

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~~ 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 the~~A 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 Klemin, 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:

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- 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;

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- (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;

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- (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 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~~of 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~~of 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~~of 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~~of 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. ~~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. Disregard/Dismiss 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, Klemin, 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~~ 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