

# STATE GOVERNMENT

## CHAPTER 383

### SENATE BILL NO. 2204

(Senators Sitte, Christmann, Wanzek)  
(Representatives Kasper, Schmidt, Wrangham)

AN ACT to prohibit state funding of the northern plains national heritage area.

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

#### **SECTION 1.**

**Northern plains national heritage area - Use of state funds and property prohibited unless approved by legislative assembly.**

State funds may not be expended or transferred from state agencies to match federal moneys for the northern plains national heritage area or any similar or successor designated areas without the approval of the legislative assembly. State lands, water, property, or facilities may not be included in the designated northern plains national heritage area or any similar or successor designated areas without the approval of the legislative assembly. No further lands, water, property, or facilities may be designated as heritage areas within this state without the approval of the legislative assembly.

Approved April 19, 2011  
Filed April 19, 2011

## CHAPTER 384

### HOUSE BILL NO. 1097

(Government and Veterans Affairs Committee)  
(At the request of the State Historical Society of North Dakota)

AN ACT to amend and reenact section 54-02-02 of the North Dakota Century Code, relating to the state flag.

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

**SECTION 1. AMENDMENT.** Section 54-02-02 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-02-02. State flag.**

The flag of North Dakota must consist of a field of blue silk or material which will withstand the elements four feet four inches [132.08 centimeters] on the pike and five feet six inches [167.64 centimeters] on the fly, with a border of knotted yellow fringe two and one-half inches [6.35 centimeters] wide. On each side of said flag in the center thereof, must be embroidered or stamped an eagle with outspread wings and with opened beak. The eagle must be three feet four inches [101.6 centimeters] from tip to tip of wing, and one foot ten inches [55.88 centimeters] from top of head to bottom of olive branch hereinafter described. The left foot of the eagle shall grasp a sheaf of arrows, the right foot shall grasp an olive branch showing three red berries. On the breast of the eagle must be displayed a shield, the lower part showing seven red and six white stripes placed alternately. Through the open beak of the eagle must pass a scroll bearing the words "E Pluribus Unum". Beneath the eagle there must be a scroll on which must be borne the words "North Dakota". Over the scroll carried through the eagle's beak must be shown thirteen five-pointed stars, the whole device being surmounted by a sunburst. The flag must conform in all respects as to color, form, size, and device with the regimental flag carried by the First North Dakota Infantry in the Spanish American War and Philippine Insurrection, except in the words shown on the scroll below the eagle. To ensure historical accuracy, reproductions of the flag of North Dakota must adhere to the official design and industry color chart codes provided by the state historical society. A description in writing of the flag must be made available to the public by the state historical society. Flags purchased by a state entity or a political subdivision must substantially meet the requirements of this section. This section does not apply to the purchase of an item that is not a flag but which portrays a likeness of the flag of North Dakota, for example, a miniature flag, food, clothing, a lapel pin, a paper product, or other nonflag item.

Approved April 8, 2011  
Filed April 11, 2011

## CHAPTER 385

### HOUSE BILL NO. 1346

(Representatives Heilman, Maragos, Sanford)  
(Senators J. Lee, Sorvaag, Nelson)

AN ACT to create and enact a new section to chapter 54-02 of the North Dakota Century Code, relating to the state Latin motto.

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

**SECTION 1.** A new section to chapter 54-02 of the North Dakota Century Code is created and enacted as follows:

#### **State Latin motto.**

"Serit ut alteri saeclo prosit" is the North Dakota state Latin motto. "One sows for the benefit of another age" is the English translation.

Approved April 8, 2011  
Filed April 11, 2011

## CHAPTER 386

### HOUSE BILL NO. 1219

(Representatives Froseth, Hatlestad, Kreidt)  
(Senator Krebsbach)

AN ACT to create and enact a new section to chapter 54-02 of the North Dakota Century Code, relating to the designation of the ladybug as the official state insect.

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

**SECTION 1.** A new section to chapter 54-02 of the North Dakota Century Code is created and enacted as follows:

#### **State insect.**

The convergent lady beetle, *hippodamia convergens*, commonly known as a ladybug, is the official insect of the state of North Dakota.

Approved March 15, 2011

Filed March 15, 2011

## **CHAPTER 387**

### **HOUSE BILL NO. 1261**

(Representatives Carlson, Belter, DeKrey, Kasper)  
(Senator Christmann)

AN ACT to repeal sections 54-03-19.1 and 54-03-19.2 of the North Dakota Century Code, relating to the legislative compensation commission.

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

**SECTION 1. REPEAL.** Sections 54-03-19.1 and 54-03-19.2 of the North Dakota Century Code are repealed.

Approved April 4, 2011  
Filed April 4, 2011

## CHAPTER 388

### SENATE BILL NO. 2169

(Senators Murphy, Lyson, Nodland, Schneider)  
(Representatives R. Kelsch, S. Meyer)

AN ACT to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to audio recording of floor sessions of the legislative assembly.

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

**SECTION 1.** A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

#### **Audio recording of floor sessions.**

The senate shall adopt rules regarding the recording of senate floor sessions and the house of representatives shall adopt rules regarding the recording of house floor sessions. The legislative council shall archive all audio recordings of floor sessions. Audio recordings of floor sessions are public records that must be open and accessible for inspection during reasonable office hours.

Approved April 26, 2011  
Filed April 26, 2011

## CHAPTER 389

### SENATE BILL NO. 2309

(Senators Sitte, Berry, Dever)  
(Representatives Kasper, Keiser, Ruby)

AN ACT to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to federal health care reform legislation.

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

**SECTION 1.** A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

##### **Federal health care reform law.**

1. The legislative assembly declares that the federal laws known as the Patient Protection and Affordable Care Act [Pub. L. 111-148] and the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] likely are not authorized by the United States Constitution and may violate its true meaning and intent as given by the founders and ratifiers.
2. The legislative assembly shall consider enacting any measure necessary to prevent the enforcement of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 within this state.
3. No provision of the Patient Protection and Affordable Care Act or the Health Care and Education Reconciliation Act of 2010 may interfere with an individual's choice of a medical or insurance provider except as otherwise provided by the laws of this state.

Approved April 27, 2011  
Filed April 27, 2011

## CHAPTER 390

### HOUSE BILL NO. 1314

(Representatives Maragos, Glassheim)  
(Senators Andrist, Burckhard)

AN ACT to amend and reenact subdivision a of subsection 1 of section 54-05.1-03 and section 54-05.1-07 of the North Dakota Century Code, relating to a duplicate lobbyist badge and to a civil penalty for persons lobbying without registration with the secretary of state; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Subdivision a of subsection 1 of section 54-05.1-03 of the North Dakota Century Code is amended and reenacted as follows:

- a. Before engaging in any of the activities listed in section 54-05.1-02, an individual shall register with the secretary of state and receive a certificate of registration and a distinctive lobbyist identification badge that must be prominently worn by the lobbyist when engaged in any of the activities listed in section 54-05.1-02 while on the capitol grounds. In lieu of wearing the official badge provided by the secretary of state, a lobbyist may wear a reasonable reproduction of the official badge that contains the name of the lobbyist and any of the following: the word lobbyist, the registration number of the lobbyist, or the organization name of the lobbyist in characters no smaller than one-quarter inch [6.35 millimeters]. If a lobbyist's official badge is lost or destroyed, the lobbyist may obtain a duplicate badge by applying to the secretary of state and paying a fee of ten dollars.

**SECTION 2. AMENDMENT.** Section 54-05.1-07 of the North Dakota Century Code is amended and reenacted as follows:

#### 54-05.1-07. Penalty.

Any person who violates any provisions of this chapter is guilty of a class B misdemeanor except that a violation of section 54-05.1-02 or 54-05.1-03 is an infraction. Whether a person is subjected to criminal prosecution under this section, and in addition to the registration fee that may be assessed when the person submits the registration to the secretary of state, the person may be assessed a civil penalty by the secretary of state, following written notice to the person of an intent to assess the penalty, in an amount not to exceed two times the amount set forth in subdivision e of subsection 1 of section 54-05.1-03 which is chargeable to a lobbyist. Any civil penalty must be assessed and collected before a person is issued a certificate of registration. The assessment of a civil penalty may be appealed to the district court of the person's county of residence or Burleigh County, but only on the basis that the secretary of state's administrative determination that the person acted as a lobbyist when not registered as a lobbyist was clearly erroneous.

Approved April 19, 2011  
Filed April 19, 2011

## CHAPTER 391

### HOUSE BILL NO. 1098

(Government and Veterans Affairs Committee)  
(At the request of the Office of Management and Budget)

AN ACT to amend and reenact section 54-06-08.2 and subdivision c of subsection 1 of section 54-06-09 of the North Dakota Century Code, relating to the office of management and budget adopting and amending policies.

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

**SECTION 1. AMENDMENT.** Section 54-06-08.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-06-08.2. Payment by credit or debit card or by electronic fund transfer - State credit card processor - Fees.**

1. A state agency, board, or commission, the judicial branch, or any political subdivision may accept payment by credit or debit card or by electronic fund transfer of any fee, interest, penalty, tax, or other payment that is due or collectible by the agency, board, or commission. The judicial branch may accept payment by credit or debit card or by electronic fund transfer for any fees, costs, or other assessments required or imposed under state law or court rule.
2. The Bank of North Dakota is the state credit card administrator for credit card transactions of state agencies, boards, or commissions. The Bank of North Dakota shall select a credit card processor or processors to provide credit card services to state agencies, boards, and commissions. All funds from credit card transactions must be deposited in the respective entity's account in the Bank of North Dakota.
3. Except as otherwise provided under section 20.1-03-32, ~~in accordance with rules adopted by the office of management and budget,~~ an executive branch agency may charge a fee to be added to a payment as a service charge for the acceptance of a payment made by a credit or debit card or an electronic fund transfer. ~~The office of management and budget shall adopt rules establishing the terms under which executive agencies may charge a service fee under this subsection. The Bank of North Dakota shall adopt rules establishing the terms under which executive agencies may charge a service fee under this subsection to be in compliance with a credit card company's rules and shall approve the amount that may be charged by an executive agency.~~

**SECTION 2. AMENDMENT.** Subdivision c of subsection 1 of section 54-06-09 of the North Dakota Century Code is amended and reenacted as follows:

- c. The director of the office of management and budget shall adopt ~~rules~~policies establishing mileage reimbursement for actual and necessary travel in the performance of official duty when the travel is by motor vehicle, the use of which is required by the employing entity. The director

shall amend the ~~rules~~policies when necessary to set reimbursement at the same rate as established by the United States general services administration for privately owned vehicles.

Approved March 29, 2011  
Filed March 29, 2011

## CHAPTER 392

### SENATE BILL NO. 2060

(Senators Lyson, Nodland, G. Lee)  
(Representatives DeKrey, D. Johnson, Klemin)

AN ACT to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to honor guard leave for state employees.

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

**SECTION 1.** A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

#### **Honor guard leave.**

Honor guard leave is an approved absence from work, with pay, of up to twenty-four working hours per calendar year for an employee to participate in an honor guard for a funeral service of a veteran. A governmental entity may grant a request for honor guard leave even if the absence of the employee might interfere with the normal operations of the agency. This section applies to each governmental entity that employs an individual in a position classified by human resource management services.

Approved April 20, 2011  
Filed April 20, 2011

## CHAPTER 393

### HOUSE BILL NO. 1355

(Representatives Beadle, Boehning, Klemin)  
(Senators Sitte, Sorvaag)

AN ACT to create and enact section 54-09-02.1 of the North Dakota Century Code, relating to certificates and certified copies issued by the secretary of state; and to amend and reenact sections 10-34-09, 43-07-13, 54-09-04, and 54-09-07 of the North Dakota Century Code, relating to the fees collected by the secretary of state from real estate investment trusts, fees collected by the secretary of state for certified copies, fees charged and collected by the secretary of state, and service of process on the secretary of state.

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

**SECTION 1. AMENDMENT.** Section 10-34-09 of the North Dakota Century Code is amended and reenacted as follows:

##### **10-34-09. Fees.**

The secretary of state shall charge and collect the following fees with respect to real estate investment trusts:

1. Filing a registration of a real estate investment trust, one hundred ten dollars.
2. Filing any amendment changing the registered agent or registered office, the fee provided in section 10-01.1-03.
3. Filing a renewal or amendment of registration of a real estate investment trust, forty dollars.
4. Issuing a certificate of good standing, ~~twenty five~~fifteen dollars.
5. Furnishing a certified copy of any record, instrument, or paper relating to a real estate investment trust, the fee provided in section 54-09-04 for copying a record and fifteen dollars for the certificate and affixing the seal thereto.

**SECTION 2. AMENDMENT.** Section 43-07-13 of the North Dakota Century Code is amended and reenacted as follows:

##### **43-07-13. Records and certified copies thereof.**

The registrar shall maintain in the registrar's office, open to public inspection during office hours, a complete indexed record of all applications, licenses, certificates of renewal, revocations, and other information maintained on contractors. The registrar may dispose of an inactive contractor file after two years if no attempts have been made to apply for a new license or renew the license. Disposal of the license will proceed according to the provisions of chapter 54-46. Before disposal and upon request, the registrar shall furnish a certified copy of any information maintained upon receipt of the ~~sum of ten dollars~~fees prescribed in section 54-09-04. Such certified copy must be received in all courts and elsewhere as prima facie evidence of

~~the facts stated therein.~~ Any certificate or certified copy issued by the secretary of state under this section has the same force and effect as provided in section 54-09-02.1.

**SECTION 3.** Section 54-09-02.1 of the North Dakota Century Code is created and enacted as follows:

**54-09-02.1. Secretary of state - Certificates and certified copies to be received in evidence.**

1. All certificates issued by the secretary of state and all copies of records filed in accordance with this chapter or any other chapter, when certified by the secretary of state, may be taken and received in all courts, public offices, and official bodies as evidence of the facts stated.
2. A certificate by the secretary of state under the great seal of this state, as to the existence or nonexistence of the facts relating to records filed by the secretary in accordance with this chapter or any other chapter which would not appear from a certified copy of any of the foregoing records or certificates, may be taken and received in all courts, public offices, and official bodies as evidence of the existence or nonexistence of the facts stated.
3. Any certificate or certified copy issued by the secretary of state under this section may be created and disseminated as an electronic record with the same force and effect as if produced in a paper form.

**SECTION 4. AMENDMENT.** Section 54-09-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-04. Fees.**

The secretary of state, ~~unless otherwise provided by law,~~ shall charge and collect the following fees:

1. For a copy of any law, resolution, record, or other document or paper on file in the secretary of state's office, fifty cents per page.
2. ~~For~~ Unless otherwise provided by law, for affixing the signature of the secretary of state, certificate, or seal, or combination thereof to any document, ten dollars.
3. For filing a certificate of appointment of attorney, five dollars.
4. For searching records and archives of the state, five dollars. For the purposes of this section, a search of records conducted by the secretary of state for which a fee must be collected includes the following:
  - a. A search of a filed document that is active or archived, an archived index, or an index of business name changes to identify specific information to satisfy a request;
  - b. A search of any record for which written verification of the facts of the search is required; and
  - c. For every search of records when the request for the search is contained in a list compiled by the requester.

The secretary of state may provide, at no charge, information from publications or reference materials published or maintained by the secretary of state and verbal confirmation of any element of information maintained in a computer data base.

5. For filing any paper not otherwise provided for, ten dollars.
6. ~~For filing utility property transfers, five dollars, and issuing a certificate of filing, five dollars.~~
7. For filing any process, notice, or demand for service, the fee provided in section 10-01.1-03.
- ~~8-7.~~ For preparing any listing or compilation of any information recorded or filed in the office of the secretary of state, thirty-five dollars plus the actual cost for assembling and providing the information on the medium requested.

An individual required to file an oath of office with the secretary of state may not be charged for filing the oath of office, nor may a state or county officer be charged for filing any document with the secretary of state when acting in the officer's official capacity. All fees when collected must be paid by the secretary of state into the state treasury at the end of each month and placed to the credit of the state. Unless otherwise provided by law, the secretary of state shall retain a handling charge from filing fees tendered when a document submitted to the secretary of state under any law is rejected and not perfected. The handling charge is five dollars or fifty percent of the filing fee, whichever is greater, but may not exceed one hundred dollars.

If, upon due presentment, any check, draft, money order, or other form of lawful payment provisionally accepted in payment of any filing fee authorized to be charged and collected by the secretary of state, is not honored or paid, or if no lawful form of payment accompanies the filing, any record of credit or payment must be canceled or reversed as though no credit had been given or payment attempted and the filing or action is void. The secretary of state may return to the last-known address of the filer any record or document that was attempted to be filed or may retain as unfiled the record or document for a reasonable time to permit proper payment and filing.

This section does not apply to fees submitted for filing in, or information obtained from, the computerized central notice system, to the computerized Uniform Commercial Code central filing data base, or to the computerized statutory liens data base.

**SECTION 5. AMENDMENT.** Section 54-09-07 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-07. Service of process on secretary of state if agent not found or if secretary of state appointed as agent for individual.**

If an agent other than the secretary of state has been appointed for receipt of service, but the affidavit of a sheriff or of an adult who is not a party to a proceeding establishes that diligent inquiry has been made and that personal service cannot be accomplished upon any registered agent, officer, or superintending, managing, or general agent of an entity, then the secretary of state may be deemed the agent of the entity for receiving service of process. Service on the secretary of state must be made as provided in section 10-01.1-13. Except as otherwise provided by law, if the secretary of state is appointed as agent for service of process for any individual under any provision of this code, then service on the secretary of state and the

responsibilities of the secretary of state with respect to the service shall be made or executed in the manner provided in section 10-01.1-13, to the extent practicable.

Approved April 19, 2011

Filed April 20, 2011

## CHAPTER 394

### HOUSE BILL NO. 1145

(Representatives Drovdal, Pietsch)  
(Senator Andrist)

AN ACT to amend and reenact section 54-10-14 of the North Dakota Century Code, relating to political subdivision reports in lieu of audits.

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

<sup>130</sup> **SECTION 1. AMENDMENT.** Section 54-10-14 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The state auditor shall audit the following political subdivisions once every two years, except as provided in this section or otherwise by law:
  - ~~1.~~ a. Counties.
  - ~~2.~~ b. Cities.
  - ~~3.~~ c. Park districts.
  - ~~4.~~ d. School districts.
  - ~~5.~~ e. Firefighters relief associations.
  - ~~6.~~ f. Airport authorities.
  - ~~7.~~ g. Public libraries.
  - ~~8.~~ h. Water resource districts.
  - ~~9.~~ i. Garrison Diversion Conservancy District.
  - ~~10.~~ j. Rural fire protection districts.
  - ~~11.~~ k. Special education districts.
  - ~~12.~~ l. Area career and technology centers.
  - ~~13.~~ m. Correction centers.
  - ~~14.~~ n. Recreation service districts.
  - ~~15.~~ o. Weed boards.

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<sup>130</sup> Section 54-10-14 was also amended by section 27 of Senate Bill No. 2015, chapter 41.

- ~~16.~~ p. Irrigation districts.
- ~~17.~~ q. Rural ambulance service districts.
- ~~18.~~ r. Southwest water authority.
- ~~19.~~ s. Regional planning councils.
- ~~20.~~ t. Soil conservation districts.
2. The state auditor shall charge the political subdivision an amount equal to the fair value of the audit and any other services rendered. The fees must be deposited in the state auditor operating account. The state treasurer shall credit the state auditor operating account with the amount of interest earnings attributable to the deposits in that account. Expenses relating to political subdivision audits must be paid from the state auditor operating account, within the limits of legislative appropriation.
3. In lieu of conducting an audit every two years, the state auditor may require annual reports from school districts with less than one hundred enrolled students; cities with less than five hundred population; ~~park districts and soil conservation districts with less than two hundred thousand dollars of annual receipts;~~ and other political subdivisions subject to this section, or otherwise provided by law, with less than ~~one~~two hundred thousand dollars of annual receipts, excluding any federal funds passed through the political subdivision to another entity. If any federal agency performs or requires an audit of a political subdivision that receives federal funds to pass through to another entity, the political subdivision shall provide a copy to the state auditor upon request by the state auditor. The reports must contain the financial information required by the state auditor. The state auditor also may make any additional examination or audit determined necessary in addition to the annual report. When a report is not filed, the state auditor may charge the political subdivision an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge a political subdivision a fee not to exceed eighty dollars an hour for the costs of reviewing the annual report.
4. A political subdivision, at the option of its governing body, may be audited by a certified public accountant or licensed public accountant rather than by the state auditor. The public accountant shall comply with generally accepted government auditing standards for audits of political subdivisions. The report must be in the form and content required by the state auditor. The number of copies of the audit report requested by the state auditor must be filed with the state auditor when the public accountant delivers the audit report to the political subdivision. The state auditor shall review the audit report to determine if the report is in the required form and has the required content, and if the audit meets generally accepted government auditing standards. The state auditor also may periodically review the public accountant's workpapers to determine if the audit meets generally accepted government auditing standards. If the report is in the required form and has the required content, and the report and workpapers comply with generally accepted government auditing standards, the state auditor shall accept the audit report. The state auditor may charge the political subdivision a fee of up to eighty dollars an hour, but not to exceed five hundred dollars per review, for the related costs of reviewing the audit report and workpapers.

5. A political subdivision may not pay a public accountant for an audit until the state auditor has accepted the audit. However, a political subdivision may make progress payments to the public accountant. A political subdivision shall retain twenty percent of any progress payment until the audit report is accepted by the state auditor.
6. The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing board, officers, or employees of the political subdivision disclosed by the audit report or workpapers, and failure to make the corrections must result in audits being resumed by the state auditor until the irregularities, objectionable accounting procedures, or illegal actions are corrected.

Approved April 8, 2011  
Filed April 11, 2011

## CHAPTER 395

### HOUSE BILL NO. 1088

(Government and Veterans Affairs Committee)  
(At the request of the State Treasurer)

AN ACT to amend and reenact section 54-11-01 of the North Dakota Century Code, relating to duties of the state treasurer.

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

**SECTION 1. AMENDMENT.** Section 54-11-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-11-01. Duties and powers of state treasurer.**

The state treasurer:

1. Shall receive and safely keep all public moneys which must be deposited into the state treasury and pay out the same as directed by law.
2. Shall collect a record for each deposit of money into the treasury. The record must show the amount, the source from which the money accrued, and the funds into which it is paid. The records must be numbered in order.
3. Shall pay warrants drawn by the office of management and budget and signed by the state auditor and state treasurer out of the funds upon which they are drawn and in the order in which they are presented.
4. Shall keep an account of all moneys received and disbursed.
5. Shall keep separate accounts of the different funds.
6. Shall keep a record of all revenues and expenditures of state agencies and all moneys received and disbursed by the treasurer in accordance with the requirements of the state's central accounting system.
7. Shall receive in payment of public dues the warrants drawn by the office of management and budget and signed by the state auditor and state treasurer in conformity with law.
8. Shall redeem warrants drawn by the office of management and budget and signed by the state auditor and state treasurer in conformity with law, if there is money in the treasury appropriated for that purpose.
9. Shall maintain a report of the payment of warrants during the month. The report must show:
  - a. The date and number of each warrant;
  - b. The fund out of which each was paid; and

- c. The balance in cash on hand in the treasury to the credit of each fund.
10. Within ninety days of the beginning of each fiscal year, shall provide a report to the budget section of the legislative assembly of all warrants and checks outstanding for more than ninety days and less than three years.
11. At the request of either house of the legislative assembly, or of any committee thereof, shall give information in writing as to the condition of the treasury, or upon any subject relating to the duties of office.
- ~~44-12.~~ Shall submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. In addition to any requirements established pursuant to section 54-06-04, the report must show the exact balance in the treasury to the credit of the state. The report also must show in detail the receipts and disbursements, together with a summary thereof, the balances in the various funds at the beginning and ending of the biennium, and also must show where the funds of the state are deposited. It must be certified by the state treasurer and approved by the governor.
- ~~42-13.~~ Shall authenticate with the official state seal all writings and papers issued from the treasurer's office.
- ~~43-14.~~ Shall keep and disburse all moneys belonging to the state in the manner provided by law.
- ~~44-15.~~ Shall keep books of the state treasurer open at all times for the inspection of the governor, the state auditor, the commissioner of financial institutions, the office of management and budget, and any committee appointed to examine them by either house of the legislative assembly.
- ~~45-16.~~ Unless otherwise specified by law, shall credit all income earned on the deposit or investment of all state moneys to the state's general fund. This subsection does not apply to:
- a. Income earned on state moneys that are deposited or invested to the credit of the industrial commission or any agency, utility, industry, enterprise, or business project operated, managed, controlled, or governed by the industrial commission.
  - b. Income earned by the Bank of North Dakota for its own account on state moneys that are deposited in or invested with the Bank.
  - c. Income earned on college and university funds not deposited in the state treasury.
- ~~46-17.~~ Shall perform all other duties as are prescribed by law.
- ~~47-18.~~ Shall correct any underpayment, overpayment, or erroneous payment of tax distribution funds made by the state treasurer in a timely manner. Unless otherwise provided by law, adjustments may be made from the general fund. This authority is limited to one hundred dollars per biennium, unless approved by the emergency commission. An adjustment of an insignificant amount need not be made at the discretion of the state treasurer. The state treasurer shall adopt a written policy identifying what is considered insignificant.

~~48-19.~~ May work to promote access to financial education tools that can help all North Dakotans make wiser choices in all areas of personal financial management.

Approved March 28, 2011  
Filed March 28, 2011

## CHAPTER 396

### SENATE BILL NO. 2070

(Government and Veterans Affairs Committee)  
(At the request of the Attorney General)

AN ACT to amend and reenact sections 4 and 5 of chapter 3 of the 2009 Session Laws, relating to the fire and tornado fund and the petroleum release compensation fund; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 4 of chapter 3 of the 2009 Session Laws is amended and reenacted as follows:

**SECTION 4. FIRE AND TORNADO FUND - FEES.** The attorney general shall charge and collect fees for services provided by the state fire marshal program to entities covered by the fire and tornado fund under chapter 26.1-22. Fees under this section may be collected in amounts of up to a total of ~~\$310,000~~\$450,000 for the biennium beginning July 1, 2009, and ending June 30, 2011. All fees collected under this section must be deposited in the attorney general's operating fund.

**SECTION 2. AMENDMENT.** Section 5 of chapter 3 of the 2009 Session Laws is amended and reenacted as follows:

**SECTION 5. PETROLEUM RELEASE COMPENSATION FUND - FEES.** The attorney general shall charge and collect fees for services provided by the state fire marshal program to entities covered by the petroleum release compensation fund under chapter 23-37. Fees under this section may be collected in amounts of up to a total of ~~\$35,000~~\$95,000 for the biennium beginning July 1, 2009, and ending June 30, 2011. All fees collected under this section must be deposited in the attorney general's operating fund.

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

Approved April 25, 2011

Filed April 25, 2011

## **CHAPTER 397**

### **HOUSE BILL NO. 1117**

(Judiciary Committee)  
(At the request of the Attorney General)

AN ACT to repeal section 54-12-01.2 of the North Dakota Century Code, relating to the authority to regulate gaming schools.

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

**SECTION 1. REPEAL.** Section 54-12-01.2 of the North Dakota Century Code is repealed.

Approved April 4, 2011  
Filed April 4, 2011

## CHAPTER 398

### SENATE BILL NO. 2210

(Senators Wardner, Lyson, Krebsbach)  
(Representatives Hawken, Keiser, Winrich)

AN ACT to create and enact two new sections to chapter 54-17, a new subdivision to subsection 2 of section 54-60.1-01, a new subsection to section 57-35.3-05, a new section to chapter 57-38, and a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to a housing incentive fund and tax credits for contributions to the fund; to amend and reenact subsection 2 of section 54-17-07.2 and section 57-35.3-07 of the North Dakota Century Code, relating to the definition of multifamily housing facility and payment of the financial institutions tax; to provide a continuing appropriation; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 54-17-07.2 of the North Dakota Century Code is amended and reenacted as follows:

2. "Multifamily housing facility" means any facility containing ~~five~~four or more residential dwelling units; provided, that at least twenty percent of the units in each facility must be held for occupancy by persons or families of low and moderate income for ~~such~~the period of time as the industrial commission may determine and may include ~~such~~the related public or private facilities intended for commercial, cultural, recreational, community, or other civic purpose as the commission may approve.

**SECTION 2.** Two new sections to chapter 54-17 of the North Dakota Century Code are created and enacted as follows:

#### **Housing incentive fund - Continuing appropriation.**

1. The housing incentive fund is created as a special revolving fund at the Bank of North Dakota. The housing finance agency may direct disbursements from the fund and a continuing appropriation from the fund is provided for that purpose.
2. After a public hearing, the housing finance agency shall create an annual allocation plan for the distribution of the fund. At least twenty-five percent of the fund must be used to assist developing communities with a population of not more than ten thousand individuals to address an unmet housing need or alleviate a housing shortage. At least fifty percent of the fund must be used to benefit households with incomes at not more than fifty percent of the area median income. The agency may collect a reasonable administrative fee from the fund.
3. The housing finance agency shall adopt guidelines for the fund so as to address unmet housing needs in this state. Assistance from the fund may be used solely for:

- a. New construction, rehabilitation, or acquisition of a multifamily housing project;
  - b. Gap assistance, matching funds, and accessibility improvements;
  - c. Assistance that does not exceed the amount necessary to qualify for a loan using underwriting standards acceptable for secondary market financing or to make the project feasible; and
  - d. Rental assistance, emergency assistance, or targeted supportive services designated to prevent homelessness.
4. Eligible recipients include units of local, state, and tribal government; local and tribal housing authorities; community action agencies; regional planning councils; and nonprofit organizations and for-profit developers of multifamily housing. Individuals may not receive direct assistance from the fund.
  5. Except for subdivision d of subsection 3, assistance is subject to repayment or recapture under the guidelines adopted by the housing finance agency. Any assistance that is repaid or recaptured must be deposited in the fund and is appropriated on a continuing basis for the purposes of this section.

### **Report.**

Upon request, the housing finance agency shall report to the industrial commission on the activities of the housing incentive fund.

**SECTION 3.** A new subdivision to subsection 2 of section 54-60.1-01 of the North Dakota Century Code is created and enacted as follows:

Assistance from the housing finance agency through housing incentive funds.

**131 SECTION 4.** A new subsection to section 57-35.3-05 of the North Dakota Century Code is created and enacted as follows:

There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to the contribution to the housing incentive fund under section 2 of this Act. The taxpayer may not claim more than twenty percent of the credit for each separate contribution made in any taxable year. For the purposes of the credit allowed in this subsection, subsections 2 through 8 of section 6 of this Act apply.

**132 SECTION 5. AMENDMENT.** Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>131</sup> Section 57-35.3-05 was also amended by section 1 of Senate Bill No. 2160, chapter 458, section 3 of House Bill No. 1047, chapter 457, and section 1 of House Bill No. 1124, chapter 459.

<sup>132</sup> Section 57-35.3-07 was also amended by section 4 of House Bill No. 1047, chapter 457, section 2 of House Bill No. 1124, chapter 459, and section 2 of Senate Bill No. 2160, chapter 458.

### **57-35.3-07. Payment of tax.**

Two-sevenths of the tax before credits allowed under section 57-35.3-05, less the ~~credit~~ credits allowed under subsection 1 of section 57-35.3-05 and section 4 of this Act, must be paid to the commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. Five-sevenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the commissioner on or before January fifteenth of the year after the return is due. Payment must be made by check, draft, or money order, payable to the commissioner, or as prescribed by the commissioner under subsection 15 of section 57-01-02.

**SECTION 6.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

#### **Housing incentive fund tax credit.**

1. A taxpayer is entitled to a credit as determined under this section against state income tax liability under section 57-38-30 or 57-38-30.3 for contributing to the housing incentive fund under section 2 of this Act. The amount of the credit is equal to the amount contributed to the fund during the taxable year. The taxpayer may not claim more than twenty percent of the credit for each separate contribution made in any taxable year.
2. North Dakota taxable income must be increased by the amount of the contribution upon which the credit under this section is computed but only to the extent the contribution reduced federal taxable income.
3. The contribution amount used to calculate the credit under this section may not be used to calculate any other state income tax deduction or credit allowed by law.
4. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the excess may be carried forward to each of the ten succeeding taxable years.
5. The aggregate amount of tax credits allowed to all eligible contributors is limited to four million dollars per biennium. This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.
6. Within thirty days after the date on which a taxpayer makes a contribution to the housing incentive fund, the housing finance agency shall file with each contributing taxpayer, and a copy with the tax commissioner, completed forms that show as to each contribution to the fund by that taxpayer the following:
  - a. The name, address, and social security number or federal employer identification number of the taxpayer that made the contribution.
  - b. The dollar amount paid for the contribution by the taxpayer.
  - c. The date the payment was received by the fund.
7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income or financial institutions tax return in the

manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

8. Notwithstanding the time limitations contained in section 57-38-38, this section does not prohibit the tax commissioner from conducting an examination of the credit claimed and assessing additional tax due under section 57-38-38.
9. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity making a contribution to the housing incentive fund under this section is considered to be the taxpayer for purposes of this section, and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

<sup>133</sup> **SECTION 7.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Housing incentive fund tax credit under section 6 of this Act.

**SECTION 8. EFFECTIVE DATE - EXPIRATION DATE.** Sections 1, 2, and 3 of this Act are effective through June 30, 2013, and are thereafter ineffective. Sections 4, 5, 6, and 7 of this Act are effective for the first two taxable years beginning after December 31, 2010, and are thereafter ineffective.

Approved April 26, 2011  
Filed April 26, 2011

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<sup>133</sup> Section 57-38-30.3 was also amended by section 1 of House Bill No. 1072, chapter 462, section 13 of Senate Bill No. 2057, chapter 50, section 7 of House Bill No. 1047, chapter 457, section 8 of House Bill No. 1124, chapter 459, section 10 of Senate Bill No. 2034, chapter 460, and section 1 of Senate Bill No. 2208, chapter 463.

## CHAPTER 399

### SENATE BILL NO. 2032

(Legislative Management)  
(Energy Development and Transmission Committee)

AN ACT to amend and reenact sections 54-17.6-02 and 54-17.6-04 of the North Dakota Century Code, relating to the purposes of the oil and gas research council and powers of the industrial commission.

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

**SECTION 1. AMENDMENT.** Section 54-17.6-02 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-17.6-02. Oil and gas research council purposes.**

There is created the oil and gas research council. The purpose of the council is to coordinate a program designed to demonstrate to the general public the importance of the state oil and gas exploration and production industry, to encourage and promote the wise and efficient use of energy, to promote environmentally sound exploration and production methods and technologies, to develop the state's oil and gas resources, ~~and~~ to support research and educational activities concerning the oil and natural gas exploration and production industry, and to promote innovation in safety, enhancement of environment, and increase in education concerning the distribution of petroleum products.

**SECTION 2. AMENDMENT.** Section 54-17.6-04 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-17.6-04. Powers and duties of commission in managing and operating council.**

The commission is granted all the powers necessary or appropriate to carry out and effectuate the purposes of this chapter, including the power to:

1. Make grants or loans, and to provide other forms of financial assistance as necessary or appropriate, to qualified persons for research, development, marketing, and educational projects, and processes or activities directly related to the oil and gas exploration and production, or refining industry, or the petroleum marketing industry;
2. Enter into contracts or agreements to carry out the purposes of this chapter, including authority to contract for the administration of the oil and gas research, development, marketing, and educational program;
3. Keep accurate records of all financial transactions performed under this chapter;
4. Cooperate with any private, local, state, or national commission, organization, or agent, or group and to make contracts and agreements for programs benefiting the oil and gas industry;

5. Accept donations, grants, contributions, and gifts from any public or private source and deposit such in the oil and gas research fund; and
6. Make and explore orders, rules, and regulations necessary to effectuate the purposes of this chapter.

Approved April 25, 2011

Filed April 25, 2011

## CHAPTER 400

### SENATE BILL NO. 2198

(Senators Grindberg, Laffen, Robinson)  
(Representatives Beadle, Keiser, Metcalf)

AN ACT to create and enact a new section to chapter 54-21.2 of the North Dakota Century Code, relating to heating, ventilation, and air-conditioning interoperability standards; and to provide an effective date.

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

**SECTION 1.** A new section to chapter 54-21.2 of the North Dakota Century Code is created and enacted as follows:

**Heating, ventilation, and air-conditioning interoperability standards for public buildings.**

Except as provided in subsection 2 of section 54-21.2-02, any new construction or any remodeling of a public building which affects the heating, ventilation, or air-conditioning systems in the building and which is paid for using any state funds must be constructed to include open protocol heating, ventilation, and air-conditioning systems that provide for interoperability of the systems.

**SECTION 2. EFFECTIVE DATE.** This Act becomes effective on January 1, 2012.

Approved April 20, 2011  
Filed April 20, 2011

## CHAPTER 401

### SENATE BILL NO. 2361

(Senators Lyson, Hogue)  
(Representatives Hatlestad, Sukut)

AN ACT to create and enact two new subsections to section 54-21.3-02 and a new section to chapter 54-21.3 of the North Dakota Century Code, relating to definitions under the State Building Code and used temporary work camp housing exemptions; to amend and reenact section 54-21.3-04 of the North Dakota Century Code, relating to applicability of the State Building Code to other state or local government codes; and to declare an emergency.

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

**SECTION 1.** Two new subsections to section 54-21.3-02 of the North Dakota Century Code are created and enacted as follows:

"Temporary work camp housing" includes a modular residential structure used to house workers on a temporary basis for a maximum period of five years.

"Code enforcement agency" means an agency of the state or local government with authority to inspect buildings and enforce the law, ordinances, and regulations which establish standards and requirements applicable to the construction, installation, alteration, repair, or relocation of buildings.

**SECTION 2. AMENDMENT.** Section 54-21.3-04 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-21.3-04. Exemptions.**

1. ~~The~~Except as specifically provided in this chapter, the following statewide codes are exempt from this chapter:
  - a. The Standards for Electrical Wiring and Equipment, as contained in North Dakota Administrative Code article 24-02.
  - b. The State Plumbing Code, as contained in North Dakota Administrative Code article 62-03.
  - c. The State Fire Code, as contained in the rules of the state fire marshal as provided in section 18-01-04.
2. The following buildings are exempt from this chapter:
  - a. Buildings which are neither heated nor cooled.
  - b. Buildings used whose peak design rate of energy usage is less than one watt per square foot [929.0304 square centimeters] or three and four-tenths British thermal units an hour per square foot [929.0304 square centimeters] of floor area.
  - c. Restored or reconstructed buildings deliberately preserved beyond their normal term of use because of historical associations, architectural

interests, or public policy, or buildings otherwise qualified as a pioneer building, historical site, state monument, or other similar designation pursuant to state or local law.

3. Any building used for agricultural purposes, unless a place of human habitation or for use by the public, is exempt from this chapter.

**SECTION 3.** A new section to chapter 54-21.3 of the North Dakota Century Code is created and enacted as follows:

**Used temporary work camp housing - Exemption.**

State or local government code enforcement agencies may allow exemptions or accept alternate methods for construction and placement of temporary work camp housing that has been previously used as housing or temporary work camp housing in a different location, provided that the waiver does not substantially compromise the health or safety of workers. This authority is granted to code enforcement agencies enforcing the State Building Code, the State Electrical Code, and the State Plumbing Code when acting within their existing jurisdiction. This section does not apply to newly constructed temporary work camp housing.

1. State or local government code enforcement agencies, acting within their existing jurisdiction, may conduct a nondestructive walkthrough inspection of previously used temporary work camp housing to ensure compliance with applicable codes, including the State Building Code, State Electrical Code, and State Plumbing Code. If the housing is found to be compliant with these codes, or to not substantially compromise the health or safety of workers pursuant to a waiver under this section, the code enforcement agency may issue a limited certificate of inspection, which is effective for a period of five years. Residents may not be permitted to move into or live in temporary work camp housing unless the housing has a current limited certificate of inspection or has been found to meet all applicable codes and requirements by any code enforcement agency having jurisdiction.
2. The applicable codes, including the State Building Code, the State Electrical Code, and the State Plumbing Code, are applicable as a standard for liability in legal actions against owners or operators of temporary work camp housing if exemptions are granted.
3. An owner of temporary work camp housing has the duty to remove that housing and all related above-grade and below-grade infrastructure within one hundred twenty days after the temporary work camp housing is vacated. Any city or county may abate any public nuisance caused by vacated temporary work camp housing within its jurisdiction. An owner of temporary work camp housing shall provide the city or county where the temporary work camp housing is installed with a surety bond, letter of credit, or other security instrument in the form and in an amount specified by the city or county. These funds must be used to cover actual expenses that may be incurred by the city or county in removal of the temporary work camp housing, including any above-grade or below-grade infrastructure. The owner is liable for any expenses that are reasonably incurred by the city or county which exceed the amount of the security.

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

## CHAPTER 402

### HOUSE BILL NO. 1425

(Representatives Wieland, Brabandt, Koppelman, Sukut)  
(Senators Burckhard, J. Lee)

AN ACT to amend and reenact subsection 4 of section 54-21.3-03 of the North Dakota Century Code, relating to the state building code.

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

**SECTION 1. AMENDMENT.** Subsection 4 of section 54-21.3-03 of the North Dakota Century Code is amended and reenacted as follows:

4. ~~Neither the~~The state building code ~~nor~~ a building code adopted by a city, township, or county may not include a requirement that fire sprinklers be installed in a single family dwelling or a residential building that contains no more than two dwelling units. The state building code, plumbing code, electrical code, or an equivalent code adopted by a political subdivision must provide that a building designed for and used as a school portable classroom may be constructed and inspected as a temporary structure as defined by the state building code or may be permitted as a permanent school portable classroom. The foundation system of such a structure must comply with the recommendations of the manufacturer's engineering report for a preengineered unit or a structural engineer's report. Frost-free footings may not be required for a temporary structure that meets the requirements of the state building code unless required by an engineering report. Temporary electrical and plumbing installations may be allowed for any structure by the governmental entities governing those areas of construction or the applicable codes.

Approved April 25, 2011  
Filed April 25, 2011

## CHAPTER 403

### SENATE BILL NO. 2366

(Senators Dotzenrod, Freborg)  
(Representatives Froseth, Mueller)

AN ACT to amend and reenact section 54-21.3-07 of the North Dakota Century Code, relating to inspections of modular structures.

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

**SECTION 1. AMENDMENT.** Section 54-21.3-07 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-21.3-07. Modular residential and commercial structures - Third-party inspections - Rules.**

The manufacturer of a modular residential or commercial structure that is built in a factory shall contract with a third party for the inspection of the structure for compliance with all applicable building, electrical, fire, and plumbing codes and standards during the manufacturing process in the factory. A third party that conducts inspections and certifies compliance with all applicable codes and standards must be approved as a certified third-party inspector by the division of community services. The department of commerce shall adopt rules for the certification of inspectors and for the procedures to be followed in conducting inspections of modular residential and commercial structures. When a manufacturer of modular residential or commercial structures contracts with a certified third-party inspector to monitor compliance with all applicable building, electrical, fire, and plumbing codes and standards for a modular residential or commercial structure, no further inspection by state or local building, electrical, fire, or plumbing inspectors may be required for that structure during the manufacturing process in the factory. This section does not apply to a factory manufacturing fewer than ~~six~~two residential or commercial structures per year.

Approved April 19, 2011

Filed April 20, 2011

## CHAPTER 404

### SENATE BILL NO. 2284

(Senators Lyson, Wardner)  
(Representatives Rust, Steiner)

AN ACT to provide for an interstate compact on industrialized or modular buildings.

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

#### **SECTION 1.**

#### **Compact on industrialized or modular buildings.**

The interstate compact on industrialized or modular buildings is entered with all jurisdictions legally joining the compact in the form substantially as follows:

#### **ARTICLE I - FINDINGS AND DECLARATIONS OF POLICY**

1. The compacting states find that:
  - a. Industrialized or modular buildings are constructed in factories in the various states and are a growing segment of the nation's affordable housing and commercial building stock.
  - b. The regulation of industrialized or modular buildings varies from state to state and locality to locality, which creates confusion and burdens state and local building officials and the industrialized or modular building industry.
  - c. Regulation by multiple jurisdictions imposes additional costs, which are ultimately borne by the owners and users of industrialized or modular buildings, restricts market access, and discourages the development and incorporation of new technologies.
2. It is the policy of each of the compacting states to:
  - a. Provide the states which regulate the design and construction of industrialized or modular buildings with a program to coordinate and uniformly adopt and administer the states' rules and regulations for such buildings, all in a manner to assure interstate reciprocity.
  - b. Provide to the United States Congress assurances that would preclude the need for a voluntary preemptive federal regulatory system for modular housing, as outlined in section 572 of the Housing and Community Development Act of 1987, including development of model standards for modular housing construction, such that design and performance will ensure quality, durability, and safety; will be in accordance with lifecycle cost-effective energy conservation standards; all to promote the lowest total construction and operating costs over the life of such housing.

## **ARTICLE II - DEFINITIONS**

As used in this compact, unless the context clearly requires otherwise:

1. "Commission" means the interstate industrialized or modular buildings commission.
2. "Industrialized or modular building" means any building which is of closed construction, i.e., constructed in such a manner that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly, damage or destruction, and which is made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. "Industrialized or modular building" includes modular housing which is factory-built single-family and multifamily housing, including closed wall panelized housing, and other modular, nonresidential buildings. "Industrialized or modular building" does not include any structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974.
3. "Interim reciprocal agreement" means a formal reciprocity agreement between a noncompacting state wherein the noncompacting state agrees that labels evidencing compliance with the model rules and regulations for industrialized or modular buildings, as authorized in article VIII, section 9, shall be accepted by the state and its subdivisions to permit installation and use of industrialized or modular buildings. Further, the noncompacting state agrees that by legislation or regulation, and appropriate enforcement by uniform administrative procedures, the noncompacting state requires all industrialized or modular building manufacturers within that state to comply with the model rules and regulations for industrialized or modular buildings.
4. "State" means a state of the United States, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.
5. "Uniform administrative procedures" means the procedures adopted by the commission, after consideration of any recommendations from the rules development committee, which state and local officials, and other parties, in one state, will utilize to assure state and local officials, and other parties in other states, of the substantial compliance of industrialized or modular building construction with the construction standard of requirements of such other states; to assess the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies.
6. "Model rules and regulations for industrialized or modular buildings" means the construction standards adopted by the commission, after consideration of any recommendations from the rules development committee, which govern the design, manufacture, handling, storage, delivery, and installation of industrialized or modular buildings and building components. The construction standards and any amendments thereof shall conform insofar as practicable to model building codes and referenced standards generally accepted and in use throughout the United States.

## **ARTICLE III - CREATION OF COMMISSION**

The compacting states hereby create the interstate industrialized or modular buildings commission, hereinafter called commission. Said commission shall be a body corporate of each compacting state and an agency thereof. The commission

shall have all the powers and duties set forth herein and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states.

#### **ARTICLE IV - SELECTION OF COMMISSIONERS**

The commission shall be selected as follows. As each state becomes a compacting state, one resident shall be appointed as commissioner. The commissioner shall be selected by the governor of the compacting state, being designated from the state agency charged with regulating industrialized or modular buildings or, if such state agency does not exist, being designated from among those building officials with the most appropriate responsibilities in the state. The commissioner may designate another official as an alternate to act on behalf of the commissioner at commission meetings which the commissioner is unable to attend.

Each state commissioner shall be appointed, suspended, or removed and shall serve subject to and in accordance with the laws of the state which said commissioner represents; and each vacancy occurring shall be filled in accordance with the laws of the state wherein the vacancy exists.

When three state commissioners have been appointed in the manner described, those state commissioners shall select one additional commissioner who shall be a representative of manufacturers of industrial- or commercial-use industrialized or modular buildings. When six state commissioners have been appointed in the manner described, the state commissioners shall select a second additional commissioner who shall be a representative of consumers of industrialized or modular buildings. With each addition of three state commissioners, the state commissioners shall appoint one additional representative commissioner, alternating between a representative of manufacturers of industrialized or modular buildings and consumers of industrialized or modular buildings. The ratio between state commissioners and representative commissioners shall be three to one. In the event states withdraw from the compact or, for any other reason, the number of state commissioners is reduced, the state commissioners shall remove the last added representative commissioner as necessary to maintain a ratio of state commissioners to representative commissioners of three to one.

Upon a majority vote of the state commissioners, the state commissioners may remove, fill a vacancy created by, or replace any representative commissioner, provided that any replacement is made from the same representative group and a three-to-one ratio is maintained. Unless provided otherwise, the representative commissioners have the same authority and responsibility as the state commissioners.

In addition, the commission may have as a member one commissioner representing the United States government if federal law authorizes such representation. Such commissioner shall not vote on matters before the commission. Such commission shall be appointed by the President of the United States, or in such other manner as may be provided by Congress.

#### **ARTICLE V - VOTING**

Each commissioner, except the commissioner representing the United States government, shall be entitled to one vote on the commission. A majority of the commissioners shall constitute a quorum for the transaction of business. Any business transacted at any meeting of the commission must be by affirmative vote of a majority of the quorum present and voting.

## **ARTICLE VI - ORGANIZATION AND MANAGEMENT**

The commission shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The commission shall also select a secretariat, which shall provide an individual who shall serve as secretary of the commission. The commission shall fix and determine the duties and compensation of the secretariat.

The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the commission.

The commission shall adopt a seal.

The commission shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations.

The commission shall establish and maintain an office at the same location as the office maintained by the secretariat for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call additional meetings and upon the request of a majority of the commissioners of three or more of the compacting states shall call an additional meeting.

The commission annually shall make the governor and legislature of each compacting state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

## **ARTICLE VII - COMMITTEES**

The commission will establish such committees as it deems necessary, including the following:

1. An executive committee which functions when the full commission is not meeting, as provided in the bylaws of the commission. The executive committee will ensure that proper procedures are followed in implementing the commission's programs and in carrying out the activities of the compact. The executive committee shall be elected by vote of the commission. It shall be comprised of at least three and no more than nine commissioners, selected from those commissioners who are representatives of the governor of their respective state.
2. A rules development committee appointed by the commission. The committee shall be consensus-based and consist of not less than seven nor more than twenty-one members. Committee members will include state building regulatory officials; manufacturers of industrialized or modular buildings; private, third-party inspection agencies; and consumers. This committee may recommend procedures which state and local officials, and other parties in one state may utilize to assure state and local officials, and other parties in other states of the substantial compliance of industrialized or modular building construction with the construction standard requirements of such other states; to assess the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies. This committee may also recommend construction standards for the design, manufacture, handling, storage, delivery, and installation of industrialized or modular buildings and building components. The committee will submit its

recommendations to the commission, for the commission's consideration in adopting and amending the uniform administrative procedures and the model rules and regulations for industrialized or modular buildings. The committee may also review the regulatory programs of the compacting states to determine whether those programs are consistent with the uniform administrative procedures or the model rules and regulations for industrialized or modular buildings and may make recommendations concerning the states' programs to the commission. In carrying out its functions, the rules committee may conduct public hearings and otherwise solicit public input and comment.

3. Any other advisory, coordinating, or technical committees, membership on which may include private persons, public officials, associations, or organizations. Such committees may consider any matter of concern to the commission.
4. Such additional committees as the commission's bylaws may provide.

### **ARTICLE VIII - POWER AND AUTHORITY**

In addition to the powers conferred elsewhere in this compact, the commission shall have power to:

1. Collect, analyze, and disseminate information relating to industrialized or modular buildings.
2. Undertake studies of existing laws, codes, rules and regulations, and administrative practices of the states relating to industrialized or modular buildings.
3. Assist and support committees and organizations which promulgate, maintain, and update model codes or recommendations for uniform administrative procedures or model rules and regulations for industrialized or modular buildings.
4. Adopt and amend uniform administrative procedures and model rules and regulations for industrialized or modular buildings.
5. Make recommendations to compacting states for the purpose of bringing such states' laws, codes, rules and regulations, and administrative practices into conformance with the uniform administrative procedures or the model rules and regulations for industrialized or modular buildings, provided that such recommendations shall be made to the appropriate state agency with due consideration for the desirability of uniformity while also giving appropriate consideration to special circumstances which may justify variations necessary to meet unique local conditions.
6. Assist and support the compacting states with monitoring of plan review programs and inspection programs, which will assure that the compacting states have the benefit of uniform industrialized or modular building plan review and inspection programs.
7. Assist and support organizations which train state and local government and other program personnel in the use of uniform industrialized or modular building plan review and inspection programs.

8. Encourage and promote coordination of state regulatory action relating to manufacturers, public, or private inspection programs.
9. Create and sell labels to be affixed to industrialized or modular building units, constructed in or regulated by compacting states, where such labels will evidence compliance with the model rules and regulations for industrialized or modular buildings, enforced in accordance with the uniform administrative procedures. The commission may use receipts from the sale of labels to help defray the operating expenses of the commission.
10. Assist and support compacting states' investigations into and resolutions of consumer complaints which relate to industrialized or modular buildings constructed in one compacting state and sited in another compacting state.
11. Borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, association, person, firm, or corporation.
12. Accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same.
13. Establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.
14. Enter into contracts and agreements, including interim reciprocal agreements with noncompacting states.

#### **ARTICLE IX - FINANCE**

The commission shall submit to the governor or designated officer or officers of each compacting state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the compacting states. The total amount of appropriations requested under any such budget shall be apportioned among the compacting states as follows: one-half in equal shares; one-fourth among the compacting states in accordance with the ratio of their populations to the total population of the compacting states, based on the last decennial federal census; and one-fourth among the compacting states in accordance with the ratio of industrialized or modular building units manufactured in each state to the total of all units manufactured in all of the compacting states.

The commission shall not pledge the credit of any compacting state. The commission may meet any of its obligations in whole or in part with funds available to it by donations, grants, or sale of labels: provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except if the commission makes use of funds available to it by donations, grants, or sale of labels, the commission shall not incur any obligation prior to the allotment of funds by the compacting states adequate to meet the same.

The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the compacting states and any person authorized by the commission.

Nothing contained in this article shall be construed to prevent commission compliance relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

### **ARTICLE X - ENTRY INTO FORCE AND WITHDRAWAL**

This compact shall enter into force when enacted into law by any three states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all compacting states whenever there is a new enactment of the compact.

Any compacting state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a compacting state prior to the time of such withdrawal.

### **ARTICLE XI - RECIPROCITY**

If the commission determines that the standards for industrialized or modular buildings prescribed by statute, rule, or regulation of compacting state are at least equal to the commission's model rules and regulations for industrialized or modular buildings, and that such state standards are enforced by the compacting state in accordance with the uniform administrative procedures, industrialized or modular buildings approved by such a compacting state shall be deemed to have been approved by all the compacting states for placement in those states in accordance with procedures prescribed by the commission.

### **ARTICLE XII - EFFECT ON OTHER LAWS AND JURISDICTION**

Nothing in this compact shall be construed to:

1. Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation, or other entity or subject matter, except to the extent that such jurisdiction pursuant to this compact, is expressly conferred upon another agency or body.
2. Supersede or limit the jurisdiction of any court of the United States.

### **ARTICLE XIII - CONSTRUCTION AND SEVERABILITY**

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to

the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Approved April 19, 2011  
Filed April 19, 2011

## CHAPTER 405

### SENATE BILL NO. 2190

(Senators Nething, Lyson)  
(Representatives DeKrey, Kretschmar)

AN ACT to create a new subsection to section 54-23.3-04 of the North Dakota Century Code, relating to the powers and duties of the director of the department of corrections and rehabilitation; to amend and reenact section 12-59-20 of the North Dakota Century Code, relating to probation and parole officers; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 12-59-20 of the North Dakota Century Code is amended and reenacted as follows:

##### **12-59-20. Probation and parole officers as peace officers.**

Probation and parole officers have the power of a peace officer for the purpose of enforcing probation and parole laws, and shall provide assistance to and receive assistance from other law enforcement officers in securing and jailing probation and parole violators and other offenders and in preventing and controlling of criminal activity. Probation and parole officers may supervise sexually dangerous individuals released to community placement on an outpatient basis in accordance with section 25-03.3-24.

**SECTION 2.** A new subsection to section 54-23.3-04 of the North Dakota Century Code is created and enacted as follows:

To employ personnel and to establish policies and procedures to supervise sexually dangerous individuals released to community placement on an outpatient basis in accordance with section 25-03.3-24.

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

Approved April 19, 2011

Filed April 19, 2011

## CHAPTER 406

### SENATE BILL NO. 2099

(Education Committee)  
(At the request of the State Library)

AN ACT to amend and reenact subsection 7 of section 54-24-03 of the North Dakota Century Code, relating to the state library biennial report to the superintendent of public instruction and the governor.

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

**SECTION 1. AMENDMENT.** Subsection 7 of section 54-24-03 of the North Dakota Century Code is amended and reenacted as follows:

7. Compile statistics on all North Dakota public libraries and their services and their larger counterparts of county and multicounty libraries, regional library cooperatives including, and multitype library authorities, ~~and of the work done at the state library, and make.~~ Make a full biennial report to the superintendent of public instruction and the governor ~~of the work done at the state library.~~ The state librarian may not require a private sector library to submit information relating to the provisions of this subsection.

Approved April 19, 2011  
Filed April 20, 2011

## CHAPTER 407

### HOUSE BILL NO. 1089

(Transportation Committee)  
(At the request of the State Treasurer)

AN ACT to create and enact a new section to chapter 54-27 of the North Dakota Century Code, relating to effective dates of federal census data for use in tax distributions made by the state treasurer; to amend and reenact section 54-27-19 of the North Dakota Century Code, relating to the highway tax distribution fund; to provide for retroactive application; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 54-27-19 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-27-19. Highway tax distribution fund - State treasurer to make allocation to state, counties, and cities.**

A highway tax distribution fund is created as a special fund in the state treasury into which must be deposited the moneys available by law from collections of motor vehicle registration and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes. The state treasurer shall transfer the first five million five hundred thousand dollars per biennium from the highway tax distribution fund to the state highway fund for the purpose of providing administrative assistance to other transferees. After the transfer of the first five million five hundred thousand dollars, any moneys in the highway tax distribution fund must be allocated and transferred monthly by the state treasurer, as follows:

1. Sixty-one and three-tenths percent must be transferred monthly to the state department of transportation and placed in a state highway fund.
2. Two and seven-tenths percent must be transferred monthly to the township highway fund.
3. One and five-tenths percent must be transferred monthly to the public transportation fund.
4. Thirty-four and five-tenths percent must be allocated to the counties of this state in proportion to the number of vehicle registrations credited to each county. Each county must be credited with the certificates of title of vehicles registered by residents of the county. The state treasurer shall compute and distribute the counties' share monthly after deducting the incorporated cities' share. All the moneys received by the counties from the highway tax distribution fund must be set aside in a separate fund called the "highway tax distribution fund" and must be appropriated and applied solely for highway purposes in accordance with section 11 of article X of the Constitution of North Dakota. The state treasurer shall compute and distribute monthly the sums allocated to the incorporated cities within each county according to the formula in this subsection on the basis of the per capita population of all of the incorporated cities situated within each county as determined by the last

official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to the census. ~~However, in~~

- a. For counties having no cities with a population of ten thousand or more, a statewide per capita average must be used, as determined by calculating twenty-seven percent of the amount allocated to all of the counties under this subsection divided by the total population of all of the incorporated cities in the state. Each city must be paid an amount equal to the product of the statewide per capita and that city's population.
- b. For each county having a city with a population of ten thousand or more, the amount transferred each month into the county highway tax distribution fund must be the difference between the amount allocated to that county pursuant to this subsection and the total amount allocated and distributed to the incorporated cities in that county as computed according to the following formula:
  - a. (1) A statewide per capita average as determined by calculating twenty-seven percent of the amount allocated to all of the counties under this subsection divided by the total population of all of the incorporated cities in the state.
  - b. (2) The share distributed to each city in the county having a population of less than one thousand must be determined by multiplying the population of that city by the product of 1.50 times the statewide per capita average computed under subdivision a.
  - c. (3) The share distributed to each city in the county having a population of one thousand to four thousand nine hundred ninety-nine, inclusive, must be determined by multiplying the population of that city by the product of 1.25 times the statewide per capita average computed under subdivision a.
  - d. (4) The share distributed to each city in the county having a population of five thousand or more must be determined by multiplying the population of that city by the statewide per capita average for all such cities, which per capita average must be computed as follows: the total of the shares computed under subdivisions b and c for all cities in the state having a population of less than five thousand must be subtracted from the total incorporated cities' share in the state as computed under subdivision a and the balance remaining must then be divided by the total population of all cities of five thousand or more in the state.
5. The moneys allocated to the incorporated cities must be distributed to them monthly by the state treasurer and must be deposited by the cities in a separate fund and may only be used in accordance with section 11 of article X of the Constitution of North Dakota and an incorporated city may use the fund for the construction, reconstruction, repair, and maintenance of public highways within or outside the city pursuant to an agreement entered into between the city and any other political subdivision as authorized by section 54-40-08.

**SECTION 2.** A new section to chapter 54-27 of the North Dakota Century Code is created and enacted as follows:

**Effective date of census data - Tax distributions.**

Unless otherwise provided by this code, the effective date for federal decennial census data on any population-based tax distributions made by the state treasurer is July first following the release of the federal decennial census data.

**SECTION 3. RETROACTIVE APPLICATION.** Section 2 of this Act is retroactive in application to March 1, 2011.

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

Approved April 8, 2011

Filed April 11, 2011

## CHAPTER 408

### SENATE BILL NO. 2203

(Senators Uglem, J. Lee, Nodland)  
(Representatives Kaldor, Paur, Vigesaa)

AN ACT to amend and reenact section 54-27-26 of the North Dakota Century Code, relating to annual reports for transportation funding; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 54-27-26 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-27-26. Report on transportation funding and expenditures.**

Each county, city, and township shall provide to the tax commissioner an annual report on funding and expenditures relating to transportation projects and programs. The report must be provided within ninety days after the close of a calendar year. The report must contain by fund the beginning balance, revenues by major source, expenditures by major category, the ending balance, and any other information requested by the tax commissioner. A township may provide a copy of the appropriate annual township financial report that was provided to the county as the annual report.

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

Approved April 27, 2011  
Filed April 27, 2011

## CHAPTER 409

### SENATE BILL NO. 2103

(Industry, Business and Labor Committee)  
(At the request of the State Treasurer)

AN ACT to create and enact a new section to chapter 54-27 of the North Dakota Century Code, relating to disposition of interest on closed state funds; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 54-27 of the North Dakota Century Code is created and enacted as follows:

Unless otherwise directed, interest earned on moneys remaining in a fund which has been closed must be credited to the general fund.

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

Approved April 25, 2011

Filed April 25, 2011

## CHAPTER 410

### HOUSE BILL NO. 1397

(Representative Schatz)

AN ACT to amend and reenact section 54-35-01 of the North Dakota Century Code, relating to the membership of the legislative management; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 54-35-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-35-01. Legislative management - Created - Members - Vacancy - Terms.**

1. The North Dakota legislative management consists of the majority and minority leaders of the house and of the senate ~~plus, the speaker of the house, and~~ six senators and seven representatives chosen biennially before the close of each regular legislative session.
2. In the house of representatives the ~~speaker of the house~~ majority leader shall appoint to the legislative management four members ~~recommended~~ elected by the ~~majority leader and three members recommended by~~ political party with the largest number of members in the house and the minority leader, ~~except that the speaker must by virtue of office be one of the four members appointed from the speaker's faction of the house shall appoint to the legislative management two members elected by the political party with the next largest number of members in the house.~~
3. In the senate the ~~lieutenant governor~~ majority leader shall appoint to the legislative management four members ~~recommended~~ elected by the ~~majority leader and two members recommended by~~ political party with the largest number of members in the senate and the minority leader ~~shall appoint to the legislative management two members elected by the political party with the next largest number of members in the senate.~~
4. Any vacancy occurring when the legislative assembly is not in session must be filled by the selection of another member of the legislative assembly belonging to the same ~~faction~~ party as the member originally appointed, the selection to be made by the remaining senate or house members of the legislative management, depending upon which body has the vacancy. Each senator and each representative chosen to serve on the legislative management shall serve until a new legislative management has been selected at the next regular legislative session; provided, however, that no senator, not a holdover, who is not reelected to the senate, and no representative, who is not reelected to the house of representatives, may serve as a member of the legislative management beyond the closing day of the term to which elected. Any vacancy occurring because any member of the legislative management is not reelected must be filled for the period from the beginning of the session until a new legislative management is selected, in the same manner as the original legislative management is selected.

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

Approved April 18, 2011  
Filed April 18, 2011

## CHAPTER 411

### SENATE BILL NO. 2186

(Senators Wardner, Nodland, Andrist)  
(Representatives Brandenburg, Kaldor)

AN ACT to amend and reenact section 54-35-18 of the North Dakota Century Code, relating to the energy development and transmission committee.

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

**SECTION 1. AMENDMENT.** Section 54-35-18 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-18. (~~Effective through August 1, 2011~~) Energy development and transmission committee.**

The legislative management, during each biennium, shall appoint an energy development and transmission committee in the same manner as the legislative management appoints other interim committees. The legislative management shall appoint six members of the house of representatives, four of whom must be from the majority political party and two of whom must be from the minority political party, and six members of the senate, four of whom must be from the majority political party and two of whom must be from the minority political party. The chairman of the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees. The committee shall study the impact of a comprehensive energy policy for the state and the development of each facet of the energy industry, from the obtaining of the raw natural resource to the sale of the final product in this state, other states, and other countries. The study may include the review of and recommendations relating to policy affecting extraction, generation, processing, transmission, transportation, marketing, distribution, and use of energy; ~~and the taxation of shallow gas to reduce energy costs for all North Dakota residents.~~

Approved April 19, 2011  
Filed April 20, 2011

## CHAPTER 412

### SENATE BILL NO. 2053

(Legislative Management)  
(Tribal and State Relations Committee)

AN ACT to amend and reenact section 54-35-23 of the North Dakota Century Code, relating to extension and duties of the committee on tribal and state relations.

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

**SECTION 1. AMENDMENT.** Section 54-35-23 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-35-23. (Effective through July 31, 2014~~2013~~) Committee on tribal and state relations - Membership - Duties.**

1. The committee on tribal and state relations is composed of seven members as follows:
  - a. ~~The~~ chairman designated by the chairman of the legislative management ~~or the chairman's designee~~;
  - b. Three members of the house of representatives, two of whom must be selected by the leader representing the majority faction of the house of representatives and one of whom must be selected by the leader representing the minority faction of the house of representatives; and
  - c. Three members of the senate, two of whom must be selected by the leader representing the majority faction of the senate and one of whom must be selected by the leader representing the minority faction of the senate.
2. ~~The chairman of the legislative management, or the chairman's designee, shall serve as chairman of the committee.~~
3. The committee shall meet at such times and places as determined by the chairman. The legislative council shall provide staffing for the committee.
4. ~~3.~~ The committee shall conduct joint meetings with the ~~native American~~ North Dakota tribal citizens' governments' task force to study tribal-state issues, including government-to-government relations, ~~the delivery of human~~ services, case management services, child support enforcement, education, corrections, and issues related to the promotion of economic development. During the 2011-12 interim, the committee also shall study whether the members of the North Dakota tribal governments' task force should be voting members of the committee. After the joint meetings have concluded, the committee shall meet to prepare a report on its findings and recommendations, together with any legislation required to implement those recommendations, to the legislative management.

- ~~5.4.~~ The members of the committee are entitled to compensation from the legislative council for attendance at committee meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.
- ~~6.a.5.~~ a. The ~~native American~~North Dakota tribal ~~citizens'~~governments' task force is composed of six members as follows:
- (1) The executive director of the Indian affairs commission, or the executive director's designee;
  - (2) The chairman of the Standing Rock Sioux Tribe, or the chairman's designee;
  - (3) The chairman of the Spirit Lake Tribe, or the chairman's designee;
  - (4) The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or the chairman's designee;
  - (5) The chairman of the Turtle Mountain Band of Chippewa Indians, or the chairman's designee; and
  - (6) The chairman of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, or the chairman's designee.
- b. If the executive director of the Indian affairs commission or any of the tribal chairmen appoint a designee to serve on the task force, only one individual may serve as that designee during the biennium. A substitute designee may be appointed by the executive director of the Indian affairs commission or a tribal chairman in the event of the death, incapacity, resignation, or refusal to serve of the initial designee.

Approved April 25, 2011  
Filed April 25, 2011

## CHAPTER 413

### HOUSE BILL NO. 1252

(Representative Carlson)

AN ACT to establish a legislative management health care reform review committee.

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

**SECTION 1. LEGISLATIVE MANAGEMENT HEALTH CARE REFORM REVIEW COMMITTEE.** During the 2011-12 interim, the chairman of the legislative management shall appoint a committee to monitor the impact of the federal Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010; rules adopted by federal agencies as a result of that legislation; and any amendments to that legislation. The membership of the committee must include the chairmen of the house human services committee and the house industry, business and labor committee and the chairmen of the senate human services committee and the senate industry, business and labor committee. If any of those individuals are unwilling or unable to serve, the chairman of the legislative management shall appoint a replacement who is a member of the same legislative chamber as the individual being replaced. If a special session of the legislative assembly is necessary to adopt legislation in response to the federal legislation, the committee shall report to the legislative management before any special session. The committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management, which shall report the findings and recommendations to the sixty-third legislative assembly.

Approved April 27, 2011

Filed April 27, 2011

## CHAPTER 414

### HOUSE BILL NO. 1267

(Representatives Carlson, Vigesaa)  
(Senators Christmann, Stenehjem)

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, 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 2012 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 that 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 October 31, 2011.
4. A draft of a 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 or the legislative assembly. Any version of a redistricting plan created before the completion of the plan is an exempt record regardless of whether the completed plan is subsequently presented or distributed at a meeting.
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 2012 primary election and to address any other issue that may be necessary, including consideration of legislation in response to federal health care reform legislation.

**SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 2012, and after that date is ineffective.

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

Approved April 18, 2011  
Filed April 18, 2011

## CHAPTER 415

### HOUSE BILL NO. 1036

(Legislative Management)  
(Higher Education Committee)

AN ACT to provide for a legislative management study of developmental education issues affecting higher education.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - DEVELOPMENTAL EDUCATION.** During the 2011-12 interim, the legislative management shall conduct a study of developmental education issues. The study must include a review with the department of public instruction and the North Dakota university system of the secondary schools attended by students requiring developmental education, the reasons students need developmental education, efforts to reduce the number of developmental education students at higher education institutions, the alignment of elementary and secondary education standards, curriculum, and textbooks with higher education admissions standards, and the best practices for alleviating developmental education at higher education institutions. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

Approved April 19, 2011  
Filed April 20, 2011

## CHAPTER 416

### HOUSE BILL NO. 1199

(Representatives Keiser, Glassheim)  
(Senators Wardner, O'Connell)

AN ACT to provide for a study of guardianship services for vulnerable adults in the state; and to provide an appropriation.

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

**SECTION 1. GUARDIANSHIP SERVICES STUDY.** During the 2011-12 interim, the legislative management shall contract with a consultant to study guardianship services for vulnerable adults in the state. The study must include an analysis of the need for guardianship services in the state; the establishment of guardianships; petitioning costs and other costs associated with providing guardianship services; the entities responsible for guardianship costs; and the interaction between the courts, counties, state agencies, and guardianship organizations regarding guardianship services. The consultant shall provide periodic reports to the legislative management. The consultant shall present the final report and recommendations regarding the study to the legislative management before June 1, 2012. The legislative management shall report the findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

**SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$64,000, or so much of the sum as may be necessary, to the department of human services for the purpose of funding guardianship program enhancements, for the biennium beginning July 1, 2011, and ending June 30, 2013. This funding is to be considered one-time funding and is not considered to be base funding for the 2013-15 biennium.

Approved April 27, 2011  
Filed April 27, 2011

## CHAPTER 417

### HOUSE BILL NO. 1365

(Representatives DeKrey, Streyle, Thoreson)  
(Senators Klein, Oehlke, Olafson)

AN ACT to provide for a legislative management study of statutes of limitation and venue requirements for civil actions in North Dakota.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STATUTES OF LIMITATION AND VENUE REQUIREMENTS FOR CIVIL ACTIONS.** During the 2011-12 interim, the legislative management shall consider studying statutes of limitation and venue requirements for civil actions in North Dakota. The study must include a review of the limitation on the length of time that has passed since a cause of action arose and whether the time limitations in current law remain appropriate or should be changed, and the extent to which claims are filed in North Dakota courts for claims otherwise prohibited in other states due to the relevant statute of limitation having expired. The study also must review the venue requirements for bringing a civil action in North Dakota and whether the venue requirements should be amended to limit claims being brought in this state by nonresidents who have no connection to this state. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

Approved March 29, 2011  
Filed March 29, 2011

## CHAPTER 418

### HOUSE BILL NO. 1375

(Representative DeKrey)

AN ACT to provide for a legislative management study of national guard member benefits.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - NATIONAL GUARD MEMBER BENEFITS.** During the 2011-12 interim, the legislative management shall consider studying the benefits offered in this and other states to national guard members, including life insurance coverage. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

Approved April 4, 2011

Filed April 4, 2011

## CHAPTER 419

### HOUSE BILL NO. 1386

(Representatives Onstad, Kempenich, Delmore)  
(Senators Andrist, Warner)

AN ACT to provide for a legislative management study and a report from the insurance department.

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

#### **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - REPORT FROM INSURANCE DEPARTMENT.**

1. During the 2011-12 interim, the legislative management shall consider studying whether steps can be taken to improve health care service providers' access to third-party payer reimbursement network systems in order to improve North Dakotans' access to health care services and to contain their health care costs and out-of-pocket expenses. For purposes of this study, health care services include major medical as well as dental and vision services. The study may include consideration of:
  - a. Whether it would improve patients' freedom of choice by allowing all health care service providers the opportunity to be included in network systems and negotiating deeper discounts with third-party payers;
  - b. Whether a third-party payer for health care services should have the ability to deny a health care service provider the right to provide services or to negotiate a contract for services that do not cover the the provider's entire scope of practice;
  - c. Whether current practices in preferred provider arrangements allow third-party payers to interfere with a patient's continuity of care; and
  - d. The positive or negative impact any changes in the current practice may have on:
    - (1) Insurance companies doing business in the state, including managed care companies and health management organizations; and
    - (2) Health insurance premiums.
2. As part of the study, the insurance department may assist the legislative management by gathering information regarding current practices, including whether health care providers are being denied provider contracts by insurance companies and other third-party payers. The department shall make periodic reports to the legislative management on the status of this information gathering.
3. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

Approved April 20, 2011  
Filed April 20, 2011

## CHAPTER 420

### HOUSE BILL NO. 1417

(Representatives Mock, Trottier, Anderson, Hogan)  
(Senators Uglen, Mathern)

AN ACT to provide for a legislative management study.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - SALES TAX EXEMPTION FOR PURCHASE BY CLINICS.** The legislative management shall consider studying, during the 2011-12 interim, the feasibility and desirability of exempting purchases by health-related clinics from sales and use taxes. The study must address under what circumstances, if any, purchases by health-related clinics should be exempt from sales and use taxes. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-third legislative assembly.

Approved April 25, 2011

Filed April 25, 2011

## CHAPTER 421

### HOUSE BILL NO. 1442

(Representatives Ruby, Gruchalla)

AN ACT to provide for a legislative management study relating to consistency of regulations for drivers and motor vehicles.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - DRIVERS AND MOTOR VEHICLES.** During the 2011-12 interim, the legislative management shall consider studying the regulations of drivers and of motor vehicles in the North Dakota Century Code for consistency, clarity, and substance. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

Approved April 25, 2011

Filed April 25, 2011

## CHAPTER 422

### SENATE BILL NO. 2125

(Government and Veterans Affairs Committee)  
(At the request of the Commission on Uniform State Laws)

AN ACT to provide for a legislative management study of the feasibility and desirability of adopting the Uniform Electronic Recording of Custodial Interrogations Act.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - UNIFORM ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS ACT.** During the 2011-12 interim, the legislative management shall consider studying the feasibility and desirability of adopting the Uniform Electronic Recording of Custodial Interrogations Act. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-third legislative assembly.

Approved April 19, 2011  
Filed April 19, 2011

## CHAPTER 423

### SENATE BILL NO. 2234

(Senators Sitte, Cook, Wanzek)  
(Representatives Brandenburg, Headland, Pollert)

AN ACT to provide for a legislative management study relating to mechanisms for improving coordination and consultation regarding federal designation over land or water resources in North Dakota.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - LAND OR WATER RESOURCES.** The legislative management shall consider studying, during the 2011-12 interim, various mechanisms for improving coordination and consultation regarding federal designation over land or water resources in North Dakota. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-third legislative assembly.

Approved April 19, 2011  
Filed April 20, 2011

## CHAPTER 424

### SENATE BILL NO. 2305

(Senator Nelson)  
(Representatives Hawken, Mock)

AN ACT to provide for a legislative management study relating to the extension of juvenile court jurisdiction and the extent of juvenile court jurisdiction in other states.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - JUVENILE COURT JURISDICTION.** The legislative management shall consider studying, during the 2011-12 interim, the issue of juvenile court jurisdiction and the adult court transfer process and whether any additional juvenile court jurisdictional extensions would serve the best interests of the child and the public in cases in which the child is close to the age of majority. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-third legislative assembly.

Approved April 26, 2011  
Filed April 26, 2011

## CHAPTER 425

### SENATE BILL NO. 2318

(Senators Warner, Nodland, Wardner)  
(Representatives S. Meyer, Onstad)

AN ACT to provide for a legislative management study relating to carbon dioxide storage easements and to the duration of carbon dioxide storage easements.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - CARBON DIOXIDE STORAGE EASEMENTS.** The legislative management shall consider studying, during the 2011-12 interim, carbon dioxide storage easements and the duration of carbon dioxide storage easements. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-third legislative assembly.

Approved April 19, 2011  
Filed April 19, 2011

## CHAPTER 426

### SENATE BILL NO. 2367

(Senators Larsen, Sitte, Wanzek)  
(Representatives Grande, Koppelman, Ruby)

AN ACT to provide for a legislative management study relating to divorce reform and education.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - DIVORCE REFORM AND EDUCATION.** During the 2011-12 interim, the legislative management shall consider studying the physical, emotional, and financial effects associated with divorce involving dependent children. The legislative management shall offer legislative policy solutions, including divorce reform legislation and marriage and relational education, which will lead to increasing the number of dependent children living in intact families. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

Approved April 26, 2011  
Filed April 26, 2011

## CHAPTER 427

### HOUSE BILL NO. 1033

(Legislative Management)  
(Higher Education Committee)

AN ACT to amend and reenact sections 54-44.1-04 and 54-44.1-06 of the North Dakota Century Code, relating to budget requests and block grant appropriations for the North Dakota university system; and to provide for a legislative management study.

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

**SECTION 1. AMENDMENT.** Section 54-44.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-04. (Effective through July 31, 2014-2013) Budget estimates of budget units filed with the office of the budget - Deadline.**

The head of each budget unit, not later than July fifteenth of each year next preceding the session of the legislative assembly, shall submit to the office of the budget, estimates of financial requirements of the person's budget unit for the next two fiscal years, on the forms and in the manner prescribed by the office of the budget, with such explanatory data as is required by the office of the budget and such additional data as the head of the budget unit wishes to submit. The budget estimates for the North Dakota university system must include block grants for the university system for a base funding component and for an initiative funding component for specific strategies or initiatives and a budget estimate for an asset funding component for renewal and replacement of physical plant assets at the institutions of higher education. The estimates so submitted must bear the approval of the board or commission of each budget unit for which a board or commission is constituted. The director of the budget in the director's discretion may extend the filing date for any budget unit if the director finds there is some circumstance that makes it advantageous to authorize the extension. If a budget unit has not submitted its estimate of financial requirements by the required date or within a period of extension set by the director of the budget, the director of the budget shall prepare the budget unit's estimate of financial requirements except the estimate may not exceed ninety percent of the budget unit's previous biennial appropriation. The director of the budget or a subordinate officer as the director designates shall examine the estimates and shall afford to the heads of budget units reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the heads of budget units a hearing thereon which must be open to the public.

**(Effective after July 31, 2014-2013) Budget estimates of budget units filed with the office of the budget - Deadline.** The head of each budget unit, not later than July fifteenth of each year next preceding the session of the legislative assembly, shall submit to the office of the budget, estimates of financial requirements of the person's budget unit for the next two fiscal years, on the forms and in the manner prescribed by the office of the budget, with such explanatory data as is required by the office of the budget and such additional data as the head of the budget unit wishes to submit. The estimates so submitted must bear the approval of the board or commission of each budget unit for which a board or commission is constituted. The

director of the budget may extend the filing date for any budget unit if the director finds there is some circumstance that makes it advantageous to authorize the extension. If a budget unit has not submitted its estimate of financial requirements by the required date or within a period of extension set by the director of the budget, the director of the budget shall prepare the budget unit's estimate of financial requirements except the estimate may not exceed ninety percent of the budget unit's previous biennial appropriation. The director of the budget or a subordinate officer as the director shall designate shall examine the estimates and shall afford to the heads of budget units reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the heads of budget units a hearing thereon which must be open to the public.

**SECTION 2. AMENDMENT.** Section 54-44.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-06. (Effective through July 31, ~~2014~~2013) Preparation of the budget data - Contents.**

The director of the budget, through the office of the budget, shall prepare budget data which must contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by the detailed schedules of assets and liabilities as the director of the budget determines desirable, which must include the following:
  - a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
  - b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statement of unappropriated surplus for the general fund must reflect any projected deficiency appropriations relating to expenditures from the general fund for the present biennium. The statements of revenue and estimated revenue must be classified by sources and by budget unit collecting them. Existing sources of revenue must be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue must be explained.
3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.

4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there must be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with any descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there must be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.
5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of proposed general and special appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit must be specified in a separate section of the general appropriations act. The draft of the proposed appropriations act for the North Dakota university system must include block grants for a base funding appropriation and for an initiative funding appropriation for specific strategies or initiatives and an appropriation for asset funding for renewal and replacement of physical plant assets at the institutions of higher education.
8. A list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the current biennium and anticipated assets or services to be acquired in the next biennium.
9. Any other information as the director of the budget determines desirable or as is required by law.

**(Effective after July 31, 2011) Preparation of the budget data - Contents.**

The director of the budget, through the office of the budget, shall prepare budget data which must contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by the detailed schedules of assets and liabilities as the director of the budget determines desirable, which must include the following:
  - a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
  - b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statement of unappropriated surplus for the general fund must reflect any projected deficiency appropriations relating to expenditures from the general fund for the present biennium. The statements of revenue and estimated revenue must be classified by sources and by budget unit collecting them. Existing sources of revenue must be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue must be explained.
3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.
4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there must be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with any descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there must be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.

5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of a proposed general appropriations act and special appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit must be specified in a separate section of the general appropriations act.
8. A list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the current biennium and anticipated assets or services to be acquired in the next biennium.
9. Any other information as the director of the budget determines desirable or as is required by law.

### **SECTION 3. LEGISLATIVE MANAGEMENT STUDY - HIGHER EDUCATION.**

During the 2011-12 interim, the legislative management chairman may appoint an interim higher education committee to study issues affecting higher education. The study may include a review of:

1. Higher education funding mechanisms, including:
  - a. Performance-based funding methods.
  - b. Funding based on student enrollment calculations.
  - c. Funding from grants.
  - d. Funding based on program cost analysis.
2. Higher education budget methods, including:
  - a. Block grant funding for operations based on institution type.
  - b. Block grant funding for specific initiatives based on institution type.
  - c. Funding for capital asset maintenance, including deferred maintenance.

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

Approved May 9, 2011  
Filed May 10, 2011

## CHAPTER 428

### HOUSE BILL NO. 1034

(Legislative Management)  
(Higher Education Committee)

AN ACT to amend and reenact section 54-44.1-11 of the North Dakota Century Code, relating to the cancellation of unexpended appropriations for the North Dakota university system.

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

**SECTION 1. AMENDMENT.** Section 54-44.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-11. (Effective through July 31, ~~2011~~2013) Office of management and budget to cancel unexpended appropriations - When they may continue.**

Except as otherwise provided by law, the office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the state historical society are not subject to this section and the state historical society shall report on the amounts and uses of funds carried over from one biennium to the appropriations committees of the next subsequent legislative assembly. Unexpended appropriations for the North Dakota university system are not subject to this section and the North Dakota university system shall report on the amounts and uses of funds carried over from one biennium to the next to subsequent appropriations committees of the legislative assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Purchases by the department of transportation of roadway maintenance equipment costing more than ten thousand dollars per unit if the equipment was ordered during the first twenty-one months of the biennium in which the funds were appropriated.
6. Authorized ongoing information technology projects.

**(Effective after July 31, 2011)** **Office of management and budget to cancel unexpended appropriations - When they may continue.** The office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the state historical society are not subject to this section and the state historical society shall report on the amounts and uses of funds carried over from one biennium to the appropriations committees of the next subsequent legislative assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Purchases by the department of transportation of roadway maintenance equipment costing more than ten thousand dollars per unit if the equipment was ordered during the first twenty-one months of the biennium in which the funds were appropriated.
6. Authorized ongoing information technology projects.

Approved April 19, 2011  
Filed April 20, 2011

## CHAPTER 429

### HOUSE BILL NO. 1031

(Legislative Management)  
(Government Services Committee)

AN ACT to create and enact a new section to chapter 54-44.3 of the North Dakota Century Code, relating to a state compensation philosophy statement; to provide for implementation of changes to the classified employee compensation system; to provide for status reports to the sixty-second legislative assembly and to the budget section; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 54-44.3 of the North Dakota Century Code is created and enacted as follows:

##### Compensation philosophy statement.

The compensation program for classified state employees must be designed to recruit, retain, and motivate a quality workforce for the purpose of providing efficient and effective services to the citizens of North Dakota. For purposes of this section, "compensation" is defined as base salary and related fringe benefits.

The compensation program must:

1. Provide a competitive employee compensation package based on job content evaluation, internal equity, and external competitiveness balanced by the state's fiscal conditions.
2. Be based on principles of fairness and equity.
3. Include a consistent compensation policy which allows for multiple pay structures to address varying occupational specialties.
4. Set the external competitiveness target for salary range midpoints at a competitive level of relevant labor markets. For purposes of this section, "relevant labor markets" is defined as the labor markets from which the state attracts employees in similar positions and the labor markets to which the state loses employees in similar positions.
5. Include a process for providing compensation adjustments that considers a combination of factors, including achievement of performance objectives or results, competency determinations, recognition of changes in job content, and acquisition and application of advanced skills or knowledge.
6. Provide funding for compensation adjustments based on the dollar amounts determined necessary to provide competitive compensation in accordance with the state's compensation philosophy. Funding for compensation adjustments may not be provided as a statewide percentage increase attributable to all employees nor as part of a statewide pool of funds designated for addressing equity issues.

7. Consider the needs of the state as an employer and the tax effect on North Dakota citizens.

The office of management and budget shall develop and consistently administer the compensation program for classified state employees and ensure that state agencies adhere to the components of the state's compensation philosophy. The office of management and budget shall regularly conduct compensation comparisons to ensure that the state's compensation levels are competitive with relevant labor markets.

The legislative assembly recognizes the importance of providing annual compensation adjustments to employees based on performance and equity to maintain the market competitiveness of the compensation system.

**SECTION 2. COMPENSATION SYSTEM INITIATIVES - IMPLEMENTATION.** The office of management and budget shall implement the following initiatives relating to the classified state employee compensation system for the period beginning with the effective date of this Act and ending June 30, 2011:

1. Adjust the methods used to determine classified state employee classifications by:
  - a. Simplifying the classification and reclassification process.
  - b. Revising classification and reclassification forms to collect additional information, including information from the employee.
  - c. Revising classification specifications to ensure duties and responsibilities increase in complexity within a classification series and that minimum qualifications are appropriate.
  - d. Communicating and educating employees on the classification process.
2. Minimize salary inequities both within an agency and within state government by:
  - a. Providing job evaluation training for human resource management services job evaluators.
  - b. Evaluating, reviewing, and refining common job classifications to create a framework of classified positions.
  - c. Reviewing unique job classifications and developing a classification framework that ensures internal equity exists and that all classifications are appropriate.
  - d. Identifying broad compensation system classifications and determining the appropriateness of the classification.
  - e. Identifying jobs that are unique to an agency and assessing the appropriateness of these jobs being included in statewide classifications.
3. Develop appropriate market comparisons and methods to set pay grade minimums, maximums, and midpoints by:

- a. Redesigning the grade structure and reassigning common and unique job classifications.
  - b. Customizing salary surveys and market analyses for the determined relevant labor market.
  - c. Identifying job family and occupational groups that require different pay strategies from regular pay classifications.
  - d. Developing salary ranges for the general pay structure and for job family and occupational group structures.
  - e. Decreasing the width of salary ranges and performing cost-to-implement analyses.
  - f. Performing statewide, agency, and job family and occupational group internal equity analyses.
4. Develop cost estimates for potential fringe benefits adjustments relating to:
- a. Increasing the basic life insurance benefit from the current level of one thousand three hundred dollars to an amount equal to each employee's annual salary level or a benefit level of at least twenty-five thousand dollars.
  - b. Implementing a long-term disability benefit separate from the pension plan.
  - c. Requiring employees to share in the cost of health care insurance premiums.
5. Expand recruitment and retention tools by:
- a. Developing guidelines and amounts for recruitment and retention bonuses.
  - b. Defining the type of performance to be recognized and rewarded through a performance bonus.
  - c. Reviewing the appropriateness of performance bonus maximums.
  - d. Continuing to assist agencies in determining the appropriate utilization of nonmonetary rewards for employee retention efforts.
  - e. Developing a targeted retention program for employees with three to five years of service.
6. Develop a consistent long-term salary increase administration policy by determining the funding request for salary adjustments using a single funding allocation method that includes performance and equity components.
7. Analyze the effect of:
- a. Appropriating funds to agencies for accrued employee annual leave and sick leave.
  - b. Defining "vacant" positions and excluding long-term vacant positions from agency budget requests.

**SECTION 3. OFFICE OF MANAGEMENT AND BUDGET STATUS REPORTS TO JOINT LEGISLATIVE COMMITTEE.** The office of management and budget shall provide periodic reports to a joint committee during the sixty-second legislative assembly on the status of implementation of the compensation system changes in accordance with section 2 of this Act for the period beginning with the effective date of this Act and ending with the adjournment of the sixty-second legislative session. The reports must include information on any estimated cost increases resulting from the changes in future bienniums.

**SECTION 4. OFFICE OF MANAGEMENT AND BUDGET STATUS REPORTS TO BUDGET SECTION.** The office of management and budget shall provide periodic reports to the budget section on the status of implementation of the compensation system changes in accordance with section 2 of this Act during the 2011-12 interim.

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

Approved April 19, 2011  
Filed April 19, 2011

## CHAPTER 430

### HOUSE BILL NO. 1075

(Representative Glassheim)

(Senator Andrist)

(At the request of the State Historical Society of North Dakota)

AN ACT to amend and reenact subdivision b of subsection 3 of section 54-46-02 and section 54-46-07 of the North Dakota Century Code, relating to the definition of records and the recovery of records.

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

**SECTION 1. AMENDMENT.** Subdivision b of subsection 3 of section 54-46-02 of the North Dakota Century Code is amended and reenacted as follows:

- b. A record of the state legislative assembly held by an agency.

**SECTION 2. AMENDMENT.** Section 54-46-07 of the North Dakota Century Code is amended and reenacted as follows:

**54-46-07. Records not to be ~~damaged or destroyed~~ or removed.**

All records made or received by or under the authority of or coming into the custody, control, or possession of public officials of this state in the course of their public duties are the property of the state and may not be mutilated, destroyed, transferred, removed, sold, or otherwise damaged or disposed of, in whole or in part, except as provided by law. Each state agency and political subdivision of this state shall notify the state records management administrator of unlawful actions affecting records. Public records that have been unlawfully removed must be returned to the office of origin or to the state archivist.

Approved April 8, 2011

Filed April 11, 2011

## CHAPTER 431

### SENATE BILL NO. 2109

(Government and Veterans Affairs Committee)  
(At the request of the Public Employees Retirement System Board)

AN ACT to amend and reenact section 15-10-17, subsection 6 of section 39-03.1-11, sections 39-03.1-11.2 and 39-03.1-14.1, subsection 3 of section 54-52-02.1, section 54-52-03, subsections 3 and 6 of section 54-52-17, sections 54-52-27 and 54-52-28, subsection 3 of section 54-52.1-03, and subsection 3 of section 54-52.6-09 of the North Dakota Century Code, relating to special annuity purchases in the alternate retirement program for university system employees, surviving spouse payment options under the highway patrolmen's retirement plan, calculation of member service credit under the highway patrolmen's retirement plan, election of members to the public employees retirement system board, calculation of normal retirement date for peace officers and correctional officers under the public employees retirement system, payment of member account balances under the public employees retirement system, purchase of sick leave credit under the public employees retirement system, spousal elections to participate in the uniform group insurance program, reporting of employer pickups under the defined contribution retirement plan, and Internal Revenue Code compliance under the highway patrolmen's retirement plan and the public employees retirement system.

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

**SECTION 1. AMENDMENT.** Section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

##### **15-10-17. Specific powers and duties of the state board of higher education.**

The state board of higher education has all the powers and shall perform all the duties necessary to the control and management of the institutions described in this chapter. In addition to the powers and duties specified in section 6 of article VIII of the Constitution of North Dakota, the board may:

1. a. Appoint and remove the president or other faculty head, and the professors, instructors, teachers, officers, and other employees of the several institutions under its control, and to fix their salaries within the limits of legislative appropriations therefor, and to fix the terms of office and to prescribe the duties thereof, provided that the consideration of the appointment or removal of any such personnel shall be in executive session if the board chooses unless the individual involved requests that the meeting be open to other individuals or to the public.
- b. Appoint and remove the commissioner of higher education, fix the commissioner's salary within the limits of legislative appropriations, and prescribe the commissioner's duties.
- c. Appoint and remove all university system office personnel, fix their salaries within the limits of legislative appropriations, fix their terms of office, and prescribe their duties.

2. Authorize the employment of law enforcement officers having concurrent jurisdiction with other law enforcement officers to enforce laws and regulations at its institutions.
3. Set tuition and fees.
4. a. Establish a retirement program as an alternative to chapter 15-39.1 for university system employees subject to the following guidelines:
  - (1) Benefits under the program must be provided through annuity contracts purchased by the board but which become the property of the participants;
  - (2) The cost of the annuity contracts must be defrayed by contributions made pursuant to rules of the state board of higher education;
  - (3) Eligible employees appointed before July 1, 1973, shall participate in the alternate retirement program only by their individual election. When the electing eligible employee is a member of the teachers' fund for retirement, the employee's assessments and employer's contributions together with interest credited at the current rate for one-year certificates then being paid by the Bank of North Dakota must be transferred to the employee's account in the alternate program. The election must be made before July 1, 1980, and shall relinquish all rights the eligible employee or the employee's beneficiary may have to benefits provided in chapters 15-39 and 15-39.2; and
  - (4) Employees of the university system who are members of the public employees retirement system under chapter 54-52 or 54-52.6 and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, used by the retirement board of the public employees retirement system to purchase for that employee an annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system before March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under ~~chapter~~chapters 54-52 and 54-52.6.

- b. Provide for the administration of the alternate retirement program and establish rules for the program consistent with this subsection. This subsection does not derogate any existing retirement programs approved by the board.
5. Determine policy for purchasing by the university system in coordination with the office of management and budget as provided by law.
6. Establish by rule an early retirement program for faculty and officers of the board as defined by the board. The limitations on severance pay pursuant to section 54-14-04.3 and on requiring the employee to pay contributions to continue on the state uniform group insurance program upon retirement or upon termination of employment pursuant to section 54-52.1-03 do not apply to the early retirement program.
7. Adopt rules to protect the confidentiality of student records, medical records, and, consistent with section 44-04-18.4, trade secret, proprietary, commercial, and financial information.
8. Authorize and encourage university system entities to enter into partnerships, limited liability companies, joint ventures, or other contractual arrangements with private business and industry for the purpose of business or industrial development or fostering basic and applied research or technology transfer.
9. Adopt rules promoting research, encouraging development of intellectual property and other inventions and discoveries by university system employees, and protecting and marketing the inventions and discoveries. The rules must govern ownership or transfer of ownership rights and distribution of income that may be derived from an invention or discovery resulting from research or employment in the university system. The rules may provide for transfer of ownership rights or distribution of income to a private, nonprofit entity created for the support of the university system or one of its institutions.

**SECTION 2. AMENDMENT.** Subsection 6 of section 39-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

6. If before retiring a contributor dies after completing ten years of eligible employment, the board shall pay the contributor's accumulated deductions to the contributor's designated beneficiary as provided in this subsection. If the contributor has designated an alternate beneficiary with the surviving spouse's written consent, the board shall pay the contributor's account balance to the named beneficiary. If the contributor has named more than one primary beneficiary, the board shall pay the contributor's account balance to the named primary beneficiaries in the percentages designated by the contributor or, if the contributor has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the contributor, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If there are no remaining primary beneficiaries, the board shall pay the contributor's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the board shall pay the contributor's account balance to the contributor's estate. If the contributor has not designated an alternate beneficiary under this section or the surviving spouse is the beneficiary, the surviving spouse of the contributor may select one of the following optional forms of payment:

- a. A lump sum payment of the contributor's accumulated deductions as of the date of death.
- b. ~~Payments for sixty months as calculated for the deceased contributor as if the contributor were age fifty five at the date of death.~~
- e. Payment of a monthly retirement benefit equal to fifty percent of the deceased contributor's accrued normal retirement benefits until the spouse dies.

**SECTION 3. AMENDMENT.** Section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-11.2. Internal Revenue Code compliance.**

~~4.~~The board shall administer the plan in compliance with ~~section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31)~~the following sections of the Internal Revenue Code in effect on August 1, ~~2009~~2011, as it applies for governmental plans.

- ~~2-1.~~ Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code.
  - ~~a.~~ The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.
  - ~~3- b.~~ If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.
  - ~~4- c.~~ If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
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. A 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.

3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 4. AMENDMENT.** Section 39-03.1-14.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-14.1. Multiple plan membership - Eligibility for benefits - Amount of benefits.**

1. For the purpose of determining eligibility for benefits under this chapter, a member's years of service is the total of the years of service earned under this chapter and the years of service employment or years of service credit earned in any number of the following, the total of which may not exceed twelve months of credit per year:
  - a. The public employees retirement system.
  - b. The teachers' fund for retirement.
  - c. The teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF), for service credit earned while employed by North Dakota institutions of higher education.
2. If a member terminates eligible employment under this chapter, if that member has not received a refund of the member's accumulated deductions, and if that member begins eligible employment in a plan described in subdivision a or b of subsection 1, that member may elect to remain an inactive member of the system without refund of the member's accumulated deductions. The election must be made within ninety days after beginning the eligible employment. The board shall terminate the inactive status of a member under this subsection if the member gains eligible employment under this chapter or if the member terminates eligible employment under a plan described in subdivision a or b of subsection 1.
3. Pursuant to rules adopted by the board, a member who has service credit in the system and in any of the alternate plans described in subdivision a or b of subsection 1 is entitled to benefits under this chapter. The employee may elect to have benefits calculated using the benefit formula in section 39-03.1-11 under either of the following calculation methods:

- a. By using the average of the highest salary received by the member for any ~~consecutive~~ thirty-six months employed during the last one hundred twenty months of employment in the highway patrolmen's retirement system. If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.
- b. Using the average of the highest salary received by the member for any thirty-six ~~consecutive~~ months during the last one hundred twenty months of employment, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

The board shall calculate benefits for an employee under this subsection by using only those years of service employment earned under this chapter.

**SECTION 5. AMENDMENT.** Subsection 3 of section 54-52-02.1 of the North Dakota Century Code is amended and reenacted as follows:

3. Notwithstanding any other provision of this chapter, a political subdivision of this state not currently participating in the public employees retirement system may not become a participant in the retirement system until an actuarial study is performed under the direction of the board to calculate the required employer contribution. ~~The for any past service liability and the required employer contribution must be an amount determined sufficient to fund the normal cost and amortize and fund any past service liability over a period not to exceed thirty years as determined by the board.~~ Any fees incurred in performing the actuarial study must be paid for by the political subdivision in a manner determined by the board.

<sup>134</sup> **SECTION 6. AMENDMENT.** Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-03. Governing authority.**

A state agency is hereby created to constitute the governing authority of the system to consist of a board of seven persons known as the retirement board. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. No employee of the public employees retirement system or the state retirement and investment office may serve on the board.

1. One member of the board must be appointed by the governor to serve a term of five years. The appointee must be a North Dakota citizen who is not a state or political subdivision employee and who by experience is familiar with money management. The citizen member is chairman of the board.
2. One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.
3. The state health officer appointed under section 23-01-05 is a member of the board.

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<sup>134</sup> Section 54-52-03 was also amended by section 6 of Senate Bill No. 2022, chapter 48.

4. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.
5. One board member must be elected by and from among those persons who are receiving retirement benefits ~~or who are eligible to receive deferred-vested retirement benefits~~ under this chapter. The board shall call the election and must give prior notice of the election to the persons eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.
6. The members of the board are entitled to receive sixty-two dollars and fifty cents per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
7. A board member shall serve a five-year term and until the board member's successor qualifies. Each board member is entitled to one vote, and four of the seven board members constitute a quorum. Four votes are necessary for resolution or action by the board at any meeting.

**SECTION 7. AMENDMENT.** Subsections 3 and 6 of section 54-52-17 of the North Dakota Century Code are amended and reenacted as follows:

3. Retirement dates are defined as follows:
  - a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three consecutive years of employment as a national guard security officer or firefighter immediately preceding retirement.
  - c. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:

- (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three consecutive years of employment as a peace officer or correctional officer ~~immediately preceding retirement~~; or
  - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- d. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
- (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three consecutive years of employment as a peace officer immediately preceding retirement; or
  - (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- e. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- f. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
- g. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:
- (1) Became disabled during the period of eligible employment; and
  - (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are appropriated from the retirement fund for those purposes.

6. If before retiring a member dies after completing three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the board shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the board shall pay the member's account balance to the named beneficiary. If the member has named more than one primary beneficiary, the board shall pay the member's account balance to the named primary beneficiaries in the percentages designated by the member or, if the member has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the member, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the member, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the member. If there are no remaining primary beneficiaries, the board shall pay the member's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the board shall pay the member's account balance to the member's estate. If the member has not designated an alternate beneficiary or the surviving spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:
  - a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:
    - (1) A lump sum payment of the member's retirement account as of the date of death.
    - (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.
  - b. The surviving spouse of all other members may select one of the following options:
    - (1) A lump sum payment of the member's retirement account as of the date of death.
    - (2) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
    - (3) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that

would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.

**SECTION 8. AMENDMENT.** Section 54-52-27 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-27. Purchase of sick leave credit.**

A member is entitled to credit in the retirement system for each month of unused sick leave, as certified by the member's employer, if the member or the member's employer pays an amount equal to the member's final average salary, times the number of months of sick leave converted, times the percent of employer and employee contributions to the retirement program of the member, plus the required contribution for the retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed to be a full month for purposes of conversion to service credit. A member may convert all of the member's certified sick leave or a part of the member's certified sick leave. ~~All conversion payments must be made within sixty days of termination of employment and before the member receives a retirement annuity unless the member has submitted an approved payment plan to the board.~~

**SECTION 9. AMENDMENT.** Section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-28. Internal Revenue Code compliance.**

~~4.~~The board shall administer the plan in compliance with ~~section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31)~~ the following sections of the Internal Revenue Code in effect on August 1, ~~2009~~2011, as it applies for governmental plans.

~~2-1.~~ Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code.

- ~~a.~~ a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.
- ~~3- b.~~ b. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.

4. c. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
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. A 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.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 10. AMENDMENT.** Subsection 3 of section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

3. A retiree who has accepted a periodic distribution from the defined contribution retirement plan pursuant to section 54-52.6-13 who the board determines is eligible for participation in the uniform group insurance program or has accepted a retirement allowance from the public employees retirement system, the highway patrolmen's retirement system, the teachers' insurance and annuity association of America - college retirement equities fund for service credit earned while employed by North Dakota institutions of higher education, the retirement system established by job service North Dakota under section 52-11-01, the judges' retirement system established under chapter 27-17, or the teachers' fund for retirement may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the member's spouse reaches age sixty-five, upon the receipt of a benefit, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this subsection, the retiree or surviving spouse must meet the minimum requirements established by the board. Subject to sections 54-52.1-03.2 and 54-52.1-03.3, each retiree or surviving spouse shall pay directly to the board

the premiums in effect for the coverage then being provided. A retiree or surviving spouse who has met the initial eligibility requirements of this subsection to begin participation in the uniform group insurance program remains eligible as long as the retiree maintains the retiree's participation in the program by paying the required premium pursuant to rules adopted by the board.

<sup>135</sup> **SECTION 11. AMENDMENT.** Subsection 3 of section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by ~~December 1, 1999, and shall report~~reporting its choice to the board in writing. ~~The option chosen may not be revoked for the remainder of the biennium. Thereafter, the option choice must be forwarded to the board, in writing, by June fifteenth of each odd-numbered year.~~

Approved April 25, 2011  
Filed April 25, 2011

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<sup>135</sup> Section 54-52.6-09 was also amended by section 10 of Senate Bill No. 2108, chapter 432.

## CHAPTER 432

### SENATE BILL NO. 2108

(Government and Veterans Affairs Committee)  
(At the request of the Public Employees Retirement System Board)

AN ACT to amend and reenact sections 39-03.1-09, 39-03.1-10, 54-52-02.9, 54-52-05, 54-52-06, 54-52-06.1, 54-52-06.3, and 54-52-06.4, subsection 6 of 54-52.6-02, and section 54-52.6-09 of the North Dakota Century Code, relating to increased employer and employee contributions under the highway patrolmen's retirement plan and public employees retirement system.

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

**SECTION 1. AMENDMENT.** Section 39-03.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-09. Payments by contributors - Employer payment of employee contribution.**

1. Every member, except as provided in section 39-03.1-07, shall contribute into the fund ten and thirty-hundredths percent of the member's monthly salary, which sum must be deducted from the member's salary and credited to the member's account in the fund. Member contributions increase by one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013.
2. The state of North Dakota, at its option, may pay the member contributions required by subsection 1 for all compensation earned after June 30, 1983, and may pay the member contributions required to purchase service credit on a pretax basis pursuant to subsection 8 of section 39-03.1-08.2. The amount paid must be paid by the state in lieu of contributions by the member. A member may not receive the contributed amounts directly once the employer has elected to pay the member contributions. If the state decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the state, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the state, they must not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. If member contributions are paid by the state, they must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made prior to the date the contributions were assumed by the state. The option given employers by this subsection must be exercised in accordance with rules adopted by the board.

3. For compensation earned after August 1, 2009, all employee contributions required under subsection 1, and not otherwise paid under subsection 2, must be paid by the state in lieu of contributions by the member. All contributions paid by the state under this subsection must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the state under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the state in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the state. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The state shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by law.

**SECTION 2. AMENDMENT.** Section 39-03.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-10. Contributions by the state.**

The state shall contribute to the fund a sum equal to sixteen and seventy-hundredths percent of the monthly salary or wage of a participating member. State contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013. 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 39-03.1-10.1.

**SECTION 3. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.9. Participation by temporary employees.**

A temporary employee may elect, within one hundred eighty days of beginning employment, to participate in the public employees retirement system and receive credit for service after enrollment. The temporary employee shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional two percent increase, beginning with the reporting period of January 2013. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee in the public employees retirement system until termination of employment or reclassification of the temporary employee as a permanent employee. A temporary employee may not purchase any additional credit, including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

**SECTION 4. AMENDMENT.** Section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-05. Membership and assessments - Employer payment of employee contributions.**

1. Every eligible governmental unit employee concurring in the plan must so state in writing and all future eligible employees are participating members. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service. An employee who is eligible for normal retirement who accepts a retirement benefit under this chapter and who subsequently becomes employed with a participating employer other than the employer with which the employee was employed at the time the employee retired under this chapter may, before reenrolling in the retirement plan, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.
2. Each member must be assessed and required to pay monthly four percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment. Member contributions increase by one percent of the monthly salary or wage paid to the 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.
3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee

contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board in writing.

4. For compensation earned after August 1, 2009, all employee contributions required under section 54-52-06.1 and the job service North Dakota retirement plan, and not otherwise paid under subsection 3, must be paid by the employer in lieu of contributions by the member. All contributions paid by the employer under this subsection must be treated as employer contributions in determining tax treatment under this code and the Internal Revenue Code. Contributions paid by the employer under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the employer in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the employer. The employer shall pay these member contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The employer shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by amendment to law.

**SECTION 5. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06. Employer's contribution to retirement plan.**

Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit 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. 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 its 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, 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 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 they became due, penalty and interest to be paid on delinquent contributions may be waived. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived

pursuant to subsection 1 of section 54-52-05. The board shall report to each session of the legislative assembly the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

**SECTION 6. AMENDMENT.** Section 54-52-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.1. Contribution by supreme and district court judges - Employer contribution.**

Each judge of the supreme or district court who is a member of the public employees retirement system must be assessed and required to pay monthly five percent of the judge's monthly salary. Member contributions increase by one percent of the judge's monthly salary 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. The assessment must be deducted and retained out of the judge's salary in equal monthly installments. The state shall contribute an amount equal to fourteen and fifty-two one-hundredths percent of the monthly salary of a supreme or district court judge who is a participating member of the system, which matching contribution must be paid from its funds appropriated for salary, or from any other funds available for such purposes. State contributions increase by one percent of the monthly salary of a supreme or district court judge who is a participating member of the system 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. If the judge's contribution is paid by the state under subsection 3 of section 54-52-05, the state shall contribute, in addition, an amount equal to the required judge's contribution.

**SECTION 7. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.3. Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution.**

Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the retirement board on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer or correctional officer contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one-half of one percent, beginning with the reporting period of January 2013. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

**SECTION 8. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52-06.4. Contribution by peace officers employed by the bureau of criminal investigation - Employer contribution.**

Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary 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. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's assessment.

**SECTION 9. AMENDMENT.** Subsection 6 of section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

6. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the board within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the reporting period of January 2013. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.

<sup>136</sup> **SECTION 10. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52.6-09. Contributions - Penalty.**

1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012.

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<sup>136</sup> Section 54-52.6-09 was also amended by section 11 of Senate Bill No. 2109, chapter 431.

and with an additional increase of one percent, beginning with the reporting period of January 2013.

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, and with an additional increase of one percent, beginning with the reporting period of January 2013. 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. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it 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 after the payment became due.
3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by December 1, 1999, and shall report its choice to the board in writing. The option chosen may not be revoked for the remainder of the biennium. Thereafter, the option choice must be forwarded to the board, in writing, by June fifteenth of each odd-numbered year.

Approved April 26, 2011  
Filed April 26, 2011

## CHAPTER 433

### SENATE BILL NO. 2110

(Industry, Business and Labor Committee)  
(At the request of the Public Employees Retirement System Board)

AN ACT to amend and reenact sections 54-52.1-02, 54-52.1-04, 54-52.1-04.2, and 54-52.1-04.3 of the North Dakota Century Code, relating to subgroups, receiving bids for prescription drug coverage, self-insurance for prescription drug coverage, and contingency reserve fund requirements under the uniform group insurance program.

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

**SECTION 1. AMENDMENT.** Section 54-52.1-02 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52.1-02. Uniform group insurance program created - Formation into subgroups.**

In order to promote the economy and efficiency of employment in the state's service, reduce personnel turnover, and offer an incentive to high-grade ~~men and women~~ individuals to enter and remain in the service of state employment, there is ~~hereby~~ created a uniform group insurance program. The uniform group must be composed of eligible and retired employees and be formed to provide hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage in the manner set forth in this chapter. The uniform group may be divided into the following subgroups at the discretion of the board:

1. Medical and hospital benefits coverage group consisting of active eligible employees and retired employees not eligible for medicare. In determining premiums for coverage under this subsection for retired employees not eligible for medicare, the rate for a non-medicare retiree single plan is one hundred fifty percent of the active member single plan rate, the rate for a non-medicare retiree family plan of two people is twice the non-medicare retiree single plan rate, and the rate for a non-medicare retiree family plan of three or more persons is two and one-half times the non-medicare retiree single plan rate.
2. In addition to the coverage provided in subsection 1, another coverage option may be provided for retired employees not eligible for medicare, provided the option does not increase the implicit subsidy as determined by the governmental accounting standards board's other postemployment benefit reporting procedure. In offering this additional option, the board may have an open enrollment but thereafter enrollment for this option must be as specified in section 54-52.1-03.
3. Retired medicare-eligible employee group medical and hospital benefits coverage.
- ~~3.4.~~ Active eligible employee life insurance benefits coverage.
- ~~4.5.~~ Retired employee life insurance benefits coverage.

- ~~5-6.~~ Terminated employee continuation group medical and hospital benefits coverage.
- ~~6-7.~~ Terminated employee conversion group medical and hospital benefits coverage.
- ~~7-8.~~ Dental benefits coverage.
- ~~8-9.~~ Vision benefits coverage.
- ~~9-10.~~ Long-term care benefits coverage.
- ~~40-11.~~ Employee assistance benefits coverage.
- ~~44-12.~~ ~~Retired medicare eligible employee group prescription~~ Prescription drug coverage.

**SECTION 2. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04. Board to contract for insurance.**

The board shall receive bids for the providing of hospital benefits coverage, medical benefits coverage, life insurance benefits coverage for a specified term, and employee assistance program services; may receive bids separately for ~~retired medicare eligible employee group~~ prescription drug coverage; and shall accept ~~the bid~~ one or more bids of and contract with the ~~carrier~~ carriers that in the judgment of the board best serves the interests of the state and its eligible employees. Solicitations must be made not later than ninety days before the expiration of an existing uniform group insurance contract. Bids must be solicited by advertisement in a manner selected by the board that will provide reasonable notice to prospective bidders. In preparing bid proposals and evaluating bids, the board may utilize the services of consultants on a contract basis in order that the bids received may be uniformly compared and properly evaluated. In determining which bid, if any, will best serve the interests of eligible employees and the state, the board shall give adequate consideration to the following factors:

1. The economy to be effected.
2. The ease of administration.
3. The adequacy of the coverages.
4. The financial position of the carrier, with special emphasis as to its solvency.
5. The reputation of the carrier and any other information that is available tending to show past experience with the carrier in matters of claim settlement, underwriting, and services.

The board may reject any or all bids and, in the event it does so, shall again solicit bids as provided in this section. The board may establish a plan of self-insurance for providing health insurance benefits coverage only under an administrative services only (ASO) contract or a third-party administrator (TPA) contract.

**SECTION 3. 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 plan for hospital and medical benefits coverage.**

1. The board may establish a self-insurance plan for providing ~~health~~:
  - a. Health insurance benefits coverage;
  - b. Health insurance benefits coverage excluding all or part of prescription drug coverage; or
  - c. All or part of prescription drug coverage.
2. Any self-insurance plan 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, and may be established only if it is determined by the board that an administrative services only or third-party administrator plan is less costly than the lowest bid submitted by a carrier for underwriting the plan with equivalent contract benefits. Upon establishing a self-insurance plan, the board shall solicit bids for an administrative services only or third-party administrator contract only every other biennium, and the board is authorized to renegotiate an existing administrative services only or third-party administrator contract during the interim. In addition, individual stop-loss coverage insured by a carrier authorized to do business in this state must be made part of any self-insured plan. All bids under this section are due no later than January first, and must be awarded no later than March first, preceding the end of each biennium. All bids under this section must be opened at a public meeting of the board.

**SECTION 4. AMENDMENT.** Section 54-52.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.3. Contingency reserve fund - Continuing appropriation.**

The board shall establish under a self-insurance plan a contingency reserve fund to provide for adverse fluctuations in future charges, claims, costs, or expenses of the uniform group insurance program. The board shall determine the amount necessary to provide a balance in the contingency reserve fund ~~equal to between one and one-half months and~~ three and one-half months of claims paid based on the average monthly claims paid during the twelve-month period immediately preceding March first of each year. The board also shall determine the amount necessary to provide an additional balance in the contingency reserve fund between one month and one and one-half months for claims incurred but not yet reported. The board may arrange for the services of an actuarial consultant to assist the board in making ~~the determination~~ these determinations. Upon the initial changeover from a contract for insurance pursuant to section 54-52.1-04 to a self-insurance plan pursuant to section 54-52.1-04.2, the board must have a plan in place which is reasonably calculated to meet the funding requirements of this chapter within sixty months. All moneys in the contingency reserve fund, not otherwise appropriated, are appropriated for the payment of claims and other costs of the uniform group insurance program during periods of adverse claims or cost fluctuations.

Approved April 20, 2011  
Filed April 20, 2011

## CHAPTER 434

### HOUSE BILL NO. 1364

(Representative Carlson)

AN ACT to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to the creation of a high-deductible health plan with a health savings account; and to provide an appropriation.

#### 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:

#### **High-deductible health plan alternative with health savings account option.**

The board shall develop and implement a high-deductible health plan with a health savings account as an alternative to the plan under section 54-52.1-06. The high-deductible health plan alternative must be made available to state employees by January 1, 2012, and may be offered, at the discretion of the board, to political subdivisions after June 30, 2013. Health savings account fees must be paid by the employer. The difference between the cost of the single and family premium for eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee. For political subdivision employees, the board shall deposit into a health savings account for the benefit of the participating political subdivision employee, an amount equal to the difference between the primary plan premium as established by the board and the premium for the high-deductible health plan under this section. Each new employee of a participating employer under this section must be provided the opportunity to elect the high-deductible health plan. At least once each biennium, the board shall have an open enrollment period allowing existing employees of a participating employer under this section to change their coverage.

**SECTION 2. APPROPRIATION.** There is appropriated out of any funds received under chapter 54-52.1, not otherwise appropriated, the sum of \$91,000, or so much of the sum as may be necessary, to the public employees retirement system board for the purpose of implementing section 1 of this Act, for the biennium beginning July 1, 2011, and ending June 30, 2013.

Approved April 19, 2011  
Filed April 20, 2011

## CHAPTER 435

### SENATE BILL NO. 2213

(Senators Nething, Oehlke, Schneider)  
(Representatives N. Johnson, Karls, Kretschmar)

AN ACT to amend and reenact section 54-52.4-03 of the North Dakota Century Code, relating to family medical leave for state employees; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 54-52.4-03 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52.4-03. Use of other available leave for care of parent, spouse, or child.**

An employer that provides leave for its employees for illnesses or other medical or health reasons shall grant an employee's request to use that leave to care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition. An employee may take ~~not more than fortyeight~~ hours of leave under this section in any twelve-month period and, upon approval of the employee's supervisor and pursuant to rules adopted by the director of the office of management and budget, the employee may take, in any twelve-month period, up to an additional ten percent of the employee's accrued sick leave to care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition. The employer shall compensate the employee for leave used by the employee under this section on the same basis as the employee would be compensated if the leave had been taken due to the employee's own illness.

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

Approved April 26, 2011  
Filed April 26, 2011

## CHAPTER 436

### HOUSE BILL NO. 1200

(Representatives Brandenburg, Boe)  
(Senators Klein, Wardner)

AN ACT to amend and reenact section 54-53-02 of the North Dakota Century Code, relating to members of the advisory transportation council to the upper great plains transportation institute.

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

**SECTION 1. AMENDMENT.** Section 54-53-02 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-53-02. Advisory transportation council - Composition.**

1. There is established a transportation council that shall serve in an advisory capacity to the upper great plains transportation institute. The director of the institute shall serve as the executive secretary of the council. The council shall elect its own chairman. The council membership consists of one representative from and appointed by the following:
  1. a. The North Dakota chamber of commerce.
  2. b. The North Dakota public service commission.
  3. ~~The North Dakota farm bureau.~~
  4. c. The North Dakota farmers union.
  5. d. The North Dakota grain growers association.
  6. e. The North Dakota wheat commission.
  7. f. The North Dakota department of commerce.
  8. g. The North Dakota grain dealers association.
  9. h. The North Dakota motor carriers association.
  10. i. The North Dakota aeronautics commission.
  11. j. The North Dakota department of transportation.
  12. k. The North Dakota department of agriculture.
  13. l. The associated general contractors of North Dakota.
  14. m. The North Dakota railway industry, appointed by the council.

- ~~15.~~ n. The North Dakota primary sector of manufacturing, appointed by the council.
- ~~16.~~ o. The North Dakota association of counties.
- ~~17.~~ p. The North Dakota league of cities.
- ~~18.~~ q. The lignite energy council.
- ~~19.~~ r. A North Dakota member of the dakota transit association.
- s. The North Dakota corn council.
2. Members of the council shall serve without pay, but they may receive reimbursement for actual and necessary expenses incurred in the performance of their duties, if authorized by the director.
3. The council shall consult with the institute in matters of policy affecting the administration of this chapter and in the development of transportation in the state of North Dakota. The council shall meet at the call of the chairman or director or upon the written request of three or more members of the council.

Approved April 11, 2011  
Filed April 11, 2011

## CHAPTER 437

### HOUSE BILL NO. 1240

(Representative Kretschmar)

AN ACT to amend and reenact section 54-55-01 of the North Dakota Century Code, relating to the qualifications of members of the commission on uniform state laws.

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

**SECTION 1. AMENDMENT.** Section 54-55-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-55-01. Commission on uniform state laws - Membership.**

The commission on uniform state laws consists of an individual engaged in the practice of law in this state, the dean or a full-time member of the faculty of the law school of the university of North Dakota, a law-trained judge of a court of record in this state, a member of the house of representatives and a member of the senate of the legislative assembly, and a member of the legislative council. The commission also consists of any residents of this state who, because of long service in the cause of uniformity of state legislation, have been elected life members of the national conference of commissioners on uniform state laws, and may also consist of any residents of this state who have been previously appointed to at least five years of service on the commission. ~~Commissioners, except~~ Except for the members of the legislative assembly, the member of the legislative council, and life members, commissioners first appointed after July 21, 2011, must be residents of the state. must be appointed by the governor for terms of four years each, commencing on the first day of September following each presidential election, and shall serve until their respective successors are appointed. The members of the legislative assembly on the commission must be appointed by the legislative management for a term not to exceed four years as prescribed by the legislative management, and the member of the legislative council must be appointed by the chairman of the legislative management.

Approved March 29, 2011

Filed March 29, 2011

## CHAPTER 438

### SENATE BILL NO. 2037

(Legislative Management)  
(Information Technology Committee)

AN ACT to create and enact four new sections to chapter 54-59 of the North Dakota Century Code, relating to the confidentiality of health information under the health information exchange and participation in the health information exchange; to amend and reenact sections 23-06.5-19, 54-59-25, and 54-59-26 of the North Dakota Century Code, relating to health information technology; to provide a penalty; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 23-06.5-19 of the North Dakota Century Code is amended and reenacted as follows:

##### **23-06.5-19. Health care record registry - Fees.**

1. As used in this section:
  - a. "Health care record" means a health care directive or a revocation of a health care directive executed in accordance with this chapter.
  - b. "Registration form" means a form prescribed by the ~~secretary of state~~information technology department to facilitate the filing of a health care record.
2. a. The ~~secretary of state~~information technology department may establish and maintain a health care record registry, through which a health care record may be filed. The registry must be accessible through a website maintained by the ~~secretary of state~~information technology department.
  - b. An individual who is the subject of a health care record, or that individual's agent, may submit to the ~~secretary of state~~information technology department for registration, using a registration form, a health care record executed in accordance with this chapter.
3. Failure to register a health care record with the ~~secretary of state~~information technology department under this section does not affect the validity of the health care record. Failure to notify the ~~secretary of state~~information technology department of the revocation of a health care record filed under this section does not affect the validity of a revocation that otherwise meets the statutory requirements for revocation.
4. a. Upon receipt of a health care record and completed registration form, the ~~secretary of state~~information technology department shall create a digital reproduction of the health care record, enter the reproduced health care record into the health care record registry database, and assign each registration a unique file number. The ~~secretary of state~~information technology department is not required to review a health care record to

- ensure the health care record complies with any particular statutory requirements that may apply to the health care record.
- b. ~~The secretary of state~~information technology department shall delete a health care record filed with the registry under this section upon receipt of a revocation of the health care record along with that document's file number.
  - c. The entry of a health care record under this section does not affect or otherwise create a presumption regarding the validity of the health care record or the accuracy of the information contained in the health care record.
5. a. The registry must be accessible by entering the file number and password on the internet website. Registration forms, file numbers, and other information maintained by the ~~secretary of state~~information technology department under this section are confidential and the state may not disclose this information to any person other than the subject of the document, or the subject's agent. The ~~secretary of state~~information technology department may not use information contained in the registry except as provided under this chapter.
- b. At the request of the subject of the health care record, or the subject's agent, the ~~secretary of state~~information technology department may transmit the information received regarding the health care record to the registry system of another jurisdiction as identified by the requester.
- c. This section does not require a health care provider to seek to access registry information about whether a patient has executed a health care record that may be registered under this section. A health care provider who makes good-faith health care decisions in reliance on the provisions of an apparently genuine health care record received from the registry is immune from criminal and civil liability to the same extent and under the same conditions as prescribed in section 23-06.5-12. This section does not affect the duty of a health care provider to provide information to a patient regarding health care directives as may be required under federal law.
6. ~~The secretary of state may accept a gift, grant, donation, bequest, or other form of voluntary contribution to establish, support, promote, and maintain the registry. Any funds contributed under this subsection and any fees collected under this section must be deposited in the secretary of state's general services operating fund. The secretary of state shall~~information technology department may charge and collect a reasonable fee for filing a health care record and a revocation of a health care record.

**SECTION 2. AMENDMENT.** Section 54-59-25 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-25. Health information technology advisory committee - Duties.**

1. The health information technology advisory committee consists of the state chief information officer or the chief information officer's designee, the state health officer or the state health officer's designee, the governor or the governor's designee, the executive director of the department of human services or the executive director's designee, the chairman of the house

human services committee and the chairman of the senate human services committee or if either or both of them are unwilling or unable to serve then the chairman of the legislative management shall appoint a replacement who is a member of the same legislative chamber as the individual being replaced, and individuals appointed by the governor and the state health officer to represent a broad range of public and private health information technology stakeholders.

2. The health information technology advisory committee shall collaborate with and make recommendations to the health information technology office, as provided under sections 6-09-42, 6-09-43, 54-59-26, and 54-59-27.
3. As requested by the health information technology advisory committee, the department shall provide or arrange for administrative services to assist the health information technology advisory committee.
4. The health information technology advisory committee may employ an executive director who serves at the pleasure of and under the direct supervision of the health information technology advisory committee. The executive director may employ personnel as necessary for the administration of this section.
5. The health information technology advisory committee may accept private contributions, gifts, and grants from any source to carry out the purposes of the committee and the health information technology office.

**SECTION 3. AMENDMENT.** Section 54-59-26 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-26. Health information technology office - Duties - Loan and grant programs.**

1. The health information technology office is created in the department. The health information technology advisory committee shall make recommendations to the health information technology office for implementing a statewide interoperable health information infrastructure that is consistent with emerging national standards; promote the adoption and use of electronic health records and other health information technologies; and promote interoperability of health information systems for the purpose of improving health care quality, patient safety, and the overall efficiency of health care and public health services.
2. The health information technology office director, in collaboration with the health information technology advisory committee, shall:
  - a. Apply for federal funds that may be available to assist the state and health care providers in implementing and improving health information technology.
  - b. Implement and administer a health information exchange that utilizes information infrastructure and systems in a secure and cost-effective manner to facilitate the collection, storage, and transmission of health records.

- c. Adopt rules under chapter 28-32 for the use of health information, use of the health information exchange, and participation in the health information exchange.
  - d. Adopt rules under chapter 28-32 for accessing the health information exchange to ensure appropriate and required privacy and security protections and relating to the authority of the director to suspend, eliminate, or terminate the right to participate in the health information exchange.
  - e. Establish a health information technology loan program to provide loans to health care providers for the purpose of purchasing and upgrading certified electronic health record technology, training personnel in the use of such technology, and improving the secure electronic exchange of health information, and for any other purpose under section 6-09-42.
  - e-f. Establish a health information technology planning loan program to provide low-interest loans to health care entities to assist those entities in improving their health information technology infrastructure under section 6-09-43.
  - e-g. Facilitate and expand electronic health information exchange in the state, directly or by awarding grants.
  - e-h. Establish an application process and eligibility criteria for and accept and process applications for loans and grants under subdivisions e, e-f, and e-g. The eligibility criteria must be consistent with federal requirements associated with federal funds received under subdivision a. The eligibility criteria for loans under subdivision e-f must include a requirement that the recipient's approved health information technology be strategically aligned with the state's health information technology plan and the associated federal standards and that the recipient has passed an onsite electronic medical record readiness assessment conducted by an assessment team determined by the health information technology advisory committee and the health information technology office director.
  - i. Determine fees and charges for access and participation in the health information exchange. Any moneys collected under this subdivision must be deposited in the electronic health information exchange fund.
  - j. Consult and coordinate with the state department of health and the department of human services to facilitate the collection of health information from health care providers and state agencies for public health purposes, including identifiable health information that may be used by state agencies, departments, or institutions to comply with applicable state or federal laws.
3. If the health information technology advisory committee determines that establishing a health information exchange with another state or states will assist in providing health information exchange services in a cost-effective manner, the health information technology office director, in collaboration with the health information technology advisory committee, may join with another state or states to establish, implement, and administer a health information exchange consistent with other provisions of this chapter.

**SECTION 4.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

**Participation in the health information exchange by executive branch state agencies and institutions of higher education.**

1. Before January 1, 2015, each executive branch state agency and each institution of higher education that implements, acquires, or upgrades health information technology systems shall use health information technology systems and products that meet minimum standards adopted by the health information technology office for accessing the health information exchange. A state agency or institution of higher education that participates in or has health information that supports or develops the health information exchange shall provide access to patient-specific data to complete the patient record within the health information exchange. Notwithstanding any other provision of law, each participating agency and institution shall provide patient-specific data to the health information exchange.
2. Participation in the health information exchange by a state agency or institution has no effect on the content, use, or disclosure of health information of patient participants which is held in locations other than the exchange. This section does not limit or change the obligation of an agency or institution to exchange health information in accordance with other applicable federal and state laws or rules.

**SECTION 5.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

**Health information exchange - Confidential records.**

Any individually identifiable health information, as defined under the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191], submitted to, stored in, or transmitted by the health information exchange under chapter 54-59 and any such data or record in the possession of the health information technology office is confidential. Any other information relating to patients, individuals, or individually identifiable demographic information contained in a master client index submitted to, stored in or transmitted by the health information exchange or in the possession of the health information technology office is an exempt record.

**SECTION 6.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

**Immunity for reliance on data from the health information exchange.**

A health care provider that relies in good faith upon any information provided through the health information exchange in the treatment of a patient is immune from criminal or civil liability arising from any damages caused by that good-faith reliance. The immunity granted under this section does not apply to acts or omissions constituting gross negligence or reckless, wanton, or intentional misconduct.

**SECTION 7.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

**Certified electronic health records systems.**

An executive branch state agency, an institution of higher education, and any health care provider or other person participating in the health information exchange may use only an electronic health record system for use in the exchange which is certified under rules adopted by the office of the national coordinator for health information technology.

**SECTION 8. EFFECTIVE DATE.** Section 7 of this Act becomes effective on January 1, 2015.

Approved April 25, 2011  
Filed April 25, 2011

## CHAPTER 439

### HOUSE BILL NO. 1122

(Industry, Business and Labor Committee)  
(At the request of the Department of Commerce)

AN ACT to amend and reenact sections 54-34.4-03, 54-44.5-04, 54-60-02, 54-60-04, 54-60-16, and 54-60-25 of the North Dakota Century Code, relating to the state tourism policy, division of community services, department of commerce, North Dakota economic development foundation, North Dakota international business and trade office, and North Dakota rural development council; to repeal sections 4-14.1-01.1 and 54-34.3-12 of the North Dakota Century Code, relating to the definition of eligible facility and the value-added agriculture promotion board; to provide an effective date; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 54-34.4-03 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-34.4-03. State tourism policy.**

1. The legislative assembly declares that:

- a. This state is endowed with scenic beauty, historical sites, cultural resources, local festivals, attractions, recreational facilities, and a population whose ethnic diversity and traditions are attractive to visitors;
- ~~b. These human and physical resources should be preserved and nurtured, not only because they are appreciated by other Americans and by visitors from other lands, but because they are valued by the state's residents;~~
- ~~e.~~ Tourism contributes to economic well-being by creating job opportunities, generating revenues for local businesses, and creating new wealth in the economy;
- ~~d.~~ Tourism is an educational and informational medium for personal growth which informs residents about their state's geography and history, their political institutions, their cultural resources, their environment, and about each other;
- ~~e-c.~~ Tourism instills state pride and a sense of common interest among the state's residents;
- ~~f-d.~~ Tourism enhances the quality of life and well-being of the state's residents by affording opportunities for recreation, new experiences, and relief from job stress;
- ~~g-e.~~ Tourism advertising and marketing improves the image of North Dakota and helps educate and create awareness among residents and visitors alike;

- ~~h.f.~~ Tourism promotes international understanding and good will, and contributes to intercultural appreciation;
  - ~~i.~~ Tourism engenders appreciation of the state's cultural, architectural, technological, agricultural, and industrial achievements and is helpful in attracting new residents;
  - ~~j.~~ The development and promotion of tourism to and within the state is in the interest of the people of this state;
  - ~~k.~~ Tourism should develop in an orderly manner in order to provide the maximum benefit to the state and its residents;
  - ~~l.g.~~ The development of a strong and competitive state visitor industry depends upon the availability of trained personnel, necessary infrastructure, and a receptive climate for tourism investment; and
  - ~~m.h.~~ A comprehensive tourism policy is essential if tourism in the state is to grow in an orderly manner.
2. The legislative assembly declares it is the policy of this state to:
- a. ~~Encourage~~Promote and encourage the orderly growth and development of tourism to, and within, the state;
  - b. ~~Promote the availability of public tourism training to increase the skills and productivity of the tourism labor force and to broaden access to employment opportunities and the visitor industry;~~
  - e. ~~Encourage a healthy competitiveness in the visitor industry;~~
  - ~~d.~~ Promote the availability of reliable public highways and transport services between the state's principal tourism destinations and the main tourism generating markets;
  - e. ~~Expand off-season tourism to the state and thereby increase the productivity of the accommodation sector and reduce seasonal layoffs within the visitor and visitor-related industries;~~
  - ~~f.c.~~ Promote a sense of history in the state's young people by encouraging family visits to state historic sites, and promoting the preservation and restoration of historic sites, trails, buildings, and districts;
  - ~~g.d.~~ Promote the mental, emotional, and physical well-being of the American people by encouraging outdoor recreational activities within the state;
  - ~~h.~~ Encourage the talents and strengthen the economic independence of the state's residents by encouraging the preservation of traditional craft skills, the production of handicrafts and native and folk art by private artisans and crafts people, and the holding of craft demonstrations;
  - i. Encourage an optimum of satisfaction and high quality service to visitors;
  - ~~j.~~ Promote a tourist environment that respects our visitors' rights as consumers;

- ~~k.~~ ~~Afford visitors and residents the best possible conditions of public sanitation;~~
- ~~l.e.~~ Facilitate tourism to, and within, the state by developing an essential tourism infrastructure, providing investment incentives to tourism businesses, and encouraging city and county officials to plan for tourism needs and capitalize on local tourism resources;
- ~~m.~~ ~~Promote a better understanding among the state's residents of the social and economic importance of tourism through appropriate formal and informal learning experiences about tourism, and foster among all citizens the capacity for courtesy to visitors;~~
- ~~n.f.~~ Encourage the holding of conventions, trade shows, and expositions throughout the state;
- ~~o.~~ ~~Promote tourism in a manner that fosters visitors' understanding and respect for native and religious beliefs, customs, and ethnic traditions of the state's residents;~~
- ~~p.~~ ~~Monitor tourist impact on the basic human rights of the state's residents and ensure equal access by visitors and residents to public recreational resources;~~
- ~~q.g.~~ Take measures to protect wildlife and natural resources in the preservation of geological, archaeological, and cultural treasures in tourist areas;
- ~~r.h.~~ Encourage, assist, and coordinate when possible the tourism activities of local and area promotional organizations and tribes; ~~and~~
- ~~i.~~ Provide hospitality training opportunities for frontline employees and provide resources to law enforcement personnel, border security, transportation security administration officials, and all state employees to assist, whenever possible, the tourism industry in helping visitors enjoy their North Dakota experience; and
- ~~s.j.~~ Ensure that the tourism interest of the state is considered fully by state agencies and the legislative assembly in their deliberations; and harmonize to the maximum extent possible, all state activities in support of tourism with the needs of the general public, the political subdivisions of the state, and the visitor industry.

**SECTION 2. AMENDMENT.** Section 54-44.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.5-04. Division of community services - Powers and duties.**

The division of community services shall:

1. Provide relevant information on pertinent topics and issues which relate to public policy development, interpretation, modification, and implementation.
2. ~~Research, analyze, and recommend public policy for the office of management and budget and the executive office.~~

- ~~3.~~ ~~Coordinate public policy implementation within the state. Powers conferred upon departments, agencies, or instrumentalities of the state, counties, townships, or cities by any existing state or local law may not be derogated by this duty.~~
4. Develop state energy conservation policy and manage federal energy conservation program activities between all levels of the public and private sectors regarding the prudent and efficient use of energy resources.
- ~~5-3.~~ Develop, implement, and administer federal categorical and block grant programs assigned to the division.
- ~~6-4.~~ Advise, coordinate, and assist cities, political subdivisions, and the state in all phases of state and local planning for the physical development of the state.
- ~~7-5.~~ Render financial assistance to any government planning agency within federal law or regulation.
- ~~8-6.~~ Advise, consult, coordinate, assist, and contract with or on behalf of the various planning agencies in developing and harmonizing planning activities of the state.
- ~~9-7.~~ Implement a state facility energy improvement program.

**SECTION 3. AMENDMENT.** Section 54-60-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-60-02. Department of commerce - Divisions.**

The North Dakota department of commerce is created. ~~All records, materials, supplies, and equipment used by the division of community services, department of economic development and finance, and the department of tourism are transferred to the department.~~

1. The department must consist of:
  - a. A division of community services;
  - b. A division of economic development and finance;
  - c. A division of tourism;
  - d. A division of workforce development; and
  - e. Any division or office the commissioner determines necessary to carry out this chapter.
2. The commissioner shall appoint the director of each division of the department. Each director appointed by the commissioner serves at the pleasure of the commissioner and is entitled to receive a salary set by the commissioner within the limits of legislative appropriations.

**SECTION 4. AMENDMENT.** Section 54-60-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-60-04. North Dakota economic development foundation - Executive committee - Duties.**

The North Dakota economic development foundation is created.

1. The foundation is composed of a minimum of fifteen and a maximum of thirty members appointed by the governor for two-year terms, except the governor shall appoint approximately one-half of the initial foundation members to one-year terms in order to initiate a cycle of staggered terms. Appointment of the foundation members must ensure a cross section of business, tourism, and economic development representation, and must ensure that at least one member represents rural concerns.
2. The foundation members shall elect an executive committee with a minimum of five and a maximum of seven foundation members, which shall include a chairman, vice chairman, secretary, treasurer, and up to three members at large.
3. The foundation shall seek funding for administrative expenses from private sector sources and shall seek and distribute private sector funds for use in commerce-related activities of the state. The private sector funds are not public moneys for any purpose and are not subject to section 12 of article X of the Constitution of North Dakota.
4. The foundation shall:
  - a. Provide the governor advice and counsel in selecting the commissioner.
  - b. Serve in an advisory role to the commissioner.
  - c. Develop a strategic plan for economic development in the state and set accountability standards, measurements, and benchmarks to evaluate the effectiveness of the department in implementing the strategic plan.
  - d. ~~Develop a strategic plan for the development of value-added agriculture in the state.~~
  - e. Monitor ~~tourism and~~ economic development activities and initiatives of the department.
  - ~~f. e.~~ Recommend state and federal legislation relating to strengthening the state's economy and increasing the state's population.
  - ~~g. f.~~ Monitor state and federal legislation and initiatives that may impact the state's economy and population.
  - ~~h. g.~~ Serve as a source of expertise for developing public and private initiatives to strengthen the state's economy and increase the state's population.

**SECTION 5. AMENDMENT.** Section 54-60-16 of the North Dakota Century Code is amended and reenacted as follows:

**54-60-16. (Effective through June 30, 2011) International business and trade office - Advisory board.**

1. The commissioner shall administer the international business and trade office. The purpose of the office is to assist North Dakota businesses expand exports to international markets by:
  - a. Advocating for exporters;
  - b. Offering export educational opportunities to North Dakota businesses;
  - c. Researching and raising awareness of export opportunities, issues, and challenges impacting North Dakota businesses;
  - d. Assisting North Dakota businesses in identifying, developing, and cultivating international markets for products; and
  - e. Organizing and carrying out trade missions that seek to facilitate contact and communication between North Dakota businesses and international markets.
2. The commissioner may designate a nonprofit corporation incorporated in this state that has the primary purpose of assisting North Dakota exporters or contract with a third party for the provision of services for the international business and trade office. If the commissioner designates a nonprofit corporation or contracts with a third party under this subsection, all data and data bases collected and created by the third party in performing services for the office are the property of the department and the third party.
3. The department may seek and accept any gift, grant, or donation of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the international business and trade office.
4. The commissioner may establish an international business and trade office advisory board with which the director may consult in administering the international business and trade office. Each member of the advisory board created under this subsection is entitled to receive per diem compensation at a rate established by the director not exceeding sixty-two dollars and fifty cents and reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directly related to board membership, except that per diem compensation under this section may not be paid to any member who receives compensation or salary as a regular state employee or official.

**~~(Effective after June 30, 2011) International business and trade office - Advisory board.~~**

- ~~1. The commissioner shall administer the international business and trade office. The purpose of the office is to assist North Dakota businesses expand exports to international markets by:~~
  - ~~a. Advocating for exporters;~~
  - ~~b. Offering export educational opportunities to North Dakota businesses;~~

- ~~e. Researching and raising awareness of export opportunities, issues, and challenges impacting North Dakota businesses;~~
  - ~~d. Assisting North Dakota businesses in identifying, developing, and cultivating international markets for products; and~~
  - ~~e. Organizing and carrying out trade missions that seek to facilitate contact and communication between North Dakota businesses and international markets.~~
- ~~2. The commissioner may contract with a third party for the provision of services for the international business and trade office. If the commissioner contracts with a third party under this subsection, all data and data bases collected and created by the third party in performing services for the office are the property of the department and the third party.~~
  - ~~3. The department may seek and accept any gift, grant, or donation of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the international business and trade office.~~
  - ~~4. The commissioner may establish an international business and trade office advisory board with which the director may consult in administering the international business and trade office. Each member of the advisory board created under this subsection is entitled to receive per diem compensation at a rate established by the director not exceeding sixty-two dollars and fifty cents and reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directly related to board membership, except that per diem compensation under this section may not be paid to any member who receives compensation or salary as a regular state employee or official.~~

**SECTION 6. AMENDMENT.** Section 54-60-25 of the North Dakota Century Code is amended and reenacted as follows:

**54-60-25. North Dakota rural development council - Composition.**

The North Dakota rural development council is created.

1. The North Dakota rural development council is composed of a minimum of nine and a maximum of seventeen members. The commissioner is an ex officio voting member of the council. The governor shall appoint council members for two-year terms, except the governor shall appoint approximately one-half of the initial council members to one-year terms in order to initiate a cycle of staggered terms. Appointment of the council members must ensure representation from ~~eight~~<sup>four</sup> regions designated by the commissioner. Members of the council serve at the pleasure of the governor.
2. The council shall select its own officers who shall serve for a term of two years commencing on October first of each year.
3. The council shall have at least two meetings each year and such additional meetings as the chairman determines necessary at a time and place to be fixed by the chairman. Special meetings must be called by the chairman on written request of any four members. A simple majority of the council constitutes a quorum and may act upon any matter coming before the council.

Members of the council are entitled to reimbursement in the same manner and at the same rate provided by law for other state officials.

4. The council, in cooperation with the rural development office, shall:
  - a. Facilitate collaboration among federal, state, local, and tribal governments and the private and nonprofit sectors in the planning and implementation of programs and policies that have an impact on rural areas of the state;
  - b. Monitor, report, and comment on policies and programs that address, or fail to address, the needs of the rural areas of the state; and
  - c. Facilitate the development of strategies to reduce or eliminate conflicting or duplicative administrative or regulatory requirements of federal, state, local, and tribal governments.

**SECTION 7. REPEAL.** Sections 4-14.1-01.1 and 54-34.3-12 of the North Dakota Century Code are repealed.

**SECTION 8. EFFECTIVE DATE.** Section 5 of this Act becomes effective on July 1, 2011.

**SECTION 9. EMERGENCY.** Sections 5 and 8 of this Act are declared to be an emergency measure.

Approved March 28, 2011  
Filed March 28, 2011