreds of millions of dollars in research funding and putting jobs, careers and faculty recruitment at severe risk across our university system.

sections that preserve the challenge grant program and affirm North Dakota's pro-life policies.

Regards,

Doug Burgum
Governor

Disapproved May 7, 2021

Filed May 10, 2021

NOTE: For the full text of Senate Bill No. 2030, including section 5, see chapter 130.

MEASURES APPROVED OVER GOVERNOR'S VETO

CHAPTER 508

HOUSE BILL NO. 1323

(Representative Hoverson, Magrum)
(Senator O. Larsen)

AN ACT to create and enact a new section to chapter 23-07 of the North Dakota Century Code, relating to limitations on mask wearing requirements.

VETO

April 21, 2021

The Honorable Kim Koppelman
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, ND
Re: House Bill 1323

Dear Speaker Koppelman:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed House Bill 1323 and return it to the House.

North Dakota law assigns the governor the responsibility "to minimize or avert the adverse effects of a disaster or emergency." Likewise, the state health officer is responsible for issuing "any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease."

House Bill 1323 would prohibit a statewide elected official or the state health officer from mandating the use of a face mask, face shield or other face covering.

To strip future governors and their state health officers of any low-cost tool that might be used to save lives and livelihoods in a future pandemic or other emergency would be both irresponsible and an unnecessary risk to the future public health and well-being of North Dakota citizens.

North Dakota implemented the shortest statewide mask requirement in the country, lasting 65 days. This tool was used briefly and judiciously, in combination with other protocols, at a time when North Dakota's health care facilities and staff were overwhelmed with patients and pandemic-related deaths of North Dakota citizens

were peaking. These measures were followed by dramatic reductions in COVID-19 cases and hospitalizations.

The current pandemic has painfully demonstrated that viruses do not respect borders and localized protocols may, at peak times, not be adequate to mitigate infection rates and protect our most vulnerable citizens of all ages.

The statewide mask requirement was implemented in November only after officials in North Dakota's largest cities had already enacted local mask measures and they, along with an overwhelming majority of our health care leaders, doctors and medical professionals, were requesting a statewide mask requirement to help relieve the immense pressure on our overtaxed hospitals, long-term care facilities and exhausted frontline health care workers, and to slow the spread of COVID-19 and save lives. The statewide mask requirement was lifted on Jan. 18.

This bill removes a tool from the emergency toolkit that may be needed to help our state save lives and nimbly navigate future pandemics and their unknowable challenges. For the reasons stated above, House Bill 1323 is vetoed.

Sincerely,

Doug Burgum

Governor

Disapproved April 21, 2021

Filed April 27, 2021

NOTE: The Governor's veto of House Bill No. 1323 was not sustained. For the text of House Bill No. 1323 as approved, see chapter 198.

CHAPTER 509

SENATE BILL NO. 2290

(Senators Hogue, Holmberg, Wardner)
(Representative Delzer, Devlin, Pollert)

AN ACT to amend and reenact sections 54-16-04.1 and 54-16-04.2 of the North Dakota Century Code, relating to emergency commission and budget section approval to accept and disburse federal and other funds; and to declare an emergency.

VETO

April 26, 2021

The Honorable Brent Sanford
President of the Senate
North Dakota Senate Chambers
Bismarck, North Dakota

Dear President Sanford:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed Senate Bill 2290 and return it to the Senate unsigned.

Three years ago, the North Dakota Supreme Court affirmed the separation of powers and resolved a dispute between the legislative and executive branches in *North Dakota Legislative Assembly v. Burgum*, 2018 ND 189, 916 N.W.2d 83. In this opinion, the Court held the State Legislature "may not delegate to another body the power to make law - to legislate." The Constitution grants the Legislature the authority to create law and appropriate funds. These duties cannot be delegated to a subset of legislators, such as the Budget Section, comprised of 42 of the legislature's 141 members.

Senate Bill 2290 not only ignores the holding of *Assembly v. Burgum*, it attempts to expand the Budget Section's authority, allowing it to reject an Emergency Commission approval and issue a revised decision. SB 2290 states any changes made by the budget section are "deemed to be approved by the emergency commission." The power to reject an Emergency Commission decision "without the further action of the passage by both houses of the Legislature and signing by the Governor" violates the separation of powers doctrine and is an unconstitutional exercise of authority. 2007 N.D. Op. Atty. Gen. No. L-08.

Senate Bill 2290 also creates operational issues between sessions for state government by limiting the aggregate amount of approvals each biennium by the Emergency Commission to \$50 million.

The total state biennial budget is over \$14 billion, including general, special, and federal funds. One percent of this budget would be over \$140 million. SB 2290 has a cap of \$50 million per biennium that can be approved by the Emergency Commission and Budget Section, and amounts greater than this would require the governor to call a special session. The cap is set so low that even a variance of less than 1/2 of one percent over the two-year budget cycle would trigger the need for a special session.

Special sessions are for addressing special circumstances as they arise, not for receiving incremental amounts of federal dollars in the normal execution of state business.

North Dakota has received approximately \$1.25 billion in CARES Act funding in the last year. Receipt and disbursement of these funds was handled through requests to the Emergency Commission. This long-established framework worked well to quickly distribute aid for COVID-19 relief for citizens, businesses, education and health care, within the designated federal guidelines under the Coronavirus Relief Fund rules.

North Dakota stands to receive additional federal funds under President Biden's "American Rescue Plan." Coronavirus Relief Fund and American Rescue Plan dollars are specifically referenced in a number of 2021-2023 appropriations bills.

The significant expansion of powers in Senate Bill 2290 clearly violates the separation of powers doctrine and attempts, via an unconstitutional \$50 million trigger, to force the Governor to call a special session to authorize expenditures of known or foreseeable federal funds. It may further result in the Legislative Assembly circumventing its constitutionally authorized 80-day limit per biennium.

For the reasons explained herein, I return Senate Bill 2290 to the Senate, unsigned.

Regards,

Doug Burgum

Governor

Disapproved April 26, 2021

Filed April 29, 2021

NOTE: The Governor's veto of Senate Bill No. 2290 was not sustained. For the text of Senate Bill No. 2290 as approved, see chapter 401.

CONSTITUTIONAL AMENDMENTS DISAPPROVED

CHAPTER 510

SENATE CONCURRENT RESOLUTION NO. 4001

(Senators Hogue, Dever, G. Lee)
(Representatives K. Koppelman, Louser, Nathe)

CONSTITUTIONAL AMENDMENT APPROVAL PROCESS

A concurrent resolution to amend and reenact section 9 of article III of the Constitution of North Dakota, relating to the process for approving constitutional amendments.

STATEMENT OF INTENT

This measure requires an initiated constitutional measure approved by voters to be submitted to the subsequent legislative assembly. Under this measure, if the legislative assembly does not approve the constitutional measure, the measure will be placed on the ballot again, and, if approved by the voters, will become effective. The measure also requires constitutional amendments to be submitted to voters only at general elections.

BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed amendment to section 9 of article III of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2020, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 9 of article III of the Constitution of North Dakota is amended and reenacted as follows:

Section 9. A constitutional amendment may be proposed by initiative petition. If signed by electors equal in number to four percent of the resident population of the state at the last federal decennial census, the petition for a constitutional amendment may be submitted to the secretary of state. An initiative to amend the constitution may be placed on the ballot only at a general election. If electors approve an initiative for a constitutional amendment, the amendment must be submitted to the subsequent legislative assembly. If the initiative is approved by a majority of members of each house in the legislative assembly, the initiative is deemed enacted. If the legislative assembly does not approve the initiative, the initiative must be placed on the ballot at the next general election. If the majority of votes cast on the initiative are affirmative, the initiative is deemed enacted. All other provisions relating to initiative measures apply hereteto initiative measures for constitutional amendments.

Disapproved on November 3, 2020

125,613 to 201,476

NOTE: This was measure No. 2 on the 2020 general election ballot.

CHAPTER 511

SENATE CONCURRENT RESOLUTION NO. 4016

(Senators Wardner, Bekkedahl, Heckaman)
(Representatives Mock, Nathe, Roers Jones)

STATE BOARD OF HIGHER EDUCATION MEMBERSHIP AND MEETING REQUIREMENTS

A concurrent resolution to amend and reenact subsections 2 and 6 of section 6 of article VIII of the Constitution of North Dakota, relating to the membership and meeting requirements of the state board of higher education; to provide for transition; and to provide an effective date.

STATEMENT OF INTENT

This measure increases the number of individuals who serve on the state board of higher education from eight to fifteen, increases the term of board membership from four years to six years, requires the board to meet at least annually with the heads of each institution under the board's control, and prohibits state legislators, elected state officials, and full-time state employees from serving on the board.

BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed amendments to subsections 2 and 6 of section 6 of article VIII of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2020, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Subsection 2 of section 6 of article VIII of the Constitution of North Dakota is amended and reenacted as follows:

2. a. The state board of higher education consists of ~~eight~~fifteen members. The governor shall appoint ~~seven~~fourteen members who are qualified electors and taxpayers of the state, and who have resided in this state for not less than five years immediately preceding their appointments. These ~~seven~~fourteen appointments are subject to confirmation by the senate. The governor shall appoint as the ~~eighth~~fifteenth member of the board a full-time resident student in good academic standing at an institution under the jurisdiction of the state board.
- b. An individual serving as a member of the legislative assembly or in an elected statewide office may not serve as a member of the state board of higher education.
- c. Except for the student member, ~~no~~:
- (1) No more than two persons holding a bachelor's degree from a particular institution under the jurisdiction of the state board of higher

education may serve on the board at any one time. ~~Except for the student member, no, and~~

(2) ~~A person employed by the state, including a person employed full time by any institution under the control of the board shall may not serve as a member of the board and no. An employee of any such an institution may be under the control of the board is not eligible for membership on the state board of higher education for a period of two years following the termination of employment.~~

d. ~~The governor shall nominate from a list of three names for each position, selected by action of four of the following five persons: the president of the North Dakota education association, united or its successor organization, the chief justice of the supreme court, secretary of state, the superintendent of public instruction, the president pro tempore of the senate, and the speaker of the house of representatives and, with the consent of a majority of the members-elect of the senate, shall appoint from the list to the state board of higher education seven, fourteen members. The governor shall ensure that the board membership is maintained in a balanced and representative manner. The Other than the student member, the term of office of members appointed to fill vacancies at the expiration of said the terms shall be for four, six years, and in the case of vacancies otherwise arising, appointments shall must be made only for the balance of the term of the members whose places are to be filled. A member may not be appointed to serve for more than two full terms; however, the terms may not be served consecutively. If a member is appointed to fill a vacancy and serves two, three or more years of that term, the member is deemed to have served one full term.~~

b. ~~In the event~~

e. ~~On or before July first of each year, the governor shall appoint a student member from a list of names recommended by the executive board of the North Dakota student association for a term of one year, beginning on July first. A student member may not serve more than two consecutive terms.~~

f. ~~If any nomination made by the governor is not consented to and confirmed by the senate, the governor again shall again nominate a candidate selected from a new list. The nomination shall must be submitted to the senate for confirmation and the proceedings shall must continue until an appointee has been confirmed by the senate or the session of the legislature legislative assembly has adjourned.~~

e-g. ~~If a term expires or a vacancy occurs when the legislature legislative assembly is not in session, the governor may appoint from a list selected as provided, a member who shall serve until the opening of the next session of the legislature legislative assembly, at which time the appointment must be certified to the senate for confirmation. If the appointee is not confirmed by the thirtieth legislative day of the session, the office shall be is deemed vacant and the governor shall nominate another candidate for the office. The same proceedings shall must be followed as are set forth in this section. If the legislature legislative assembly is in session at any time within six months prior to the date of the expiration of the term of any member, the governor shall nominate a~~

successor from a list selected as above set forth, within the first thirty days of the session and upon confirmation by the senate the successor shall take office at the expiration of the incumbent's term. No person who has been nominated and whose nomination the senate has failed to confirm is eligible for an interim appointment. ~~On or before July first of each year, beginning in 1995, the governor shall appoint a student member from a list of names recommended by the executive board of the North Dakota student association for a term of one year, beginning on July first. A student member may not serve more than two consecutive terms.~~

SECTION 2. AMENDMENT. Subsection 6 of section 6 of article VIII of the Constitution of North Dakota is amended and reenacted as follows:

6. a. ~~The state board of higher education shall hold its first meeting at the office of the state board of administration at Bismarck, on the 6th day of July, 1939, and shall organize and elect one of its members as president of such board for a term of one year. It shall also at said meeting, or as soon thereafter as may be practicable, elect a competent person as secretary, who shall reside during his term of office in the city of Bismarck, North Dakota. Said secretary shall hold office at the will of the board. As soon as said board is established and organized, it shall assume all the powers and perform all the duties now conferred by law upon the board of administration in connection with the several institutions hereinbefore mentioned, and the said board of administration shall immediately upon the organization of said state board of higher education, surrender and transfer to said state board of higher education all duties, rights, and powers granted to it under the existing laws of this state concerning the institutions hereinbefore mentioned, together with all property, deeds, records, reports, and appurtenances of every kind belonging or appertaining to said institutions.~~
- b. ~~The said state board of higher education shall have~~has full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall ~~have the power to~~may delegate to its employees details of the administration of the institutions under its control. The ~~said state board of higher education shall have full authority to~~may organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of ~~said state education~~at the institutions. The board shall meet at least annually with the head of each institution under its control.
- e.b. ~~Said~~The board shall prescribe for all of ~~said~~ institutions standard systems of accounts and records and shall biennially, and within six (6) months immediately preceding the regular session of the legislature~~legislative assembly, shall make a report to the governor, covering in detail the operations of the educational institutions under its control.~~
- d.c. ~~It shall be the duty of the heads~~The head of the several state institutions hereinbefore mentioned, ~~to each institution under the board's control shall submit the budget requests~~request for the biennial appropriations for said institutions~~the institution to said~~the state board of higher education; and

~~said~~the state board of higher education shall consider ~~said budgets and shall revise the same~~and revise each budget as in its judgment shall be ~~foris in~~ the best interests of the educational system of the state; ~~and thereafter the.~~ The state board of higher education shall prepare and present to the state budget board and to the legislaturelegislative assembly a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the ~~board of administration until the state board of higher education organizes as provided in subsection 6a.~~" The appropriations for all of ~~said~~ institutions shall ~~must~~ be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and ~~their~~the substations and the extension division of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.

- e-d. The said state board of higher education ~~shall have~~has the control of the expenditure of the funds belonging to, and allocated to ~~such~~ institutions and also those appropriated by the legislaturelegislative assembly, for the institutions of higher education in this state; provided, however, that funds appropriated by the legislaturelegislative assembly and specifically designated for any one or more of ~~such~~ institutions, shall may not be used for any other institution.

SECTION 3. EFFECTIVE DATE - TRANSITION. This measure becomes effective June 30, 2021. Any member of the state board of higher education serving a term on the board on the effective date of this measure whose term does not expire on June 30, 2021, may serve the remainder of that member's term. For those board positions expiring on June 30, 2021, and for the seven new positions on the board created by this measure, the governor shall appoint individuals to fill those positions in accordance with this measure, and the terms of those appointees must be staggered so not more than three positions expire in any year. To accomplish the staggering, the initial term of those appointees may be for less than six years.

Disapproved November 3, 2020

91,848 to 242,157

NOTE: This was measure No. 1 on the 2020 general election ballot.

HOUSE CONCURRENT RESOLUTIONS

CHAPTER 512

HOUSE CONCURRENT RESOLUTION NO. 3001

(Legislative Management)
(Agriculture and Transportation Committee)

A concurrent resolution urging Congress to temporarily amend cargo carrying truck length and weight restrictions on state highways and interstates that are a part of the National Network to allow North Dakota and surrounding states to conduct a road train pilot program and to permanently amend the restrictions to allow road trains on the National Network highways and interstates if the pilot program is successful.

WHEREAS, the National Network is an approved network of state highways and interstates in the United States for use by large trucks and commercial truck drivers; and

WHEREAS, the National Network supports interstate commerce by regulating the size of trucks operating on the National Network through a federal cargo carrying length limitation of approximately 100 feet depending on truck configuration and a federal cargo carrying weight limitation of approximately 80,000 pounds gross vehicle weight; and

WHEREAS, grandfathered provisions in operation in the state at the time federal regulations were enacted provide trucks in North Dakota may be up to 110 feet in overall length and 105,500 pounds gross vehicle weight on permissible routes; and

WHEREAS, trucks operating on the 129,000 pound Limited Transportation Network may be up to 129,000 pounds gross vehicle weight on certain routes; and

WHEREAS, the United States is experiencing a shortage of approximately 900,000 truck drivers with commercial driver's licenses; and

WHEREAS, railroad infrastructure has diminished by approximately 40 percent between 1920 and 2017, from 5,400 miles of track to 3,330 miles of track; and

WHEREAS, it is becoming more difficult to meet increasing demands for freight and commodities in a timely and efficient manner due, in part, to the shortage of commercial truck drivers and the reduced railroad infrastructure; and

WHEREAS, a road train is a trucking vehicle consisting of two or more connected trailers or semitrailers linked and hauled by a single operating prime mover or tractor unit which may exceed overall length and total gross vehicle weight limitations, but not exceed current statutory axle load limitations; and

WHEREAS, Australia uses road trains to move freight in an efficient manner to meet demand; and

WHEREAS, allowing road trains to exceed federal truck length and total gross vehicle weight limitations may be a viable solution to the efficiency and capacity issues resulting from the shortage of commercial truck drivers and reduced railroad infrastructure by allowing commercial truck drivers to haul more freight in longer and heavier cargo loads;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly urges the Congress of the United States to temporarily amend cargo carrying truck length and weight restrictions on state highways and interstates that are a part of the National Network to allow North Dakota and surrounding states to conduct a road train pilot program and to permanently amend the restrictions to allow road trains on the National Network highways and interstates if the pilot program is successful; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, and each member of the North Dakota Congressional Delegation.

Filed March 9, 2021

CHAPTER 513

HOUSE CONCURRENT RESOLUTION NO. 3002

(Legislative Management)
(Government Finance Committee)

A concurrent resolution recognizing the memorandum of understanding and option to acquire land entered by the Department of Corrections and Rehabilitation, by and through the State Penitentiary and the Missouri River Correctional Center and the Parks and Recreation Department.

WHEREAS, the Department of Corrections and Rehabilitation, by and through the State Penitentiary and the Missouri River Correctional Center, previously known as the North Dakota State Farm, is in continuous and open possession and custody of the real property owned by the State of North Dakota and located in the northwest quarter and northeast quarter of Section 29, Township 138 North, Range 80 West, Burleigh County, described as part of Government lots 1, 2, 3, and 4, and the northwest quarter and northeast quarter of Section 29, and what is described as Auditor's Lot "A" in the plat recorded with the Burleigh County Recorder as Document No. 851887 and as Exhibit A to Document No. 851886; and that part of the northeast quarter and the northwest quarter of Section 30, Township 138 North, Range 80 West, Burleigh County, and what is now described as Auditor's Lot "A" in the plat recorded with the Burleigh County Recorder as Document No. 851888 and as Exhibit B to Document No. 851886, but subject to any designated sovereign lands within the ordinary high water mark of the Missouri River in accordance with North Dakota Century Code Section 61-33-03; and

WHEREAS, the described property was originally managed and farmed by the State Penitentiary, which in 1941 became known as the North Dakota State Farm and is now known as the Missouri River Correctional Center, an affiliated facility of the State Penitentiary, which includes approximately 300 acres of irrigated crop land as authorized under Water Permit No. 939 issued by the state engineer; and

WHEREAS, North Dakota State University used parts of the property described as Auditor's Lot "A" in Section 29 and Auditor's Lot "A" in Section 30, along with other property under the management of the Department of Corrections and Rehabilitation, for agricultural research, including multispecies grazing research and the management of noxious weeds; and

WHEREAS, the custody of the property, Auditor's Lot "A" in Section 29 and Auditor's Lot "A" in Section 30, was transferred to the Parks and Recreation Department in 2016, to develop into a state park; and

WHEREAS, in 2017, the Parks and Recreation Department determined it was not in the position to develop the state property into a state park, but the Department of Corrections and Rehabilitation had immediate management needs for return of the custody of the transferred land to the Department of Corrections and Rehabilitation, and in 2017, custody of the property was subsequently transferred to the Department of Corrections and Rehabilitation; and

WHEREAS, the Missouri River Correctional Center includes a campus and adjacent property located in Section 19, Township 138 North, Range 80 West, Burleigh County; and

WHEREAS, in July 2018, the Department of Corrections and Rehabilitation and the Parks and Recreation Department, entered a memorandum of understanding and option to acquire land, providing if the Department of Corrections and Rehabilitation determines to discontinue the operation of the Missouri River Correctional Center in Sections 19, 29, and 30 in Township 138 North, Range 80 West, Burleigh County, and to divest itself of custody of such state property, the Department of Corrections and Rehabilitation grants to the Parks and Recreation Department the option to acquire custody of the property, or a portion of the premises, subject to the approval of the Legislative Assembly, and the ability, resources, and available appropriations of the Parks and Recreation Department to develop the property into a state park.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

The Sixty-Seventh Legislative Assembly supports the memorandum of understanding and option to acquire land entered by the Department of Corrections and Rehabilitation and Parks and Recreation Department; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Department of Corrections and Rehabilitation and Parks and Recreation Department.

Filed March 24, 2021

CHAPTER 514

HOUSE CONCURRENT RESOLUTION NO. 3006

(Representatives Nehring, Karls, Magrum, Porter, Toman)
(Senator Anderson)

A concurrent resolution urging Congress and the President of the United States to protect the Second Amendment of the United States Constitution.

WHEREAS, the Second Amendment of the United States Constitution states in part "the right of the people to keep and bear arms shall not be infringed"; and

WHEREAS, Section 1, Article 1, of the Constitution of North Dakota includes similar language declaring it is an individual's inalienable right "to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes"; and

WHEREAS, the right of citizens to bear arms is a fundamental right that should be protected to the greatest degree possible; and

WHEREAS, the restriction on the possession of firearms, including the taxation or assessment of fees by the federal government on the purchase or possession of a firearm or ammunition, would violate the freedoms guaranteed in the Constitution;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly urges Congress and the President of the United States to protect the Second Amendment of the United States Constitution; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States and to each member of the North Dakota Congressional Delegation by certified mail.

Filed April 20, 2021

CHAPTER 515

HOUSE CONCURRENT RESOLUTION NO. 3009

(Representatives Klemin, Pyle, Schreiber-Beck)
(Senator Oban)

A concurrent resolution requesting the Legislative Management to consider studying provisions of the North Dakota Century Code relating to compulsory school attendance, including a comparison of compulsory school attendance laws in other states.

WHEREAS, the state's statutory framework for compulsory school attendance is codified as North Dakota Century Code Chapter 15.1-20; and

WHEREAS, since the last elementary and secondary education statutory revision, which was completed in 2001, minimal changes have been made relating to compulsory school attendance laws; and

WHEREAS, the education system is evolving; and

WHEREAS, there are questions whether the existing compulsory school attendance provisions are appropriate and reflect best practices under the evolving education system in the state; and

WHEREAS, a comprehensive review of the compulsory school attendance statutory framework is essential for setting clear objectives and expectations for education in the state;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management consider studying provisions of the North Dakota Century Code relating to compulsory school attendance, including a comparison of compulsory school attendance laws in other states; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-eighth Legislative Assembly.

Filed March 12, 2021

CHAPTER 516

HOUSE CONCURRENT RESOLUTION NO. 3011

(Representatives Satrom, Ostlie, Skroch)
(Senators Conley, Larson, Myrdal)

A concurrent resolution directing the Legislative Management to consider studying and researching the impact of substance abuse and neonatal withdrawal syndrome, including a focus on fetal alcohol spectrum disorders (FASDs), including treatment, services available, potential prevention, and whether existing policies for children and adults are appropriate.

WHEREAS, FASDs are a group of conditions, including fetal alcohol syndrome, which can occur in an individual whose mother drank alcohol during pregnancy and which may include physical problems and problems with behavior and learning; and

WHEREAS, in 1993, the Legislative Assembly created the Fetal Alcohol Syndrome Center at the University of North Dakota School of Medicine and Health Sciences; and

WHEREAS, the Fetal Alcohol Syndrome Center publishes an annual report on the status of FASDs in the state; and

WHEREAS, although the prevalence of FASDs is 1 to 5 percent of live births in North Dakota, only 5 to 15 percent will be diagnosed with FASDs; and

WHEREAS, there is an increased cost of medical care services for a child with FASDs, with an annual excess cost for medical care due to FASDs of \$4,403 per case, and the cost of inpatient medical care for each case of FASDs to age 18 being \$95,034; and

WHEREAS, in addition to medical care, the cost to a family to care for a child with FASDs is \$17,400 per year, including expenses for travel, meals and lodging, insurance deductibles, vacation and sick leave, child care, work-related costs, and deferred promotions; and

WHEREAS, although prenatal alcohol exposure often occurs with other substance abuse and often is not detected, of all the substances of abuse, alcohol produces by far the most serious adverse effects for the fetus; and

WHEREAS, if a woman has a child with FASDs and continues to drink, the woman has more than a 75 percent chance of having another child with FASDs;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management consider studying and researching the impact of substance abuse and neonatal withdrawal syndrome, including a focus on FASDs, including treatment, services available, potential prevention, and whether existing policies for children and adults are appropriate; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, incorporating the task force on substance exposed newborns recommendations as a result of 2015 Senate Bill No. 2367, as approved by the Sixty-fourth legislative assembly, to the Sixty-eighth Legislative Assembly.

Filed April 20, 2021

CHAPTER 517

HOUSE CONCURRENT RESOLUTION NO. 3013

(Representatives Cory, Dockter, Howe, Lefor, Louser, Mock, O'Brien, Pyle, Strinden)
(Senators Meyer, Poolman)

A concurrent resolution directing the Legislative Management to consider studying issues related to employment restrictions in public assistance programs.

WHEREAS, workforce shortage issues have been identified as a major challenge for business development in North Dakota; and

WHEREAS, businesses are seeking incentives for workers to fill shortfalls in the labor market; and

WHEREAS, some workforce issues could be resolved by allowing employees to work additional hours when available; and

WHEREAS, some public assistance programs restrict eligibility based on total number of hours worked by employees; and

WHEREAS, total hours worked is not always an indicator of the needs an individual may have for receiving public assistance; and

WHEREAS, finding means to allow employees to work additional hours without automatically losing public assistance benefits may be a way of addressing some labor shortage issues; and

WHEREAS, employment and benefits have been impacted by the SARS-CoV-2 pandemic, commonly known as COVID-19; and

WHEREAS, changes to federal benefits should be monitored and tracked to ensure the state's public assistance programs remain flexible; and

WHEREAS, one method for addressing labor shortage issue may be to encourage and enable employees willing to work additional hours to do so without losing benefits;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management consider studying issues relating to employment restrictions in public assistance programs; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-eighth Legislative Assembly.

Filed March 18, 2021

CHAPTER 518

HOUSE CONCURRENT RESOLUTION NO. 3014

(Representatives Dobervich, Mitskog, Mock, Rohr, Schneider, Schreiber-Beck, Tveit,
Westlind)

(Senators Anderson, Hogan, Kannianen, K. Roers)

A concurrent resolution directing the Legislative Management to consider studying solutions to provider and end-user barriers to access to and utilization of telehealth services in this state.

WHEREAS, telehealth is an evidence-based best practice for expanding access to care for North Dakota's rural and tribal communities and for areas experiencing health care workforce shortages; and

WHEREAS, limited evaluation and research information is available publicly regarding North Dakota telehealth end users to apply to developing, expanding, and resourcing telehealth services in North Dakota; and

WHEREAS, Internet service access, access to electronic devices, reimbursement, regulations, sustainability, transportation, and interoperability have been identified as potential barriers to telehealth services efficacy for populations who may experience the greatest benefit from telehealth;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management consider studying solutions to provider and end-user barriers to access to and utilization of telehealth services in this state; and

BE IT FURTHER RESOLVED, that the Legislative Management report its finding and recommendations, together with any legislation required to implement the recommendation, to the Sixty-eighth Legislative Assembly.

Filed April 14, 2021

CHAPTER 519

HOUSE CONCURRENT RESOLUTION NO. 3015

(Representatives Dobervich, P. Anderson, Buffalo, Mitskog, M. Nelson)
(Senators Hogan, Mathern)

A concurrent resolution directing the Legislative Management to consider studying the feasibility and desirability of implementing a community health worker program, including recommendations regarding a definition of a community health worker, the scope of work of a community health worker, the infrastructure for training of community health workers, the development of a community health worker certification process and related training curriculum and continuing education requirements, a strategy for community health worker services being Medicaid-reimbursed services, and private insurers' use of community health workers.

WHEREAS, community health workers serve as a connection between health care professionals' care and patients' home-based implementation of that care; and

WHEREAS, utilization of community health workers is an evidence-based approach to chronic disease prevention and management; and

WHEREAS, utilization of community health workers has been evidenced to reduce nonemergent utilization of emergency and specialty services;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management consider studying the feasibility and desirability of implementing a community health worker program, including recommendations regarding a definition of a community health worker, the scope of work of a community health worker, the infrastructure for training of community health workers, the development of a community health worker certification process and related training curriculum and continuing education requirements, a strategy for community health worker services being Medicaid-reimbursed services, and private insurers' use of community health workers.

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-eighth Legislative Assembly.

Filed April 16, 2021

CHAPTER 520

HOUSE CONCURRENT RESOLUTION NO. 3019

(Representatives Headland, Brandenburg, D. Johnson, Mitskog, Schmidt, Schreiber-Beck)
(Senators Sorvaag, Wanzek)

A concurrent resolution directing the Legislative Management to consider studying the fiscal and safety impacts of United States Fish and Wildlife Service easements in North Dakota on the Department of Transportation, Department of Agriculture, and counties.

WHEREAS, the United States Fish and Wildlife Service owns perpetual easements in North Dakota, including easements adjacent to roadways; and

WHEREAS, the United States Fish and Wildlife Service may impose regulatory requirements on state agencies and political subdivisions constructing or improving roads or engaging in other projects when the United States Fish and Wildlife Service deems its interests would be impacted by the projects; and

WHEREAS, the imposition of federal requirements may delay or otherwise negatively impact the construction and improvement of roads or other projects in North Dakota; and

WHEREAS, delays and other impacts from federal requirements may impede road improvements and repairs necessary for public safety and increase the cost of construction to the state and political subdivisions;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management consider studying the fiscal and safety impacts of United States Fish and Wildlife Service easements in North Dakota on the Department of Transportation, Department of Agriculture, and counties.

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-eighth Legislative Assembly.

Filed March 29, 2021

CHAPTER 521

HOUSE CONCURRENT RESOLUTION NO. 3020

(Representatives Schatz, Becker, Bellew, Delzer, Kempenich, Meier, D. Ruby, Steiner,
Toman)
(Senators O. Larsen, Myrdal)

A concurrent resolution declaring the state will obey only the federal laws, agency rules, or presidential executive orders the state determines to be constitutional.

WHEREAS, the Tenth Amendment of the Constitution of the United States provides the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people; and

WHEREAS, Section 2 of Article I of the Constitution of North Dakota provides "all political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require"; and

WHEREAS, the state reserves the right to evaluate federal laws, agency rules, or presidential executive orders for their constitutionality; and

WHEREAS, some federal laws, agency rules, or presidential executive orders are not in the best interest of the citizens of North Dakota;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly declares the state will obey only the federal laws, agency rules, or presidential executive orders the state determines to be constitutional; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States and to each member of the North Dakota Congressional Delegation.

Filed April 20, 2021

CHAPTER 522

HOUSE CONCURRENT RESOLUTION NO. 3021

(Representatives Schatz, Dockter, Heinert, B. Koppelman, Pollert, Rohr, M. Ruby,
Schmidt, Skroch)
(Senators Elkin, D. Larsen, O. Larsen)

A concurrent resolution directing the Legislative Management to consider studying the factors contributing to the nation's firearm and ammunition shortage and the impact the shortage has had on the quality of life for North Dakota citizens.

WHEREAS, the firearm and ammunition inventory of wholesalers and distributors, which is at a historic low, is not due to a shortage in materials; and

WHEREAS, while firearm and ammunition retailers, wholesalers, and distributors had piles of inventory in January 2020, by December 2020, the same racks and shelves were empty; and

WHEREAS, with an election year that has had significant consequences for gun rights, a global pandemic event, rioting in cities and urban centers throughout the United States, there is an unprecedented demand for self-defense tools; and

WHEREAS, the firearm and ammunition shortage directly impacts the personal protection capabilities and safety of North Dakota citizens and the ability of law enforcement and military personnel to perform their essential duties; and

WHEREAS, North Dakota is one of the gun-friendliest states in the nation, a state in which gun rights and hunting are sacred so the firearm and ammunition shortage negatively impacts hunting and predator control within the state; and

WHEREAS, the Legislative Assembly should work to ensure the supply and price of firearms and ammunition remains stable in North Dakota;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management consider studying the factors contributing to the nation's current firearm and ammunition shortage and the impact the shortage has had on the quality of life for North Dakota citizens; and

BE IT FURTHER RESOLVED, that the Legislative Management develop a plan of action to resolve the state's current firearm and ammunition shortage; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-eighth Legislative Assembly.

Filed April 20, 2021

CHAPTER 523

HOUSE CONCURRENT RESOLUTION NO. 3023

(Representatives K. Koppelman, Bosch, Klemin, Louser, Pollert)
(Senators Burckhard, Dwyer, Wardner)

A concurrent resolution urging Congress to propose an amendment to the United States Constitution to prohibit changing the number of justices serving on the United States Supreme Court and that the amendment should state the Supreme Court of the United States shall be composed of nine justices.

WHEREAS, an independent United States Supreme Court is an essential element of America's system of checks and balances that protects individuals' constitutional rights; and

WHEREAS, the United States Supreme Court has been composed of nine justices for more than 150 years; and

WHEREAS, the President of the United States and Congress should be prohibited from undermining the independence of the United States Supreme Court by changing the number of justices on the United States Supreme Court;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly urges Congress to propose an amendment to the United States Constitution to prohibit changing the number of justices serving on the United States Supreme Court and that the amendment should state the Supreme Court of the United States shall be composed of nine justices; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States, the Majority and Minority Leaders of the United States Senate and the United States House of Representatives, and each member of the North Dakota Congressional Delegation.

Filed April 16, 2021

CHAPTER 524

HOUSE CONCURRENT RESOLUTION NO. 3025

(Representatives Nehring, Delzer, Kreidt, Porter, Schmidt, Toman)
(Senators Anderson, Kannianen, Bell)

A concurrent resolution urging the federal government to refrain from enacting regulations that threaten the reliability and affordability of electric power in North Dakota and to increase support for research, development, and deployment for next generation carbon-based energy generation.

WHEREAS, North Dakota has at least an 800-year supply of economically recoverable lignite coal at current production rates and has become the second largest oil producer in the United States; and

WHEREAS, because of energy intensive industries, weather extremes, and transportation requirements, North Dakota is ranked second in the nation in energy expenditures per capita based on 2018 data used in the latest rankings from the United States Energy Information Administration; and

WHEREAS, the North Dakota lignite industry generates over 60 percent of the electricity

in the state and provides affordable electricity to more than two million families throughout the upper Midwest; and

WHEREAS, the lignite coal industry contributes more than \$5.4 billion in total business activity to North Dakota; and

WHEREAS, the lignite coal industry employs 13,000 individuals with some of the highest wages in the state; and

WHEREAS, economic analysis by the North Dakota State University agribusiness and applied economics researchers estimates a new 500 megawatt, coal-based electric generating facility would create \$54.3 million in personal income, \$40 million in retail sales, and \$173.7 million in total business activity each year; and

WHEREAS, the current value of the state's existing coal-based infrastructure is \$18.6 billion; and

WHEREAS, state tax revenues attributed to the lignite industry have increased from \$61.4 million in 2000 to over \$125 million in 2020; and

WHEREAS, current federal regulations represent a de facto ban on the construction of new, efficient, and cost-effective coal-based power plants and threaten the continued operation of existing coal-based power plants; and

WHEREAS, federal policy gives other electric generation resources a significant competitive advantage; and

WHEREAS, uncertainty around federal regulations continues to discourage investment in coal-based facilities; and

WHEREAS, North Dakota continues to serve as a model for responsible production of its natural resources, including a longstanding standard of reclaiming mined land to as good or better than before mining; and

WHEREAS, North Dakota continues to be one of only 17 states meeting all federal ambient air quality standards; and

WHEREAS, affordable, reliable power is the backbone of North Dakota's established and emerging industries; and

WHEREAS, advancements in carbon capture utilization and storage can unlock enormous potential for the state's energy industries and economy;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly urges the federal government to refrain from enacting regulations that threaten the reliability and affordability of electric power in North Dakota and to increase its support for research, development, and deployment for next generation carbon-based energy generation; and

BE IT FURTHER RESOLVED, that the federal government is urged to withdraw and revise regulations and other administrative actions that negatively impact the ability to use North Dakota's lignite coal reserves for affordable and reliable domestic power; and

BE IT FURTHER RESOLVED, that the federal government is urged to work with the state, the North Dakota Congressional Delegation, and the North Dakota lignite industry to design and implement regulatory programs based on sound science with inputs from local sources, recognize the status of existing technology, and develop timelines that make economic sense for the producers and consumers of electricity and byproducts derived from North Dakota lignite; and

BE IT FURTHER RESOLVED, that the federal government is urged to increase its partnership with the state of North Dakota and industry to develop technological solutions to enable the continuation of lignite-based electric generation; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States, the Administrator of the United States Environmental Protection Agency, the Secretary of the Department of Energy, the Secretary of the Department of the Interior, and each member of the North Dakota Congressional Delegation.

Filed March 12, 2021

CHAPTER 525

HOUSE CONCURRENT RESOLUTION NO. 3026

(Representatives Porter, Dockter, Headland, Nathe)
(Senators Bekkedahl, Bell, Wardner)

A concurrent resolution urging Congress and the President of the United States to protect agricultural producers and other large asset holders in the state by refraining from changing the federal estate and gift tax exemption and from raising income taxes.

WHEREAS, for 2020 the federal estate and gift tax exemption is \$11,580,000 per individual; and

WHEREAS, the federal estate and gift tax exemption allows individuals to leave up to the amount provided by the exemption to the individual's heirs without paying federal estate or gift tax; and

WHEREAS, the federal estate and gift tax exemption and lower income taxes allow for agricultural producers and other large asset holders to pass on wealth without large tax burdens hindering their heirs;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly urges Congress and the President of the United States to protect agricultural producers and other large asset holders in the state by refraining from changing the federal estate tax cap and from raising income taxes; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States, the Majority and Minority Leaders of the United States Senate and the United States House of Representatives, and each member of the North Dakota Congressional Delegation.

Filed March 12, 2021

CHAPTER 526

HOUSE CONCURRENT RESOLUTION NO. 3027

(Representatives Porter, Damschen, Pollert, Zubke)
(Senators Bekkedahl, Patten, Bell, Wardner)

A concurrent resolution urging President Joseph R. Biden, Jr. to continue oil development on federal land and on federal minerals.

WHEREAS, the federal government leases land to mining companies for the hydraulic fracturing of natural gas on public land; and

WHEREAS, energy security is the primary reason for fossil fuel exploration on a nation's own land; and

WHEREAS, when a nation pumps oil in its own vicinity, the costs of shipping, production, and labor are reduced considerably; and

WHEREAS, local energy production adds jobs to the economy, often in rural places that are economically depressed and need the financial assistance; and

WHEREAS, in 2018, cities, counties, and states enjoyed more than a \$4 billion surplus from mining activities, and schools and infrastructure improvements in rural and economically depressed areas benefited greatly from that surplus; and

WHEREAS, nearly all Americans, not just energy companies and their immediate suppliers, are reaping the benefits of increasing energy production; and

WHEREAS, oil and natural gas development has occurred safely on federal land for decades, while bureaucratic red tape has caused production of these resources to fall sharply since 2010;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly urges President Joseph R. Biden, Jr. to continue oil development on federal land and on federal minerals; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States, the Majority and Minority Leaders of the United States Senate and the United States House of Representatives, and each member of the North Dakota Congressional Delegation.

Filed March 12, 2021

CHAPTER 527

HOUSE CONCURRENT RESOLUTION NO. 3028

(Representatives Porter, Heinert)
(Senators Bekkedahl, Holmberg)

A concurrent resolution urging Congress to include state and local 911 dispatchers as qualified public safety employees and therefore not subject to the early distribution tax under the Internal Revenue Code retirement provisions.

WHEREAS, Internal Revenue Code Section 72(t) allows a "qualified public safety employee exception" to the 10 percent premature distribution tax on certain retirement distributions; and

WHEREAS, a qualified public safety employee includes an employee of a state or political subdivision of a state who provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such state or political subdivision; and

WHEREAS, according to a Wall Street Journal article, 911 "dispatchers are a linchpin of the nation's emergency-response infrastructure. Their responses to 911 calls directly impact how quickly police, firefighters and other first responders are sent to help and whether they go to the right place"; and

WHEREAS, recruiting and hiring 911 dispatchers, effectively staffing 911 call centers, and retaining 911 dispatchers has been a national problem for at least several decades, and it has worsened in recent years' tight labor markets; and

WHEREAS, the mental toll the job takes on 911 dispatchers can be extreme;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly urges Congress to include state and local 911 dispatchers as qualified public safety employees and therefore not subject to the early distribution tax under the Internal Revenue Code retirement provisions; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each member of the North Dakota Congressional Delegation.

Filed March 12, 2021

CHAPTER 528

HOUSE CONCURRENT RESOLUTION NO. 3029

(Representatives K. Koppelman, Pollert)

A concurrent resolution urging federal authorities to observe and respect the principles of federalism and limits on federal power prescribed by the Constitution of the United States.

WHEREAS, the Constitution of the United States delegates certain enumerated powers to the federal government and reserves all others, unless prohibited by the Constitution, to the states and to the people; and

WHEREAS, the principle of limited federal authority is the cornerstone of state and federal relations in the United States; and

WHEREAS, vigilant protection of the appropriate, historic, constitutional authority of states within the United States of America is foundational to our American form of government and critical to the sustaining of our freedoms; and

WHEREAS, the State of North Dakota long has been a champion of state prerogatives and state authority under the Constitution;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the sixty-seventh Legislative Assembly, while recognizing the important role of the federal government in protecting the basic rights of all our citizens, urges federal authorities to observe and respect the principles of federalism and limits on federal power prescribed by the Constitution of the United States; and

BE IT FURTHER RESOLVED, that the State of North Dakota hereby does affirm the primacy of state authority with respect to those powers not expressly delegated to the federal government; and

BE IT FURTHER RESOLVED, that the State of North Dakota calls upon state and federal officials representing North Dakota to collaborate in their efforts to respect, advocate, and defend the principles of federalism and protect the freedom and authority of this state and its people, under the Constitution; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to President Joseph R. Biden, Jr.; the Majority Leader, Minority Leader, and President Pro Tempore of the United States Senate; the Speaker and Minority Leader of the United States House of Representatives; each member of the North Dakota Congressional delegation, the Governor of North Dakota, the Majority Leader, Minority Leader, and President Pro Tempore of the North Dakota Senate; and the Majority Leader, Minority Leader, and Speaker of the North Dakota House of Representatives.

Filed April 14, 2021

CHAPTER 529

HOUSE CONCURRENT RESOLUTION NO. 3034

(Representatives Monson, Boe, Schmidt)
(Senators Hogue, Sorvaag)
(Approved by the Delayed Bills Committee)

A concurrent resolution urging Congress and the President of the United States to fully fund the biota water treatment plant for the northwest area water supply.

WHEREAS, the Congress passed, and the President of the United States signed, into law the Pick-Sloan Missouri Basin Program as part of the Flood Control Act of 1944; and

WHEREAS, the State of North Dakota was promised flood control, 1.2 million acres of irrigation, power, water supply, recreation, fish and wildlife benefits, improved water quality, along with other benefits; and

WHEREAS, North Dakota gave up hundreds of thousands of prime river bottom acreage to receive these benefits, for which North Dakota only received an authorization of 75,480 acres of irrigation and no water supply to date; and

WHEREAS, the United States entered the Boundary Waters Treaty of 1909 with the nation of Canada, and the treaty states it is further agreed the waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other; and

WHEREAS, Congress acknowledged the significant loss to North Dakota and passed the Dakota Water Resources Act of 2000, which includes the municipal, rural, and industrial water supply program to compensate North Dakota for the broken promises; and

WHEREAS, the United States determined northwest area water supply requires a biota treatment plant to meet the conditions of the Boundary Waters Treaty of 1909, and construction of the northwest area water supply biota water treatment plant is a federal responsibility for which Congress has not appropriated any funds; and

WHEREAS, North Dakota is using funds from the municipal, rural, and industrial water supply program to construct the northwest area water supply biota water treatment plant, causing North Dakota to use federal money received for the losses incurred to be used for a federal responsibility, further injuring North Dakota.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly urges Congress and the President of the United States to fully fund the northwest area water supply biota water treatment plant; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States, the Majority and Minority Leaders of Congress, in addition to each member of the North Dakota Congressional Delegation by certified mail.

Filed April 14, 2021

CHAPTER 530

HOUSE CONCURRENT RESOLUTION NO. 3035

(Representatives Klemin, Guggisberg, Longmuir, Owens, Schreiber-Beck, Simons)
(Senators Elkin, Oban, Schaible)

A concurrent resolution directing the Legislative Management to consider studying statutes governing career and technical education, including statutes in North Dakota Century Code Chapter 15-20.1 providing for the powers and duties of the state board of career and technical education, reciprocity with other states, cooperation with federal agencies, funding, reimbursement to institutions, gifts, reporting requirements, grants for innovation, elementary school entrepreneurship programs, career development certifications, career advisers, accessibility, impacts on students, and programs of study.

WHEREAS, it is the responsibility of the Legislative Assembly to review existing laws to ensure they continue to address the problems they are intended to rectify; and

WHEREAS, career and technical education is an important part of this state's educational system and is a key contributor to the economic health of this state; and

WHEREAS, career and technical education continues to evolve to meet the needs of students and this state;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management consider studying statutes governing career and technical education, including statutes in North Dakota Century Code Chapter 15-20.1 providing for the powers and duties of the state board of career and technical education, reciprocity with other states, cooperation with federal agencies, funding, reimbursement to institutions, gifts, reporting requirements, grants for innovation, elementary school entrepreneurship programs, career development certifications, career advisers, accessibility, impacts on students, and programs of study; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-eighth Legislative Assembly.

Filed April 20, 2021

CHAPTER 531

HOUSE CONCURRENT RESOLUTION NO. 3043

(Representative Becker)

A concurrent resolution directing the Legislative Management to consider studying the amount, type, cost, and occupancy of property leased by the state or any state agency since January 1, 2018.

WHEREAS, it is a legislative responsibility to be conscious of the state's budget; and

WHEREAS, numerous state agencies lease private property as office space throughout the state; and

WHEREAS, potential conflicts of interest should be considered upon the funding of state agencies;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the amount, type, cost, and percent occupancy of all space and property leased by the state or any state agency since January 1, 2018; and

BE IT FURTHER RESOLVED, that the study must include a determination of the individuals who own the property leased by the state or a state agency, including the members of a corporation, partnership, or any other type of entity that owns property leased by the state or a state agency, whether any statewide elected or appointed official should be restricted from owning any property leased by the state or state agency under the direction of the state agency, and whether a legislator should be prohibited from voting on appropriation bills for agencies that lease property from the legislator; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-eighth Legislative Assembly.

Filed April 7, 2021

CHAPTER 532

HOUSE CONCURRENT RESOLUTION NO. 3046

(Representative K. Koppelman)

A concurrent resolution directing the Legislative Management to consider studying the administrative rules process, including a review of any relevant statutes regarding administrative rules to determine if any statutes are unclear or ambiguous, the degree to which agencies are complying with the process, which state agencies are specifically exempt from the process, and if those state agencies should remain exempt.

WHEREAS, the Legislative Assembly has authorized administrative agencies to adopt administrative rules through the administrative rules process outlined in North Dakota Century Code Chapter 28-32; and

WHEREAS, upon becoming effective, administrative rules have the force and effect of law; and

WHEREAS, the Legislative Assembly specifically has exempted at least 20 state agencies from the administrative rules process; and

WHEREAS, the Legislative Assembly should review the specifically exempted state agencies and determine if those state agencies should remain exempt from the administrative rules process; and

WHEREAS, the Legislative Assembly periodically should review any relevant statutes regarding administrative rules to determine if any statutes are unclear or ambiguous; and

WHEREAS, the Legislative Assembly should study and review the administrative rules process to determine whether administrative agencies are implementing legislative purpose and intent properly and the degree to which agencies are complying with the process;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management consider studying the administrative rules process, including a review of any relevant statutes regarding administrative rules to determine if any statutes are unclear or ambiguous, the degree to which state agencies are complying with the process, which state agencies are specifically exempt from the process, and if those state agencies should remain exempt; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-eighth Legislative Assembly.

Filed April 14, 2021

CHAPTER 533

HOUSE CONCURRENT RESOLUTION NO. 3047

(Representatives Louser, Becker, Jones, Kasper, B. Koppelman, K. Koppelman,
Pollert)

(Senators Meyer, Vedaa)

(Approved by the Delayed Bills Committee)

A concurrent resolution urging Congress not to adopt H.R. 1 of the 117th Congress.

WHEREAS, H.R. 1, a sweeping federal bill that would usurp the power of states to conduct elections as they see fit, against the intentions of our nation's founders, is currently under consideration by Congress; and

WHEREAS, Section 4 of Article I of the United States Constitution grants the legislative branch of each state the authority to prescribe the "Times, Places and Manner of holding Elections for Senators and Representatives," an authority Congress should supersede only in "extraordinary circumstances" according to Alexander Hamilton in Federalist Number 59; and

WHEREAS, voting laws have evolved across the 50 states over time, providing more and more access, security, and accuracy. However, most importantly, each of those same 50 states has created its own unique election systems. From who administers the elections, to how votes are cast, to how a vote is protected--each unique system was born of federalism; and

WHEREAS, the imperfection of voting laws across the country is not proof that H.R. 1 is necessary or appropriate, but rather evidence that United States citizens are continuing to strive toward a more perfect union; and

WHEREAS, forcing completely new standards, procedures, and expectations into state election systems, which are not built for those requirements, as is the case under H.R. 1, would bring chaos to those election systems, and that chaos would bring with it a lack of trust by the people in the results of those elections; and

WHEREAS, in North Dakota, we have developed a system that has ensured voters have confidence in the outcome of our elections. Voter fraud and voter suppression are exceedingly rare, and our efforts to strengthen the security of our elections have become a model for others;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly affirms our belief in the federal structure of the United States government and declares current voting laws a credit to the design of federal government to allow for democratic experimentation throughout the several states; and

BE IT FURTHER RESOLVED, that the Sixty-seventh Legislative Assembly urges Congress not to adopt H.R. 1; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each member of the North Dakota Congressional Delegation.

Filed April 7, 2021

CHAPTER 534

HOUSE CONCURRENT RESOLUTION NO. 3048

(Representatives Tveit, Kasper, K. Koppelman, Meier, Pollert, Rohr, Steiner, Louser, Toman)

(Senators Klein, Wardner, Hogue)

(Approved by the Delayed Bills Committee)

A concurrent resolution urging the President of the United States and the Department of Homeland Security not to transfer illegal aliens to North Dakota.

WHEREAS, the United States is a nation that values law and order; and

WHEREAS, a crisis exists at the southern border of the United States, involving an unknown number of illegal aliens entering the United States without authorization; and

WHEREAS, media reports have asserted North Dakota is being considered by United States Department of Homeland Security officials as a potential site for the relocation of illegal aliens detained at the south Texas border; and

WHEREAS, accepting illegal aliens or assisting in propagation of illegal immigration, amidst the SARS-CoV-2 (COVID-19) pandemic, may harm the health, safety, and welfare of North Dakota citizens and may impose an unnecessary fiscal burden on those citizens; and

WHEREAS, in a letter to the United States Department of Homeland Security Secretary Alejandro Mayorkas dated March 23, 2021, Governor Doug Burgum stressed his administration's opposition to the transfer of detained illegal aliens from the southern border to North Dakota, stating "While our state willingly participates in the resettlement of legal, thoroughly vetted refugees, we strongly oppose any efforts to alleviate the southern border crisis of the overwhelming influx of migrants by transporting them to northern border states such as North Dakota"; and

WHEREAS, Governor Burgum's letter further stated, "We urge the administration to address this crisis at the source, fully enforce federal immigration laws, and reassure northern border states that relocation is not on the table";

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly joins Governor Burgum and his administration in opposing any efforts to transfer illegal aliens who entered the United States without authorization to North Dakota; and

BE IT FURTHER RESOLVED, that the Sixty-seventh Legislative Assembly urges the President of the United States and the Department of Homeland Security not to transfer illegal aliens to North Dakota; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States, the United States Senate Majority and Minority Leaders, the United States House of Representatives Majority and Minority Leaders, the Speaker of the United States House of Representatives, the secretary of the United States Senate, the clerk of the United States House of Representatives, the United States Department of Homeland Security Secretary Alejandro Mayorkas, and to each member of the North Dakota Congressional Delegation.

Filed April 16, 2021

SENATE CONCURRENT RESOLUTIONS

CHAPTER 535

SENATE CONCURRENT RESOLUTION NO. 4001

(Legislative Management)
(Budget Section)

A concurrent resolution authorizing the Budget Section of the Legislative Management to hold the required legislative hearings on state plans for the receipt and expenditure of new or revised block grants passed by Congress.

WHEREAS, the Congress of the United States enacted the Omnibus Budget Reconciliation Act of 1981 creating the community services block grant program; and

WHEREAS, the Legislative Assembly is required to conduct public hearings; and

WHEREAS, the Appropriations Committees have met the public hearing requirement for community services block grant program money expected for the next biennium by the Department of Commerce; and

WHEREAS, the Sixty-seventh Legislative Assembly cannot hold public hearings on revisions to current block grants or additional block grants that may be approved by Congress after recess or adjournment of the Legislative Assembly; and

WHEREAS, the Legislative Assembly will not meet in regular session during 2022, and thus its public hearing responsibility for grants not approved by the Sixty-seventh Legislative Assembly must be delegated to a legislative entity.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Department of Commerce appropriation bill enacted by the Legislative Assembly is the Legislative Assembly's approval of and contains directions regarding the use of community services block grant program money for the period ending September 30, 2023; and

BE IT FURTHER RESOLVED, that the Budget Section of the Legislative Management may hold the public legislative hearings required for the receipt of additional block grants or other federal moneys under the Omnibus Budget Reconciliation Act of 1981 or other relevant federal statutes; and

BE IT FURTHER RESOLVED, that the authority granted by this resolution is in effect during the period from the recess or adjournment of the Sixty-seventh Legislative Assembly through September 30, 2023, and the Budget Section may provide public notice and hold the hearings authorized by this resolution using the methods and procedures it deems appropriate.

Filed March 25, 2021

CHAPTER 536

SENATE CONCURRENT RESOLUTION NO. 4003

(Senator Dever)
(Representative Bosch)

A concurrent resolution designating House and Senate employment positions and fixing compensation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That for the Sixty-seventh Legislative Assembly, the following positions are designated as employee positions of the House and Senate and are to be paid the daily wages indicated:

HOUSE

Chief clerk	\$210
Assistant chief clerk	186
Journal reporter	200
Calendar clerk	186
Bill clerk	172
Recording clerk	167
Sergeant-at-arms	167
Administrative assistant to majority leader	181
Staff assistant to majority leader	181
Administrative assistant to minority leader	181
Staff assistant to minority leader	181
Administrative assistant to Speaker	181
Deputy chief clerk	193
Appropriations committee clerk	181
Assistant appropriations committee clerk	174
Committee clerk for three-day committee	174
Committee clerk for two-day committee	174

Assistant committee clerk	169
Deputy sergeant-at-arms	127
Chief legislative assistant	141
Legislative assistant	120

SENATE

Secretary of the Senate	\$210
Assistant secretary of the Senate	186
Journal reporter	200
Calendar clerk	186
Bill clerk	172
Recording clerk	167
Sergeant-at-arms	167
Administrative assistant to majority leader	181
Staff assistant to majority leader	181
Administrative assistant to minority leader	181
Staff assistant to minority leader	181
Chief committee clerk	193
Appropriations committee clerk	181
Assistant appropriations committee clerk	174
Committee clerk for three-day committee	174
Committee clerk for two-day committee	174
Assistant committee clerk	169
Deputy sergeant-at-arms	127
Chief page	141
Legislative assistant	120

BE IT FURTHER RESOLVED, that each employee of the Sixty-seventh Legislative Assembly is entitled to an additional \$1 per day for each previous regular session of the Legislative Assembly during which that employee was paid for at least 45 days, as either an employee of the House or the Senate, and to receive this additional compensation, which may not exceed \$10 per day, that employee must certify to the Legislative Council the year of each regular session during which that employee was employed as required by this resolution; and

BE IT FURTHER RESOLVED, that each majority and each minority leader is entitled to one administrative assistant and two staff assistants, but each majority or minority leader may hire fewer or more assistants so long as the total daily compensation for the assistants hired does not exceed the total daily amount authorized for those positions by this resolution; and

BE IT FURTHER RESOLVED, that the report of the Employment Committee of the respective house identify the number of employees in each position by listing every employee and the position for which employed; and

BE IT FURTHER RESOLVED, that with the approval of the Employment Committee of the respective house, a position may be converted to a part-time position, with the daily compensation converted to a per hour rate of pay, and a part-time employee may hold more than one part-time position so long as the positions held do not exceed a full-time equivalent position; and

BE IT FURTHER RESOLVED, an employee is entitled to pay for any day the Legislative Assembly is in recess and any employee is required to be present for committee hearings or other legislative business; and

BE IT FURTHER RESOLVED, that if any employee resigns, is discharged, or for other reasons terminates employment, the compensation provided by this resolution for that employee ceases effective the last day of employment.

Filed January 18, 2021

CHAPTER 537

SENATE CONCURRENT RESOLUTION NO. 4008

(Senators Wardner, Heckaman)
(Representatives Boschee, Pollert)

A concurrent resolution declaring February 11, 2021, as Giving Hearts Day in North Dakota.

WHEREAS, Giving Hearts Day was started in 2008 by Dakota Medical Foundation and Impact Foundation as the first one-day virtual fundraising event of its kind in the region; and

WHEREAS, the Alex Stern Family Foundation joined Dakota Medical Foundation and Impact Foundation as a cohost in 2014; and

WHEREAS, this 24-hour fundraising event in North Dakota and northwest Minnesota is dedicated to inspiring donations for charities at givingheartsdays.org; and

WHEREAS, Dakota Medical Foundation, Impact Foundation, and Alex Stern Family Foundation jointly lead givingheartsdays.org to create a powerful, regional, user-friendly website for donors to find and connect with charities and for nonprofits to receive donations and recruit volunteers and secure needed goods; and

WHEREAS, in 2020, \$19.2 million was raised from more than 35,000 caring donors, directly benefiting nearly 500 charitable causes, and since its start, nearly \$90 million has been raised; and

WHEREAS, Giving Hearts Day 2021 includes nearly 500 charitable causes and spans the entire state of North Dakota and northwest Minnesota; and

WHEREAS, more than \$5 million has been committed by the cohosts, businesses, and other generous community members to be used for matches, awards, incentives, and scholarships benefiting participating Giving Hearts Day charities; and

WHEREAS, North Dakota citizens are encouraged to experience the joy of giving and volunteering as well as igniting others to help great causes positively impact our communities;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly declares February 11, 2021, as Giving Hearts Day in North Dakota; and

BE IT FURTHER RESOLVED, that the Secretary of State forward a copy of this resolution to Dakota Medical Foundation.

Filed February 9, 2021

CHAPTER 538

SENATE CONCURRENT RESOLUTION NO. 4009

(Senators Wardner, Bekkedahl, Patten)
(Representatives Hatlestad, Kempenich, Zubke)

A concurrent resolution recognizing the cooperative efforts of the rotary clubs and districts, and the citizens of multiple states from southern Texas to the far northern reaches of North Dakota and Saskatchewan, in the completion of marking the North Dakota segment of the Great Western Cattle Trail on June 27, 2021, and acknowledging the legendary role of the Great Western Cattle Trail in the history of the United States.

WHEREAS, the Great Western Cattle Trail was blazed by John T. Lytle in 1874; and

WHEREAS, by 1879, the Great Western Cattle Trail was the principal thoroughfare for Texas longhorns bound for the northern markets; and

WHEREAS, by the time of the last drive, in the 1890s, the Great Western Cattle Trail had served approximately 7,000,000 cattle, hundreds of trail bosses, chuckwagons, and remudas; and

WHEREAS, the Great Western Cattle Trail achieved almost mythical stature on the American frontier, and solidified its place in the history of Texas, Oklahoma, Kansas, Nebraska, South Dakota, and the province of Saskatchewan; and

WHEREAS, in 2003, rotary clubs launched a project to mark the entire Great Western Cattle Trail with concrete posts placed every six to ten miles; and

WHEREAS, on May 1, 2008, Rotary District 5580 proudly placed the first marker in Medora, North Dakota; and

WHEREAS, the placement of North Dakota's final trail marker was placed in Fort Buford;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly recognizes the cooperative efforts of the rotary clubs and districts, and the citizens of multiple states from southern Texas to the far northern reaches of North Dakota and Saskatchewan, in the completion of marking the North Dakota segment of the Great Western Cattle Trail on June 27, 2021, and acknowledging the legendary role of the Great Western Cattle Trail in the history of the United States; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each of the past governors of Rotary District 5580.

Filed April 19, 2021

CHAPTER 539

SENATE CONCURRENT RESOLUTION NO. 4010

(Senators Clemens, Myrdal)
(Representative Rohr)

A concurrent resolution clarifying the 1975 ratification by the 44th Legislative Assembly of the proposed 1972 Equal Rights Amendment to the Constitution of the United States only was valid through March 22, 1979.

WHEREAS, the 92nd Congress of the United States of America, during its second session, with the constitutionally required vote of two-thirds of both houses, on March 22, 1972, gave final approval to House Joint Resolution No. 208, commonly referred to as the Equal Rights Amendment, to propose the amendment to the Constitution of the United States, pursuant to Article V of the Constitution of the United States; and

WHEREAS, in offering the proposed federal constitutional amendment to America's state lawmakers, the 92nd Congress chose a deadline of 7 years, or until March 22, 1979, for the constitutionally mandated ratification of the amendment by three-fourths of the country's state legislatures; and

WHEREAS, in Senate Concurrent Resolution No. 4007, the regular session of the 44th Legislative Assembly in 1975, responded by ratifying the proposed 1972 Equal Rights Amendment to the Constitution of the United States;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the 67th Legislative Assembly deems that the vitality of Senate Concurrent Resolution No. 4007 of the 44th Legislative Assembly by which North Dakota lawmakers ratified the 1972 Equal Rights Amendment, officially lapsed at 11:59 p.m. on March 22, 1979; and

BE IT FURTHER RESOLVED, that, after March 22, 1979, the Legislative Assembly, while in agreement women and men should enjoy equal rights in the eyes of the law, should not be counted by Congress, the Archivist of the United States, lawmakers in any other state, any court of law, or any other person, as still having on record a live ratification of the proposed Equal Rights Amendment to the Constitution of the United States as was offered by House Joint Resolution No. 208 of the 92nd Congress on March 22, 1972; and

BE IT FURTHER RESOLVED, that the 67th Legislative Assembly respectfully requests the full and complete verbatim text of this resolution be duly published in the United States Senate's portion of the Congressional Record, as an official memorial to the United States Senate, and that this resolution be referred to the committee of the United States Senate with appropriate jurisdiction over its subject matter; and

BE IT FURTHER RESOLVED, that the 67th Legislative Assembly respectfully requests the substance of this resolution be duly entered in the United States House of Representatives' portion of the Congressional Record, as an official memorial to

the United States House of Representatives, and that this resolution be referred to the committee of the United States House of Representatives with appropriate jurisdiction over its subject matter; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Vice President of the United States, the secretary and parliamentarian of the United States Senate; the Speaker, clerk, and parliamentarian of the United States House of Representatives; each member of the North Dakota Congressional Delegation; and the Archivist of the United States at the National Archives and Records Administration in Washington, D.C.

Filed March 24, 2021

CHAPTER 540

SENATE CONCURRENT RESOLUTION NO. 4011

(Senators Dwyer, Bakke, Conley, Kannianen, Rust, Wanzek)

A concurrent resolution urging Congress to establish a 1776 Commission and urging the United States Department of Education to develop educational materials that will provide education for students in accordance with the principles of the founding of America, the unifying ideals stated in the Declaration of Independence, the United States Constitution, and other founding documents.

WHEREAS, President Trump's Advisory 1776 Commission was established to enable a rising generation to understand the history and principles of the founding of the United States in 1776; and

WHEREAS, to understand the history and principles of the founding of the United States, the principles of the American founding can be learned by studying the abundant historical documents and records of the nation's founders, including the Declaration of Independence and the United States Constitution; and

WHEREAS, the core assertions of the Declaration of Independence are all men are created equal, no man may by right rule another without consent, and there are natural rights that must be secured; and

WHEREAS, the Constitution is the supreme law of the land and created a structure and a process for securing American rights and liberties and spelled out the divisions and limits of the powers of government; and

WHEREAS, there have been many challenges to America's core principles and those challenges have been addressed during the history of the United States of America; and

WHEREAS, the nation can restore national unity by rekindling the rising generation's knowledge of America's founding principles through patriotic education, personal responsibility, and societal duties;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly urges Congress to establish a 1776 Commission and urges the United States Department of Education to develop educational materials that will provide education for students in accordance with the principles of the founding of America, the unifying ideals stated in the Declaration of Independence, the United States Constitution, and other founding documents; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each member of the North Dakota Congressional Delegation and the United States Secretary of Education.

Filed April 12, 2021

CHAPTER 541

SENATE CONCURRENT RESOLUTION NO. 4012

(Senator Wardner)
(Representative Pollert)

A concurrent resolution to establish a state policy to support the reliability and resilience of the electric grid, ensure price transparency to consumers in electric markets, and incentivize carbon capture utilization and storage as an alternative to preserve dispatchable thermal electric generation and its associated benefits.

WHEREAS, the welfare of the citizens and economic security of this state depends on the reliability and resilience of the electric power supply; and

WHEREAS, maintaining a reliable and resilient grid with a combination of resources that has dependence on thermal electric generation fueled by abundant domestic coal and natural gas is essential to domestic energy and geopolitical security; and

WHEREAS, the variability of nondispatchable energy that is subsidized presents major challenges to the independent system operators responsible for the bulk power system reliability and resilience as they have less dispatchable thermal electric generation available; and

WHEREAS, electric power markets have been distorted by direct and indirect subsidies which has resulted in the undervaluation of dispatchable thermal electric power plants that are now at risk of early retirement that will further erode electric grid reliability and resilience; and

WHEREAS, regional utilities have announced plans to retire coal-fired electric generation facilities located in North Dakota and the region before the facilities' useful life while simultaneously making significant investments in nondispatchable energy projects; and

WHEREAS, these announcements create an urgent need for North Dakota to take actions to make clear the value of dispatchable power and address market distortions created by production of nondispatchable power both locally and regionally; and

WHEREAS, in both the Southwest Power Pool and Midcontinent Independent System Operator, state and federal policies mandating and incenting the deployment of significant nondispatchable energy are imposing reliability and resilience penalties on the bulk power system relied upon by the citizens and industries of North Dakota without due compensation for the true and total cost of those penalties; and

WHEREAS, planning by the Midcontinent Independent System Operator and the Southwest Power Pool includes major additions of transmission lines, synchronous condensers, static compensators, and other devices to provide grid attributes that are lost as dispatchable resources retire; and

WHEREAS, economics and scaling issues currently remain a challenge for energy storage technologies to provide sufficient capacity to replace dispatchable thermal electric generation and provide grid support; and

WHEREAS, North Dakota has long served as an energy producer and exporter for the Midwest and the nation and is situated uniquely to advance and benefit from carbon capture utilization and storage projects due to the state's significant lignite reserves and associated lignite-fired thermal electric generation and coal conversion facilities, geologic formations, the state's significant natural gas capture and electric power development opportunities, as well as the state's significant oil reserves that have high potential for enhanced oil recovery utilizing anthropogenic carbon dioxide captured from lignite- and gas-fired thermal electric generation; and

WHEREAS, developing carbon capture utilization and storage projects in North Dakota will result in significant state and local revenue and employment benefits by preserving lignite mines and associated thermal electric generation plants while creating new employment and revenue opportunities associated with the construction and operation of carbon capture, power plant, and enhanced oil recovery projects; and

WHEREAS, additional opportunities will be created by utilization of electricity onsite through both carbon capture utilization and installation of complimentary operations that use high amounts of electricity, creating products onsite not necessary to ship to market, further reducing capacity utilizing the transmission system, and creating space for additional technology neutral electric generation in future years; and

WHEREAS, by deploying carbon capture utilization and storage and other onsite electricity consumption projects in North Dakota using lignite, natural gas, power plant, and other cutting-edge technology and workers from North Dakota to produce reliable and affordable electric generation for its citizens and its industry, as well as other products, North Dakota not only will benefit in the short term economically, it will improve reliability and affordability throughout the Midwest and ensure the ability to be a world leader in deploying carbon capture utilization and storage projects globally, ensuring developing nations the ability to provide low-carbon, reliable energy to their citizens; and

WHEREAS, the system of regulatory oversight does not ensure sufficiently the reliability and resilience of the electric grid because of market distortion and unrealistic electricity production mandates from states, driving regional transmission operators in their dispatch policies; and

WHEREAS, the combination of direct and indirect subsidies are hidden in the cost to the ratepayer, preventing ratepayers from knowing the true and total cost of the electric power purchased; and

WHEREAS, regional transmission operator policy decisions lead to premature retirement analyses that do not consider adequately the reliability and resilience penalties of renewable nondispatchable energy. Nor do they adequately scrutinize premature retirement decisions by requiring analysis and compensation for decarbonization by installation of carbon capture utilization and storage technologies, which help meet carbon reduction goals; allow additional energy generation to utilize the transmission system; and bring significant economic, employment, and energy security benefits to North Dakota and the United States; and

WHEREAS, robust and diverse production of all natural resources for electric generation within the state of North Dakota should be maintained while providing stable and affordable electricity benefits to North Dakota and its citizens, along with the electrical grid connected to the surrounding region; and

WHEREAS, priority should be given to industries working together to achieve overall best practices by integrating aspects of multiple industries to achieve the best overall results; and

WHEREAS, use of waste heat, carbon recycling, hybrid generation resources, energy storage, and new technologies that contribute to a reliable grid, overall energy efficiency, and reasonable cost are all part of this vision;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That a state policy is established to support the reliability and resilience of the electric grid, establish inherent value of dispatchable energy, ensure price transparency to consumers in electric markets, and incentivize carbon capture utilization and storage as an alternative to preserve dispatchable thermal electric generation and its associated benefits; and

BE IT FURTHER RESOLVED, that the Public Service Commission shall coordinate with regional transmission organizations to ensure and develop policies reflected above which provide reliable, dispatchable power for the region in an effective and consistent manner, discourage premature retirement of our thermal electric power generation fleet, and encourage installation of carbon capture utilization and storage technologies to help meet decarbonization and reliability goals of the region in an effective and consistent manner; and

BE IT FURTHER RESOLVED, that the North Dakota Transmission Authority annually develop a comprehensive report for North Dakota by collecting publicly available information and other requested information from our state's utilities and utilize this information to coordinate with regional transmission organizations to ensure both local and regional grid reliability as well as to develop a plan to enhance and expand transmission within North Dakota to continue our strong tradition of being an energy exporter to our region and the United States; and

BE IT FURTHER RESOLVED, that the Secretary of State forward a copy of this resolution to the Public Service Commission; North Dakota Transmission Authority; North Dakota Congressional Delegation; Midwest Independent System Operator; and Southwest Power Pool.

Filed April 19, 2021

CHAPTER 542

SENATE CONCURRENT RESOLUTION NO. 4013

(Senators Marcellais, Heckaman, Kannianen, Schaible)

(Representative Trottier)

(Approved by the Delayed Bills Committee)

A concurrent resolution urging Congress to pass the North Dakota Trust Lands Completion Act.

WHEREAS, upon statehood in 1889, North Dakota was granted 2.6 million acres of scattered lands and minerals with the purpose of funding education and public needs within the state; and

WHEREAS, establishment of tribal nations and the Little Missouri National Grasslands trapped state-owned lands and minerals within these boundaries which often are very difficult for North Dakota to access and manage; and

WHEREAS, North Dakota currently holds over 130,000 acres of minerals and over 31,000 surface acres within tribal nations alone, which are largely unable to be developed by the state pursuant to North Dakota's mandate to generate income for schools, universities, and other public purposes; and

WHEREAS, authorizing North Dakota to relinquish North Dakota land grant parcels located within tribal nations and the grasslands and to select other federal lands or minerals in lieu of not receiving full access to and use of the original land since North Dakota attained statehood will fulfill the promise of land and minerals to North Dakota, provide to Indian tribes greater tribal sovereignty and control of lands and minerals within tribal nations, and provide for greater conservation and preservation of the grasslands; and

WHEREAS, Congress should authorize North Dakota to relinquish the lands and minerals located within tribal nations and the grasslands; and to select in lieu of the relinquished land other federal lands or minerals within North Dakota of equal value;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly urges the Congress of the United States to pass the North Dakota Trust Lands Completion Act; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, the United States Secretary of the Interior, and each member of the North Dakota Congressional Delegation.

Filed April 9, 2021

CHAPTER 543

SENATE CONCURRENT RESOLUTION NO. 4014

(Senator Wobbema)
(Representatives Christensen, Ertelt, Kiefert)

A concurrent resolution directing the Legislative Management to consider studying the apportionment of voting rights in relation to a voter's ability to approve or protest a tax increase, bond issuance, or the formation of an improvement district and whether the current manner of apportioning voting rights is equitable and appropriate.

WHEREAS, the apportionment of voting rights in relation to approval of political subdivision levy authority generally is apportioned one vote per qualified elector; and

WHEREAS, the apportionment of voting rights in relation to an individual's ability to protest the formation of a special assessment improvement district includes the apportionment of one vote for each dollar of the proposed special assessment against the owner's property and the apportionment of votes based on the total number of acres a property owner owns which are subject to assessment; and

WHEREAS, the apportionment of voting rights in relation to approval of a bond issuance generally is apportioned one vote per qualified elector, but the apportionment of voting rights in relation to protesting a bond issuance is measured in terms of assessed valuation in certain instances;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management consider studying the apportionment of voting rights in relation to a voter's ability to approve or protest a tax increase, bond issuance, or the formation of an improvement district and whether the current manner of apportioning voting rights is equitable and appropriate; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-eighth Legislative Assembly.

Filed April 22, 2021

CHAPTER 544

SENATE CONCURRENT RESOLUTION NO. 4016

(Senator Wobbema)

(Approved by the Delayed Bills Committee)

A concurrent resolution urging Congress to refrain from issuing a vaccine passport and from enacting any law that would restrict an individual's right to travel or participate in commerce, religious freedom, and education based on whether the individual has received a COVID-19 vaccine.

WHEREAS, the Founding Fathers deemed a Bill of Rights was necessary to guard an individual's liberty against encroachments from state and federal actions, both public and private; and

WHEREAS, no COVID-19 vaccine has been officially approved by the federal Food and Drug Administration; and

WHEREAS, emergency use products are prohibited by federal law under 21 U.S.C. 360bbb-3 from being mandated insofar as individuals must be informed of "the option to accept or refuse administration of the product"; and

WHEREAS, in August 2020 the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices affirmed under an emergency use authorization, experimental vaccines may not be made mandatory; and

WHEREAS, universally accepted codes of medical ethics, including the Nuremberg Code and the Declaration of Helsinki, absolutely prohibit any form of coercion to make individuals participate in a medical experiment; and

WHEREAS, public and private measures are being considered to mandate experimental vaccination to participate in certain public activities and functions of daily American life, including employment, in-person school attendance, public transportation, and concert performances; and

WHEREAS, Section 1 of Article I of the Constitution of North Dakota provides "[a]ll individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed"; and

WHEREAS, "vaccine passports," "digital health IDs," and other similar required documentations pose substantial risks to personal privacy and equal treatment before the law for all North Dakotans and United States citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-seventh Legislative Assembly urges the Congress of the United States to refrain from issuing a vaccine passport and from enacting any law that would restrict an individual's right to travel or participate in commerce, religious freedom, and education based on whether the individual has received a COVID-19 vaccine; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Secretary of the United States Department of Health and Human Services, the Majority and Minority Leaders of the United States Senate and the United States House of Representatives, and to each member of the North Dakota Congressional Delegation.

Filed April 22, 2021

HOUSE RESOLUTIONS

CHAPTER 545

HOUSE RESOLUTION NO. 5001

(Representatives Pollert, Boschee)

A resolution calling for the expulsion of Representative Luke Simons, District 36, as a member of the Legislative Assembly for conduct unbecoming of a legislator.

WHEREAS, Joint Rule 1001 of the *2021 Legislative Rules* provides the Legislative Assembly "seeks a high reputation for progressive accomplishment where its members are public officers of integrity and dedication, maintaining high standards of ethical conduct" and "[e]thical conduct is expected of all who participate in the legislative process"; and

WHEREAS, Joint Rule 1001 further provides "[i]f public confidence is to be maintained...it is not enough that members avoid acts of misconduct" but also "must avoid acts that may create an appearance of misconduct"; and

WHEREAS, Joint Rule 1002 provides the Legislative Assembly should define ethical standards "to chart the areas of real or apparent impropriety" and "in striving to maintain ethical standards, each member should recognize the importance of... [c]omplying with all other rules relating to ethics, including Joint Rule 901 regarding workplace harassment"; and

WHEREAS, Joint Rule 901 provides "the Legislative Assembly is committed to providing a healthy and appropriate work environment for legislators, legislative employees, and other state employees which is free from workplace harassment" and "harassment in any manner will not be tolerated"; and

WHEREAS, Section 561(1) of Mason's Manual of Legislative Procedure provides "[a] legislative body has the right to regulate the conduct of its members and may discipline a member as it deems appropriate, including reprimand, censure or expulsion"; and

WHEREAS, Representative Simons has exhibited a history of hostile, threatening, and inappropriate behavior, most frequently toward women; and

WHEREAS, in an article published by the *Fargo Forum* on February 25, 2021, Representative Simons is quoted as stating "I guess that was sexual harassment" in regard to a previous encounter Representative Simons had with a member of the Legislative Council staff; and

WHEREAS, in a recording produced by Representative Simons, Representative Simons admits making a heated statement containing multiple expletives directed at a female member of the House of Representatives, in the plain view of the public, in a crowded area on the Capitol grounds while the Legislative Assembly was convened for the 2021 legislative session; and

WHEREAS, numerous other reports of inappropriate behavior from Representative Simons have been publicized which demonstrate a concerning pattern of behavior that corrupts the integrity of the legislative branch; and

WHEREAS, it is the responsibility of the House of Representatives to ensure a safe working environment;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA:

That condoning such hostile, threatening, and inappropriate behavior from a member of the House of Representatives undermines the integrity of the House of Representatives and the Legislative Assembly as a whole; and

BE IT FURTHER RESOLVED, that pursuant to Section 12 of Article IV of the Constitution of North Dakota, either house may punish its members for disorderly behavior and expel a member with the concurrence of two-thirds of its elected members; and

BE IT FURTHER RESOLVED, that Representative Simons be expelled as a member of the Legislative Assembly; and

BE IT FURTHER RESOLVED, that this resolution be entered in the journal and the Secretary of State forward a copy of this resolution to the chairman of the District 36 Republican District Committee.

Filed March 5, 2021

HOUSE MEMORIAL RESOLUTIONS

CHAPTER 546

HOUSE MEMORIAL RESOLUTION NO. 7001

(Memorial Resolutions Committee)

A memorial resolution for deceased members of the House of Representatives of North Dakota.

WHEREAS, God has welcomed to their eternal home our former colleagues:

Harold Gary Annear, who served in the 37th Legislative Assembly, from District 31, died December 9, 2020;

Louise "Rosie" Black, who served in the 45th Legislative Assembly, from District 17, and in the 46th through the 48th Legislative Assemblies, from District 43, died January 1, 2020;

Paul Leon DuBord, who served in the 45th through the 47th Legislative Assemblies, from District 21, and in the 48th Legislative Assembly, from District 51, died October 28, 2019;

Mary Ekstrom, who served in the 56th through the 61st Legislative Assemblies, from District 11, died September 30, 2020;

Robert "Bob" Engvald Frantsvog, Sr., who served in the 61st through the 64th Legislative Assemblies, from District 40, died February 17, 2020;

Eliot A. Glassheim, who served in the 44th and the 53rd through the 64th Legislative Assemblies, from District 18, died December 25, 2019;

Lyle Leroy Hanson, who served in the 46th through the 57th Legislative Assemblies, from District 48, and in the 58th through the 62nd Legislative Assemblies, from District 12, died December 23, 2020;

James William Johnston, who served in the 35th through the 38th Legislative Assemblies, from District 27, died April 11, 2020;

Patricia "Tish" Kelly, who served in the 44th through the 51st Legislative Assemblies, from District 21, died July 12, 2019;

Kenneth "Kenny" Eugene Koehn, who served in the 48th Legislative Assembly, from District 15, died January 31, 2020;

Luther Melanchthon Kristensen, who served in the 44th Legislative Assembly, from District 21, died December 3, 2019;

Duane Arthur Kuehn, who served in the 40th and 41st Legislative Assemblies, from District 34, died September 19, 2020;

Donald Eugene Lloyd, who served in the 48th and 49th Legislative Assemblies, from District 26, died May 22, 2020;

Thomas "Tom" J. McDonald, who served in the 40th Legislative Assembly, from District 21, died June 20, 2019;

Jack Dale Olin, who served in the 43rd and 44th Legislative Assemblies, from District 37, died April 23, 2019;

Jacque George Stockman, who served in the 34th through the 39th Legislative Assemblies, from District 9, died May 26, 2019;

Paul John Swedlund, who served in the 41st Legislative Assembly, from District 7, died June 13, 2020;

Kenneth "Ken" Nordahl Thompson, who served in the 46th through the 52nd Legislative Assemblies, from District 39, died July 9, 2020;

Laurel Leroy Thoreson, who served in the 54th through the 57th Legislative Assemblies, from District 13, died December 2, 2020;

Ronald W. "Bert" Wheeler, who served in the 35th through the 37th Legislative Assemblies, from District 27, died May 18, 2019;

Clark Dennis Williams, who served in the 48th through the 50th and the 58th through the 63rd Legislative Assemblies, from District 25, died November 16, 2020;

Ralph Milton Winge, who served in the 36th through the 39th Legislative Assemblies, from District 38, and in the 40th and the 42nd through the 45th Legislative Assemblies, from District 24, died May 26, 2020;

Donald Glenn Zimbleman, who served in the 47th Legislative Assembly, from District 26, died November 21, 2020; and

WHEREAS, we now pause to mourn the passing of our former HOUSE OF REPRESENTATIVES colleagues and to honor their memories; and

WHEREAS, these legislators rendered outstanding service to the people of the state by their contributions to public service;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA:

That we express our sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of our former colleagues; and

BE IT FURTHER RESOLVED, that for the perpetuation of their memory this token of respect and sympathy by their successors in trust be printed in the Journal of the HOUSE OF REPRESENTATIVES and that the Secretary of State present enrolled copies of this resolution to the surviving families of these deceased Representatives.

Filed March 22, 2021

SENATE MEMORIAL RESOLUTIONS

CHAPTER 547

SENATE MEMORIAL RESOLUTION NO. 8001

(Memorial Resolutions Committee)

A memorial resolution for deceased members of the Senate of North Dakota.

WHEREAS, God has welcomed to their eternal home our former colleagues:

Bill L. Bowman, who served in the 52nd through the 65th Legislative Assemblies, from District 39, died August 15, 2020;

Patricia "Tish" Kelly, who served in the 52nd and 53rd Legislative Assemblies, from District 21, died July 12, 2019;

Lonnie James Laffen, who served in the 62nd through the 65th Legislative Assemblies, from District 43, died December 23, 2020;

Duane Ollen Mutch, who served in the 36th through the 39th Legislative Assemblies, from District 5, and in the 40th through the 44th and the 46th through the 59th Legislative Assemblies, from District 19, died July 18, 2019;

Jack Dale Olin, who served in the 46th and 47th Legislative Assemblies, from District 37, died April 23, 2019;

Harvey Frederick Sand, who served in the 53rd through the 56th Legislative Assemblies, from District 10, died August 11, 2019;

Paul John Swedlund, who served in the 42nd Legislative Assembly, from District 7, died June 13, 2020;

Russell Talcott Thane, who served in the 41st through the 59th Legislative Assemblies, from District 25, died November 10, 2020;

Irvin "Irv" Junior Wilhite, who served in the 40th through the 42nd Legislative Assemblies, from District 32, died March 15, 2020; and

WHEREAS, we now pause to mourn the passing of our former SENATE colleagues and to honor their memories; and

WHEREAS, these legislators rendered outstanding service to the people of the state by their contributions to public service;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA:

That we express our sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of our former colleagues; and

BE IT FURTHER RESOLVED, that for the perpetuation of their memory this token of respect and sympathy by their successors in trust be printed in the Journal of the SENATE and that the Secretary of State present enrolled copies of this resolution to the surviving families of these deceased Senators.

Filed March 19, 2021

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