

# STATE GOVERNMENT

## CHAPTER 364

### SENATE BILL NO. 2044

(Legislative Management)  
(Political Subdivision Taxation Committee)

AN ACT to create and enact a new section to chapter 6-09 and a new section to chapter 54-03 of the North Dakota Century Code, relating to dynamic fiscal impact analysis of select economic development incentives and bills introduced by the legislative assembly and the creation of a dynamic fiscal impact bill selection committee; and to provide an expiration date.

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

**SECTION 1.** A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

##### **Dynamic fiscal impact analysis.**

The Bank of North Dakota shall conduct dynamic revenue analysis of economic development tax incentives selected for review by the interim committee tasked with reviewing economic development tax incentives under section 54-35-26 and bills selected by the dynamic fiscal impact bill selection committee under section 2 of this Act.

**SECTION 2.** A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

##### **Dynamic fiscal impact bill selection committee.**

1. During the 2019 legislative session, a dynamic fiscal impact bill selection committee must be formed consisting of the following members:
  - a. The majority leader and minority leader of the house of representatives;
  - b. The majority leader and minority leader of the senate;
  - c. The chairman of the legislative management, who shall serve as chairman of the committee;
  - d. The chairman of the house finance and taxation committee; and
  - e. The chairman of the senate finance and taxation committee.
2. The committee shall review bills introduced by the sixty-sixth legislative assembly which have a fiscal impact and forward bills selected for dynamic fiscal impact analysis to the Bank of North Dakota for review pursuant to section 1 of this Act.

**SECTION 3. EXPIRATION DATE.** This Act is effective through June 30, 2019, and after that date is ineffective.

Approved March 21, 2017

Filed March 22, 2017

## CHAPTER 365

### SENATE BILL NO. 2325

(Senators Poolman, Dever)  
(Representatives Meier, Seibel)

AN ACT to create and enact a new subsection to section 54-07-01 of the North Dakota Century Code, relating to collaboration between agencies to coordinate early intervention services; and to provide for a legislative management study.

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

**SECTION 1.** A new subsection to section 54-07-01 of the North Dakota Century Code is created and enacted as follows:

Shall designate a lead agency to collaborate with other agencies to coordinate early intervention services for children from birth to age three who are at high risk for developmental delay or disability.

**SECTION 2. LEGISLATIVE MANAGEMENT STUDY - EARLY INTERVENTION SYSTEM.** During the 2017-18 interim, the legislative management shall consider studying the state's early intervention system for children from birth to age three with developmental disabilities. The study may include a historical overview of the system, funding mechanisms, including medicaid, the broader implications of how the state's system interfaces with other early childhood systems, and responsibilities for implementing federal law directing states participating in part C of the federal Individuals with Disabilities Education Act to locate and evaluate children from birth to age three. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

Approved March 29, 2017

Filed March 30, 2017

## CHAPTER 366

### SENATE BILL NO. 2302

(Senators D. Larson, Cook, Nelson)  
(Representatives Beadle, Karls, Roers Jones)

AN ACT to amend and reenact sections 12-60-05 and 12.1-29-07, subsection 1 of section 29-06-05.2, and sections 54-12-01.1 and 54-12-28 of the North Dakota Century Code, relating to appointment of ad hoc special agents, the offender education program, authority for federal law enforcement officers to make arrests, online publication of eminent domain information, and twenty-four seven program records and statistics; to repeal section 19-03.1-44 of the North Dakota Century Code, relating to a drug use status and trends report; to provide a penalty; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 12-60-05 of the North Dakota Century Code is amended and reenacted as follows:

##### **12-60-05. Attorney general - Duties - Appointment of personnel.**

The attorney general shall act as superintendent of the bureau and shall have the responsibility of and shall exercise absolute control and management of the bureau. The attorney general shall appoint and fix the salary of a chief of the bureau, such special agents, and such other employees as the attorney general deems necessary to carry out the provisions of this chapter within the limits of legislative appropriations therefor. The attorney general may appoint ad hoc special agents. Ad hoc special agents are law enforcement officers from other jurisdictions appointed for a specific law enforcement purpose and do not become full-time or part-time employees of the attorney general.

**SECTION 2. AMENDMENT.** Section 12.1-29-07 of the North Dakota Century Code is amended and reenacted as follows:

##### **12.1-29-07. ~~(Effective January 1, 2016 through July 31, 2017)~~ Offender education program.**

A sentence for an offense under section 12.1-29-06 or chapter 12.1-41 may include an order for the offender to participate in an offender education program on the negative consequences of the commercial sex industry, including health and legal consequences and the impact on communities, survivors, spouses, and children. The court may order the offender to pay the cost of the offender education program.

**SECTION 3. AMENDMENT.** Subsection 1 of section 29-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

1. "Federal agent" means an employee of the federal bureau of investigation; the federal drug enforcement administration; the bureau of alcohol, tobacco, firearms and explosives; the homeland security investigations unit of the department of homeland security; or the United States customs and border protection who is authorized to arrest, with or without a warrant, any individual

for a violation of the United States Code and carry a firearm in the performance of the employee's duties as a federal law enforcement officer.

**SECTION 4. AMENDMENT.** Section 54-12-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-12-01.1. Attorney general to ~~prepare~~publish eminent domain ~~pamphlets~~—Copy to landowner information.**

The attorney general, with the cooperation of appropriate state agencies, shall ~~prepare pamphlets in readable format~~publish online information describing the eminent domain laws of this state. The ~~pamphlets~~information must include the reasons for condemnation, the procedures followed by condemnors as defined by section 32-15-01, how citizens may influence the condemnation process, and the rights of property owners and citizens affected by condemnation. ~~The attorney general shall make copies of the pamphlets available to all condemnors who must be charged a price for the pamphlets sufficient to recover the costs of production.~~ A condemnor shall ~~present a copy of the pamphlet to~~notify a property owner ~~prior to~~of the available online information before making an offer to purchase and initiating a condemnation action.

**SECTION 5. AMENDMENT.** Section 54-12-28 of the North Dakota Century Code is amended and reenacted as follows:

**54-12-28. Twenty-four seven sobriety program guidelines ~~and~~, program fees, and records.**

1. The attorney general, in cooperation with law enforcement, the judiciary, the department of corrections and rehabilitation, and the traffic safety division of the department of transportation, may develop guidelines, policies, and procedures to administer the twenty-four seven sobriety program and to test offenders to enforce compliance with the sobriety program, including sobriety testing twice per day seven days per week, electronic monitoring, including home surveillance and remote electronic alcohol monitoring, urine testing and drug patch testing, and to establish program fees, all of which are not subject to chapter 28-32.
2. To assist in monitoring the status of the twenty-four seven sobriety program, the attorney general may gather program records and statistics. Agencies or companies participating in the twenty-four seven program shall provide record and statistic information requested by the attorney general within thirty days of the request.

**SECTION 6. REPEAL.** Section 19-03.1-44 of the North Dakota Century Code is repealed.

**SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure.

Approved February 23, 2017

Filed February 23, 2017

## CHAPTER 367

### SENATE BILL NO. 2290

(Senators Luick, Nelson)  
(Representatives Maragos, Hanson)

AN ACT to amend and reenact section 54-12-33 of the North Dakota Century Code, relating to the authority of the human trafficking commission; and to provide for a report.

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

**SECTION 1. AMENDMENT.** Section 54-12-33 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-12-33. Human trafficking commission.**

1. The attorney general may establish a human trafficking commission, comprised of designees from state, local, and tribal agencies which have contact with victims or perpetrators, nongovernmental organizations that represent or work with victims, and other organizations and individuals, including victims, whose expertise would benefit the commission. The attorney general may establish the commission by appointing an existing statewide coalition.
2. The commission shall:
  - a. ~~Develop a coordinated and comprehensive plan to provide victims with services;~~
  - b. Collect and evaluate data on human trafficking in this state and submit an annual report to the attorney general, governor, and legislature~~legislative assembly~~;
  - e-b. Promote public awareness about human trafficking, victim remedies and services, and trafficking prevention;
  - d. ~~Create a public awareness sign that contains the national human trafficking resource center hotline information, and any state or local hotlines that the coalition deems appropriate;~~
  - e. ~~Coordinate~~
  - c. Promote training on human trafficking prevention and victim services for state and local employees who may have recurring contact with victims or perpetrators;
  - f. ~~Coordinate~~
  - d. Promote training on human trafficking investigation and prosecution with the North Dakota state's attorney's association, the North Dakota peace

officers standards and training board, and state and local law enforcement agencies; and

~~g-e.~~ Conduct other appropriate activities.

Approved March 29, 2017

Filed March 30, 2017

## CHAPTER 368

### SENATE BILL NO. 2272

(Senators Schaible, Rust)  
(Representatives Monson, Nathe, Owens)

AN ACT to create and enact a new section to chapter 54-27 of the North Dakota Century Code, relating to definitions for the foundation aid stabilization fund; to amend and reenact sections 15.1-36-01, 15.1-36-02, 15.1-36-06, and 15.1-36-08, subsection 7 of section 21-03-07, section 54-44.1-12, and subsection 1 of section 57-62-02 of the North Dakota Century Code, relating to school construction loans from the coal development trust fund and the school construction assistance revolving loan fund, control of the rate of expenditures, and the transfer of interest from the coal development trust fund; to repeal sections 9 and 10 of chapter 153 of the 2015 Session Laws and sections 15-10-60, 15.1-27-46, 15.1-36-02.1, 15.1-36-03, 15.1-36-06, and 15.1-36-07 of the North Dakota Century Code, relating to the scholarship endowment fund, the uses of the foundation aid stabilization fund, and school construction loans; to provide an expiration date; to provide contingent transfers; to provide transfers; to provide an appropriation; to provide an effective date; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 15.1-36-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **15.1-36-01. School construction projects - Approval.**

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred fifty thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
  - a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district;
  - b. (1) Demonstrates that the student population has been stable or has increased during the preceding five school years and is expected to be stable or to increase during the ensuing five school years; or  
(2) Demonstrates by clear and convincing evidence that, despite a declining student population, there are no feasible alternatives to the proposed project; and
  - c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.

3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
  - (1) The need for the project;
  - (2) The educational utility of the project;
  - (3) The potential use of the project by a future reorganized school district;
  - (4) The capacity of the district to pay for the project; and
  - (5) Any other objective factors relative to the appeal.
- b. The decision of the state board is final.
4. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701e-3 or in accordance with moneys received under the American Recovery and Reinvestment Act of 2009.
5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.

**SECTION 2. AMENDMENT.** Section 15.1-36-02 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-36-02. Coal development trust fund - Board of university and school lands - School construction projects - Unanticipated construction projects and emergency repairs - Loans.**

1. ~~In order to provide school construction loans, the board of university and school lands may authorize the use of:~~
  - a. ~~Fifty million dollars, or so much of that amount as may be necessary, from the coal development trust fund, established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02; and~~
  - b. ~~One hundred fifty million dollars from the strategic investment and improvements fund, established pursuant to section 15-08-1-08, for the period ending June 30, 2015. Up to sixty million dollars from the coal development trust fund is available to the board of university and school lands for loans under this section.~~
2. ~~In order to~~To be eligible for a loan under this section, the school district must demonstrate a need based on an unanticipated construction project, an unanticipated replacement project, or an emergency repair, and the board of a school district shall:
  - a. ~~Propose a construction project with a cost of at least one million dollars and an expected utilization of at least thirty years;~~

- b. Obtain the approval of the superintendent of public instruction for the construction project under section 15.1-36-01; and
  - e-b. Submit to the superintendent of public instruction an application containing all information deemed necessary by the superintendent, including potential alternative sources or methods of financing the construction project.
3. ~~If an eligible school district's taxable valuation per student is less than eighty percent of the state average taxable valuation per student, the district is entitled to receive:~~
    - a. ~~A school construction loan equal to the lesser of twenty million dollars or ninety percent of the actual project cost;~~
    - b. ~~An interest rate discount equal to at least one hundred but not more than four hundred basis points below the prevailing tax-free bond rates; and~~
    - c. ~~A term of repayment that may extend up to twenty years.~~
  4. ~~If an eligible school district's taxable valuation per student is equal to at least eighty percent but less than ninety percent of the state average taxable valuation per student, the district is entitled to receive:~~
    - a. ~~A school construction loan equal to the lesser of fifteen million dollars or eighty percent of the actual project cost;~~
    - b. ~~An interest rate buydown equal to at least one hundred but not more than three hundred fifty basis points below the prevailing tax-free bond rates; and~~
    - c. ~~A term of repayment that may extend up to twenty years.~~
  5. ~~If an eligible school district's taxable valuation per student is equal to at least ninety percent of the state average taxable valuation per student, the district is entitled to receive:~~
    - a. ~~A school construction loan equal to the lesser of ten million dollars or seventy percent of the actual project cost;~~
    - b. ~~An interest rate discount equal to at least one hundred but not more than three hundred basis points below the prevailing tax-free bond rates; and~~
    - c. ~~A term of repayment that may extend up to twenty years.~~
  6. ~~The board of a school district may submit its loan application to the superintendent of public instruction before or after receiving authorization of a bond issue in accordance with chapter 21-03. If the vote to authorize a bond issue precedes the application for a loan, the application must be acted upon by the superintendent expeditiously but no later than one hundred eighty days from the date it is received by the superintendent.~~
  7. The superintendent of public instruction shall consider each loan application in the order it received approval under section 15.1-36-01.

~~8-4.~~ If the superintendent of public instruction approves the loan, the superintendent may determine the loan amount, the term of the loan, and the interest rate, in accordance with the requirements of this section. A school district's interest rate may not be less than one percent, regardless of any rate discount for which the district might otherwise qualify under this section. the board of university and school lands shall issue a loan from the coal development trust fund. For a loan made under this section:

- a. The minimum loan amount is two hundred fifty thousand dollars and the maximum loan amount for which a school district may qualify is two million dollars;
- b. The term of the loan is twenty years, unless the board of the school district requests a shorter term in the written loan application; and
- c. The interest rate of the loan may not exceed two percent per year.

~~9-5.~~ a. If a school district seeking a loan under this section received an allocation of the oil and gas gross production tax during the previous fiscal year in accordance with chapter 57-51, the board of the district shall provide to the board of university and school lands, and to the state treasurer, its evidence of indebtedness indicating that the loan originated under this section.

- b. If the evidence of indebtedness is payable solely from the school district's allocation of the oil and gas gross production tax in accordance with section 57-51-15, the loan does not constitute a general obligation of the school district and may not be considered a debt of the district.
- c. If a loan made to a school district is payable solely from the district's allocation of the oil and gas gross production tax in accordance with section 57-51-15, the terms of the loan must require that the state treasurer withhold the dollar amount or percentage specified in the loan agreement, from each of the district's oil and gas gross production tax allocations, in order to repay the principal and interest of the evidence of indebtedness. The state treasurer shall deposit the amount withheld into the fund from which the loan originated.
- d. Any evidence of indebtedness executed by the board of a school district under this subsection is a negotiable instrument and not subject to taxation by the state or any political subdivision of the state.

~~10-6.~~ For purposes of this section, a "construction project" means the purchase, lease, erection, or improvement of any structure or facility by a school board, provided the acquisition or activity is within a school board's authority.

<sup>186</sup> **SECTION 3. AMENDMENT.** Section 15.1-36-06 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-36-06. School construction loans - Bank of North Dakota.**

- 1. In addition to any construction loans made available under section 15.1-36-02, the Bank of North Dakota may provide up to two hundred fifty million dollars to

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<sup>186</sup> Section 15.1-36-06 was repealed by section 10 of Senate Bill No. 2272, chapter 368.

eligible school districts for school construction loans, except that the total of all loans provided under this section during the first year of the 2015-17 biennium may not exceed fifty percent of the total amount authorized under this subsection until June 30, 2017. After June 30, 2017, no new loans may be provided under this section.

2. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
  - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c.
    - (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
    - (2) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to an acre of cropland and to an acre of noncropland, of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
    - (3) Publish in the official newspaper of the district the information from the statements required by this subdivision with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and
    - (4) Post on the school district's website the information from the statements preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;
  - d. Receive authorization for a bond issue in accordance with chapter 21-03; and
  - e. Submit a completed application to the Bank of North Dakota.
3. With the advice and consent of the superintendent of public instruction, the Bank of North Dakota shall award the loans in accordance with a prioritization system that is based on a review of all applications filed during the twelve-month period preceding April first and gives consideration to:
  - a. Student occupancy and academic needs in the district;
  - b. The age of existing structures to be replaced or remodeled;
  - c. Building design proposals that are based on safety and vulnerability assessments;
  - d. Community support;

- e. Cost; and
  - f. Any other criteria established in rule by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.
4. The term of a loan under this section is twenty years, unless a shorter term is requested by the board of a school district in its application.
  5. The interest rate on a loan under this section may not exceed two percent, until July 1, 2025. Thereafter, the interest rate on the remainder of a loan under this section:
    - a. May not exceed the Bank of North Dakota's base rate; or
    - b. May be a fixed rate.
  6. If a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation set forth under section 15.1-27-35.3, the loan amount to which that district is entitled under this section may not exceed eighty percent of the project's cost.
  7. The maximum loan amount to which a school district is entitled under this section is twenty million dollars.

**SECTION 4. AMENDMENT.** Section 15.1-36-08 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-36-08. School construction assistance revolving loan fund - Bank of North Dakota - School construction projects - Continuing appropriation.**

1. The school construction assistance revolving loan fund is a special revolving loan fund ~~in the state treasury administered by the Bank of North Dakota.~~ The fund consists of:
  - a. ~~All~~ all moneys appropriated or transferred to the fund by the legislative assembly;
  - b. ~~One hundred fifty million dollars from the strategic investment and improvements fund, which had been allocated by the sixty-third legislative assembly for school construction loans in accordance with section 15.1-36-02; and~~
  - e. ~~All~~ all interest or other earnings of the fund, and all repayments of loans made from the fund.
2. Moneys in the fund, interest upon the moneys in the fund, and payments to the fund of principal and interest are appropriated to the Bank of North Dakota on a continuing basis for the purpose of providing low-interest school construction loans and for paying administrative costs, in accordance with this ~~chapter~~section.
3. To be eligible for a loan under this section, the board of a school district shall:
  - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;

- b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
  - c. (1) Publish in the official newspaper of the district the information regarding the proposed estimated additional millage and the dollar increase per one thousand dollars of taxable valuation in accordance with section 21-03-13 along with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and
    - (2) Post the information on the school district's website preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;
  - d. Receive authorization for a bond issue in accordance with chapter 21-03; and
  - e. Submit a completed application to the Bank of North Dakota.
4. The superintendent of public instruction shall review loan applications based on a prioritization system that includes a review of all applications filed during the twelve-month period preceding April first and gives consideration to:
- a. Student occupancy and academic needs in the district;
  - b. The age of existing structures to be replaced or remodeled;
  - c. Building design proposals that are based on safety and vulnerability assessments;
  - d. Community support;
  - e. Cost; and
  - f. Any other criteria established by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.
5. If the superintendent of public instruction approves the loan, the Bank of North Dakota shall issue a loan from the school construction assistance revolving loan fund. For a loan made under this section:
- a. The maximum loan amount for which a school district may qualify is ten million dollars. However, if a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation under section 15.1-27-35.3, the loan amount under this section may not exceed eighty percent of the project's cost up to a maximum loan amount of eight million dollars;
  - b. The term of the loan is twenty years, unless the board of the school district requests a shorter term in the written loan application; and
  - c. The interest rate of the loan may not exceed two percent per year.

6. The Bank may adopt policies and establish guidelines to administer this loan program in accordance with this section. The Bank of North Dakota may use a portion of the interest paid on the outstanding loans as a servicing fee to pay for administration costs which may not exceed one-half of one percent of the amount of the interest payment. The Bank of North Dakota shall deposit principal and interest payments made by school districts for loans under this section in the school construction assistance revolving loan fund. The Bank of North Dakota shall arrange for the conduct of an annual audit of the school construction assistance revolving loan fund, the cost of which must be paid from the fund and which must be conducted by an independent accounting firm.

**SECTION 5. AMENDMENT.** Subsection 7 of section 21-03-07 of the North Dakota Century Code is amended and reenacted as follows:

7. The governing body of any public school district may also by resolution adopted by a two-thirds vote dedicate the tax levies as authorized by section 15.1-09-47, 15.1-09-49, or 57-15-16 and may authorize and issue general obligation bonds to be paid by these dedicated levies for the purpose of providing funds for the purchase, construction, reconstruction, or repair of public school buildings or for the construction or improvement of a project under section 15.1-36-02 or ~~15.1-36-03~~15.1-36-08. The initial resolution authorizing the tax levy dedication and general obligation bonds must be published in the official newspaper of the school district, and any owner of taxable property within the school district may, within sixty days after publication, file with the business manager of the school district a protest against the adoption of the resolution. Protests must be in writing and must describe the property that is the subject of the protest. If the governing body finds the protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the school district, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

<sup>187</sup> **SECTION 6. AMENDMENT.** Section 54-44.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-12. Control over rate of expenditures.**

1. The director of the budget shall exercise continual control over the execution of the budget affecting the departments and agencies of state government, with the exception of the legislative and judicial branches. Execution means the analysis and approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of allotments. The allotment must be made by specific fund and all departments and agencies that receive moneys from that fund must be allotted on a uniform percentage basis, except that general fund appropriations to the department of public instruction for state school aid, transportation aid, and special education aid and general fund appropriations to the department of career and technical education for grants to school districts may ~~only~~ be allotted only to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund as follows:

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<sup>187</sup> Section 54-44.1-12 was also amended by section 3 of House Bill No. 1155, chapter 394.

- a. The first two and one-half percent allotment from the general fund must be offset with a transfer from the foundation aid stabilization fund.
  - b. Any general fund allotment in excess of two and one-half percent that is necessary, after all moneys available in the budget stabilization fund have been transferred to the general fund under section 54-27.2-03, may be offset with a transfer from the foundation aid stabilization fund.
2. Before an allotment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director shall find one or more of the following circumstances to exist:
- a. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropriations from the fund.
  - b. The payment or the obligation incurred is not authorized by law.
  - c. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, including:
    - (1) Statements of legislative intent expressed in enacted appropriation measures or other measures enacted by the legislative assembly; and
    - (2) Statements of purpose of amendment explaining amendments to enacted appropriation measures, as recorded in the journals of the legislative assembly.
  - d. Circumstances or availability of facts not previously known or foreseen by the legislative assembly which make possible the accomplishment of the purpose of the appropriation at a lesser amount than that appropriated.

**SECTION 7.** A new section to chapter 54-27 of the North Dakota Century Code is created and enacted as follows:

**Definitions for the foundation aid stabilization fund - Uses of the foundation aid stabilization fund.**

1. For the purposes of section 24 of article X of the Constitution of North Dakota:
  - a. "Education-related purposes" means purposes related to public elementary and secondary education.
  - b. "State aid to school districts" means:
    - (1) The general fund appropriations to the department of public instruction for state school aid, transportation aid, and special education aid; and
    - (2) The general fund appropriations to the department of career and technical education for grants to school districts and area centers.
2. Any accessible funds in the foundation aid stabilization fund, exceeding the required reserves under section 24 of article X of the Constitution of North Dakota, may be used only for education-related purposes, including state aid

to school districts, career and technical education grants to school districts and area centers, and education-related property tax relief.

**188 SECTION 8. AMENDMENT.** Subsection 1 of section 57-62-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Thirty percent must be deposited in a permanent trust fund in the state treasury, to be known as the coal development trust fund, pursuant to section 21 of article X of the Constitution of North Dakota. Those funds held in trust and administered by the board of university and school lands on March 5, 1981, pursuant to section 12, chapter 563, 1975 Session Laws; section 12, chapter 560, 1977 Session Laws; or section 13, chapter 626, 1979 Session Laws must also be deposited in the trust fund created pursuant to this subsection. The fund must be held in trust and administered by the board of university and school lands for loans to coal-impacted counties, cities, and school districts as provided in section 57-62-03 and for loans to school districts pursuant to chapter 15.1-36. The board of university and school lands may invest such funds as are not loaned out as provided in this chapter and may consult with the state investment board as provided by law. The income, including interest payments on loans, from the trust must be used first to replace uncollectible loans made from the fund and the balance must be deposited in the ~~school construction assistance loan~~ general fund. Loan principal payments must be redeposited in the trust fund. The trust fund must be perpetual and held in trust as a replacement for depleted natural resources subject to the provisions of this chapter and chapter 15.1-36.

**SECTION 9. REPEAL.** Sections 9 and 10 of chapter 153 of the 2015 Session Laws and sections 15-10-60, 15.1-27-46, 15.1-36-02.1, 15.1-36-03, and 15.1-36-07 of the North Dakota Century Code are repealed.

**189 SECTION 10. REPEAL.** Section 15.1-36-06 of the North Dakota Century Code is repealed.

**SECTION 11. CONTINGENT TRANSFERS - SCHOOL CONSTRUCTION ASSISTANCE LOAN FUND TO FOUNDATION AID STABILIZATION FUND - SCHOLARSHIP ENDOWMENT FUND TO FOUNDATION AID STABILIZATION FUND.** If the office of management and budget transfers any amounts from the foundation aid stabilization fund to the school construction loan assistance fund or the scholarship endowment fund between December 1, 2016, and the effective date of this Act related to sections 9 and 10 of chapter 153 of the 2015 Session Laws, the office of management and budget shall transfer the amounts back to the foundation aid stabilization fund during the period beginning with the effective date of this Act, and ending June 30, 2017.

**SECTION 12. CONTINGENT TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND.** If the board of university and school lands has not transferred the \$150,000,000 referenced in subdivision b of subsection 1 of section 15.1-36-08 as in effect on January 1, 2017, from the strategic investment and improvements fund to the school construction assistance revolving loan fund, the

<sup>188</sup> Section 57-62-02 was also amended by section 4 of House Bill No. 1005, chapter 4, section 21 of Senate Bill No. 2014, chapter 39, and section 1 of Senate Bill No. 2101, chapter 403.

<sup>189</sup> Section 15.1-36-06 was amended by section 3 of Senate Bill No. 2272, chapter 368.

board of university and school lands shall transfer \$150,000,000, including any outstanding loans and cash issued pursuant to subdivision b of subsection 1 of section 15.1-36-02 as in effect on January 1, 2017, to the school construction assistance revolving loan fund during the period beginning with the effective date of this Act, and ending June 30, 2017.

**SECTION 13. TRANSFER - FOUNDATION AID STABILIZATION FUND TO SCHOOL CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND.** The office of management and budget shall transfer the sum of \$75,000,000 from the foundation aid stabilization fund to the school construction assistance revolving loan fund during the period beginning with the effective date of this Act, and ending June 30, 2019. Of the \$75,000,000 transferred to the school construction assistance revolving loan fund, up to \$50,000,000 must be used to repay the Bank of North Dakota for the outstanding principal balance on a portion of the loans issued under section 15.1-36-06 for the purpose of transferring a portion of the loans issued under section 15.1-36-06 from the Bank of North Dakota to the school construction assistance revolving loan fund. The remaining amount transferred to the school construction assistance revolving loan fund is available for new school construction loans.

**SECTION 14. APPROPRIATION - DEPARTMENT OF PUBLIC INSTRUCTION - FOUNDATION AID STABILIZATION FUND - ONE-TIME FUNDING.** There is appropriated out of any moneys in the foundation aid stabilization fund in the state treasury, not otherwise appropriated, the sum of \$6,000,000, or so much of the sum as may be necessary, to the department of public instruction for the purpose of providing rapid enrollment grants to school districts, for the biennium beginning July 1, 2017, and ending June 30, 2019. The funding provided in this section is considered a one-time funding item. The superintendent of public instruction shall award rapid enrollment grants to eligible districts based on the following criteria:

1. A district is eligible to receive a grant under this section if the number of students reflected in the district's September tenth enrollment report exceeds the number of students in the prior year September tenth enrollment report. The increase must be at least four percent or one hundred fifty students and must be at least twenty students.
2. The superintendent of public instruction shall calculate the amount to which an eligible district is entitled as follows:
  - a. Determine the actual percentage increase in the number of students and subtract two from the percentage calculated;
  - b. Determine the number of students represented by the difference determined in subdivision a of this subsection;
  - c. Multiply the number of students determined in subdivision b of this subsection by \$4,000.
3. If the amount of the appropriation provided for in this section is insufficient to meet the obligations of this subsection, the superintendent of public instruction shall prorate the payment based on the percentage of the total amount to which each school district is entitled.
4. The superintendent of public instruction may not expend more than fifty percent of the funds available under this section during the first year of the biennium.

5. Any district that is precluded from receiving state aid under section 15.1-27-35.3 is not eligible to receive a grant under this section.

**SECTION 15. APPROPRIATION - DEPARTMENT OF PUBLIC INSTRUCTION - FOUNDATION AID STABILIZATION FUND - ONE-TIME FUNDING.** There is appropriated out of any moneys in the foundation aid stabilization fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the department of public instruction for the purpose of providing English language learner grants to school districts, for the biennium beginning July 1, 2017, and ending June 30, 2019. The funding provided in this section is considered a one-time funding item. The superintendent of public instruction shall award grants to the four school districts that serve the largest number of first, second, and third level English language learners in kindergarten through grade twelve based on the following criteria:

1. The WIDA test.
2. To determine the amount that a school district may receive under this subsection, the superintendent of public instruction shall provide a pro rata share of the available grant dollars to each eligible district based upon the total number of first, second, and third level English language learners enrolled in the four districts.
3. A district may expend moneys received under this section only for the purpose of enhancing services to first, second, and third level English language learners. Permissible purposes include the hiring of additional teachers, interpreters, and social workers for first and second level English language learners and the provision of other ancillary support services and programs, approved by the superintendent of public instruction.
4. The superintendent of public instruction may not award more than fifty percent of the funds available under this section during the first year of the biennium.

**SECTION 16. EFFECTIVE DATE.** Section 10 of this Act becomes effective July 1, 2023.

**SECTION 17. EMERGENCY.** Sections 4, 5, 8, 9, 11, and 12 of this Act are declared to be an emergency measure.

Approved April 10, 2017

Filed April 10, 2017

## CHAPTER 369

### SENATE BILL NO. 2135

(Senators Hogue, Klein, Wardner)  
(Representatives Carlson, K. Koppelman, Vigesaa)

AN ACT to provide for the creation of an initiated and referred measure study commission; to provide for a report to the legislative management; to provide an expiration date; and to declare an emergency.

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

#### SECTION 1. INITIATED AND REFERRED MEASURE STUDY COMMISSION - DUTIES - MEMBERSHIP - REPORT TO LEGISLATIVE MANAGEMENT.

1. During the 2017-18 interim, an initiated and referred measure study commission shall undertake a comprehensive study of the initiated and referred measure laws of North Dakota. The commission shall study, among other subjects:
  - a. The process and cost of placing initiated and referred measures on the ballot and campaigning in support of or opposition to ballot measures in North Dakota;
  - b. The processes used to place initiated and referred measures on the ballot in other states;
  - c. Whether any provision of the state constitution or state law relating to initiated or referred measures should be amended. If an amendment is warranted, the commission shall prepare a draft resolution to amend the constitution or a draft bill to amend the state law for consideration by the next legislative assembly; and
  - d. The effect of out-of-state funding on the initiated and referred measure process and whether limits on out-of-state funding are necessary.
2. The commission shall hold at least four meetings and report its findings and any recommendations, together with any legislation required to implement the recommendations, to the legislative management before September 1, 2018.
3. The commission must consist of:
  - a. One individual appointed by the chief justice of the supreme court, who shall serve as the commission chairman;
  - b. Three members of the house of representatives appointed by the majority leader of the house of representatives, and three members of the senate, one of whom must be a member of the minority party, appointed by the majority leader of the senate;
  - c. One individual appointed as a nonvoting member by the secretary of state;

- d. Seven citizen members appointed by the governor, who shall provide public notice of available citizen positions on the commission and establish a procedure for submission of applications. One of the seven must be a member of an association that represents employees and their interests;
  - e. One individual appointed by the greater North Dakota chamber;
  - f. One individual appointed by the North Dakota newspaper association;
  - g. One individual appointed by the North Dakota farm bureau; and
  - h. One individual appointed by the North Dakota farmers union.
4. A citizen member appointed to the commission by the governor may not be an elected or appointed official, a board member or employee of an organization identified in subdivisions e through h of subsection 3, or an employee of the governor's office.
  5. The chairman of the legislative management committee may fill any vacancy on the commission. A vacancy must be filled by an individual who satisfies the criterion for the vacant position, such that the requirements in subsection 3 are met throughout the existence of the commission.
  6. The commission may request appropriate staff services from the legislative council.
  7. Commission members are entitled to mileage and expenses as provided by law for state officers and employees. Commission members who are members of the legislative assembly also are entitled to compensation for attendance at commission meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings. The expenses of the commission are to be paid by the the legislative council.
  8. All appointments of commission members must be completed within sixty days after the effective date of this Act.

**SECTION 2. EXPIRATION DATE.** This Act is effective through June 30, 2019, and after that date is ineffective.

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

Approved April 19, 2017

Filed April 20, 2017

**CHAPTER 370****SENATE BILL NO. 2230**

(Senator O. Larsen)  
(Representative Keiser)

AN ACT to provide for a legislative management study of hybrid long-term care partnership plan insurance coverage.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - HYBRID LONG-TERM CARE PARTNERSHIP PLAN INSURANCE COVERAGE.** During the 2017-18 interim, the legislative management shall consider studying the feasibility and desirability of providing an income tax credit to individuals for premiums for hybrid long-term care partnership plan insurance coverage and the feasibility and desirability of incentivizing asset protection that may be equal to the amount paid out by the hybrid long-term care partnership plan. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

Approved March 29, 2017

Filed March 30, 2017

## CHAPTER 371

### SENATE BILL NO. 2245

(Senators Dotzenrod, Luick, Wanzek)  
(Representatives D. Anderson, J. Nelson, Mitskog)

AN ACT to provide for a legislative management study to examine the desirability and feasibility of creating a state wetlands bank.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STATE WETLANDS BANK.** During the 2017-18 interim, the legislative management shall consider studying the desirability and feasibility of creating a state wetlands bank. The study must include consultation with stakeholders to examine land parcels under the control and management of the state which are suitable for wetlands mitigation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

Approved April 4, 2017

Filed April 4, 2017

## CHAPTER 372

### SENATE BILL NO. 2053

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

AN ACT to amend and reenact subsection 4 of section 39-03.1-11.2, section 54-52-01, subsections 3 and 4 of section 54-52-17, subsection 4 of section 54-52-28, section 54-52.1-03, subsection 1 of section 54-52.1-03.3, section 54-52.1-03.4, subsection 2 of section 54-52.1-18, section 54-52.6-06, and subsection 2 of section 54-52.6-09 of the North Dakota Century Code, relating to the definitions of retirement and retirement board, eligibility for disability retirement and early retirement benefits under the public employees retirement system, employee enrollment, billing for the retiree health insurance credit, temporary employee participation in the uniform group insurance program failure to maintain a health savings account when the high-deductible health plan is elected, payment of administrative expenses of the defined contribution plan, penalties for employers failing to pay contributions under the defined contribution plan, to provide a contingent effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Subsection 4 of section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

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. For purposes of this section, "distributee" includes a beneficiary, other than a spouse, of a deceased member, provided however, in the case of a beneficiary other than a spouse, the direct rollover may be made only to an individual retirement account or individual retirement annuity described in section 408 or 408A of the Internal Revenue Code which is established on behalf of the beneficiary and will be treated as an inherited individual retirement account or individual retirement annuity under section 402(c)(11) of the Internal Revenue Code.

<sup>190</sup> **SECTION 2. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52-01. (Effective through July 31, 2017) Definition of terms.**

As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.

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<sup>190</sup> Section 54-52-01 was also amended by section 12 of House Bill No. 1043, chapter 57, and section 1 of House Bill No. 1148, chapter 379.

2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include state employees who elect to become members of the retirement plan established under chapter 54-52.6.
5. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
6. "Employer" means a governmental unit.
7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
8. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
9. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
10. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
11. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are

ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

12. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
13. "Prior service" means service or employment prior to July 1, 1966.
14. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
15. "Public employees retirement system" means the retirement plan and program established by this chapter.
16. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
17. "Retirement board" or "board" means the governing authority created under section 54-52-03.
18. "Seasonal employee" means a participating member who does not work twelve months a year.
19. "Service" means employment on or after July 1, 1966.
20. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.
21. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
22. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

**(Effective after July 31, 2017) Definition of terms.** As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of

- the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
  3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
  4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.
  5. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
  6. "Employer" means a governmental unit.
  7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
  8. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
  9. "National guard security officer or firefighter" means a participating member who is:
    - a. A security police employee of the North Dakota national guard; or
    - b. A firefighter employee of the North Dakota national guard.
  10. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
  11. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding

subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

12. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
13. "Prior service" means service or employment prior to July 1, 1966.
14. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
15. "Public employees retirement system" means the retirement plan and program established by this chapter.
16. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan ~~and meeting the normal retirement date.~~
17. "Retirement board" or "board" means ~~the seven persons designated by this chapter as the governing authority for the retirement system created under~~ section 54-52-03.
18. "Seasonal employee" means a participating member who does not work twelve months a year.
19. "Service" means employment on or after July 1, 1966.
20. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.
21. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
22. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

<sup>191</sup> **SECTION 3. AMENDMENT.** Subsections 3 and 4 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 members first enrolled after December 31, 2015, except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, 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 ninety and the member attains a minimum age of sixty and has not received a retirement benefit under this chapter.
  - c. Normal retirement date for a national guard security officer or firefighter is:
    - (1) 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 eligible years of employment; or
    - (2) When the national guard security officer or firefighter 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 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 eligible years of employment; 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.
  - e. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:

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<sup>191</sup> Section 54-52-17 was also amended by section 4 of House Bill No. 1148, chapter 379.

- (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 eligible years of employment; 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.
- f. 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.
- g. 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.
- h. 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.
- (1) A member is eligible to receive disability retirement benefits only if the member:
    - (1) ~~Became~~ became disabled during the period of eligible employment; and
    - (2) ~~Applies~~ applies for disability retirement benefits within twelve months of the date the member terminates employment.
  - (2) 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 ~~if the board~~ deems necessary and these payments are appropriated from the

retirement fund for those purposes. A member's receipt of disability benefits under this section is limited to receipt from the fund to which the member was actively contributing at the time the member became disabled.

4. The board shall calculate retirement benefits as follows:
  - a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
    - (1) Service benefit equals two percent of final average salary multiplied by the number of years of service employment.
    - (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
  - b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:
    - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
    - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
  - c. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
  - d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning ~~prior to~~before the normal retirement date, ~~which is the earlier of age sixty-five or the age at which current service plus age equals eighty-five as determined under subsection 3.~~ Except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.

- e. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.

**SECTION 4. AMENDMENT.** Subsection 4 of section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:

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. For purposes of this section, "distributee" includes a beneficiary, other than a spouse, of a deceased member, provided however, in the case of a beneficiary other than a spouse, the direct rollover may be made only to an individual retirement account or individual retirement annuity described in section 408 or 408A of the Internal Revenue Code which is established on behalf of the beneficiary and will be treated as an inherited individual retirement account or individual retirement annuity under section 402(c)(11) of the Internal Revenue Code.

**SECTION 5. AMENDMENT.** Section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03. Employee participation in plan - Employee to furnish information - Benefits to continue upon retirement or termination.**

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. If an eligible employee does not enroll in the uniform group insurance program at the time of beginning employment, in order to enroll at a later time the eligible employee must meet minimum requirements established by the board. An employing department may not require an active eligible employee to request coverage under the uniform group insurance program as a prerequisite to receive the minimum employer-paid life insurance benefits coverage or employee assistance program benefits coverage.
2. ~~Within five days after the expiration of the payroll period during which enrollment was requested, the employing department shall enroll the employee with the board. The employee's insurance coverage becomes effective on the date of enrollment.~~
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.

- 4-3. Upon the termination of employment when the employee is not eligible to participate under subsection 32 or 54 or applicable federal law, that employee cannot continue as a member of the uniform group.
- 5-4. A member or former member of the legislative assembly or that ~~person's individual's~~ surviving spouse may elect to continue membership in the uniform group within the applicable time limitations after either termination of eligible employment as a member of the legislative assembly or termination of other eligible employment or, for a surviving spouse, upon the death of the member or former member of the legislative assembly. The member or former member of the legislative assembly or that ~~person's individual's~~ surviving spouse shall pay the premiums in effect for the coverage provided directly to the board.
- 6-5. Each eligible employee requesting enrollment shall furnish the appropriate ~~person individual~~ in the employing department, board, or agency with such information and in such form as prescribed by the board to enable the enrollment of the employee, or employee and dependents, in the uniform group insurance program created by this chapter.
- 7-6. If the participating employee is a faculty member in a state charitable, penal, or educational institution who receives a salary or wages on less than a twelve-month basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include that employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.

**SECTION 6. AMENDMENT.** Subsection 1 of section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

1. The following ~~persons individuals~~ are entitled to receive credit for hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program under subsection 2:
  - a. A member or surviving spouse of the highway patrolmen's retirement system is eligible for the credit beginning on the date retirement benefits are effective ~~unless the premium is billed to the employer.~~
  - b. A member or surviving spouse of the public employees retirement system is eligible for the credit beginning on the date retirement benefits are effective ~~unless the premium is billed to the employer.~~

- c. A member or surviving spouse of the retirement program established by job service North Dakota under section 52-11-01 receiving retirement benefits is eligible for the credit beginning on the date retirement benefits are effective ~~unless the premium is billed to the employer.~~
- d. A retired judge or surviving spouse receiving retirement benefits under the retirement program established under chapter 27-17 is eligible for the credit beginning on the date retirement benefits are effective ~~unless the premium is billed to the employer.~~
- e. A former participating member of the defined contribution retirement plan receiving retirement benefits, or the surviving spouse of a former participating member of that retirement plan who was eligible to receive or was receiving benefits, under section 54-52.6-13, is eligible as determined by the board pursuant to its rules.

**SECTION 7. AMENDMENT.** Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.4. Temporary employees and employees on unpaid leave of absence.**

1. A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made before January 1, 2015, and if the temporary employee is participating in the uniform group insurance program on January 1, 2015.
2. In order for a temporary employee employed after July 31, 2007, to qualify to participate in the uniform group insurance program, the employee must be employed at least twenty hours per week; must be employed at least twenty weeks each year of employment; must make the election to participate before January 1, 2015; and must be participating in the uniform group insurance program as of January 1, 2015. ~~To be eligible to participate in the uniform group insurance program;~~
3. A temporary employee first employed after December 31, 2014, or any temporary employee employed before the effective date of this section of this Act but not participating in the uniform group insurance program as of January 1, 2015, must meet the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)] on the effective date of this section of this Act, does not qualify to participate in the uniform group insurance program, unless the employee is employed at least thirty hours per week for at least twenty weeks each year of employment. Notwithstanding contrary provisions of this subsection, a temporary employee participating in the uniform group insurance program on the effective date of this section of this Act remains eligible through the end of the calendar year during which the effective date of this section of this Act occurs and after that calendar year the temporary employee is subject to the eligibility provisions of subsection 1, 2, or 3, as applicable.
4. Monthly, the temporary employee or the temporary employee's employer shall pay to the board the premiums in effect for the coverage being provided. ~~In the case of a temporary employee who is an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C. 36B(c)(1)(A)],~~

~~the temporary employee's required contribution for medical and hospital benefits self-only coverage may not exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer shall pay any difference between the maximum employee required contribution for medical and hospital benefits self-only coverage and the cost of the premiums in effect for this coverage. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.~~

**SECTION 8. AMENDMENT.** Subsection 2 of section 54-52.1-18 of the North Dakota Century Code is amended and reenacted as follows:

2. Health savings account fees for participating state employees must be paid by the employer.
  - a. Except as provided in subdivision b, subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 223(b)], 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.
  - b. If the public employees retirement system is unable to establish a health savings account due to the employee's ineligibility under federal or state law or due to failure of the employee to provide necessary information in order to establish the account, the system is not responsible for depositing the health savings account contribution. The member will remain a participant in the high-deductible health plan regardless of whether a health savings account is established.
  - c. If a member closes the health savings account established for that member under this section, the system is not responsible for depositing the health savings account contribution after that closure.

**SECTION 9. AMENDMENT.** Section 54-52.6-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-06. Administrative expenses - Continuing appropriation.**

~~The participating members shall pay the administrative expenses of the plan must be paid by the participating members in a manner determined by the board. The board, or vendors contracted for by the board, may charge reasonable administrative expenses and deduct those expenses from a participating member's account in the defined contribution retirement plan established under this chapter. The board may also pay the administrative expenses of the plan from fines and fees collected from vendors in a manner determined by the board. The board shall place vendor fines and fees and any money deducted from participating members' accounts in an administrative expenses account with the state treasurer. The board may also use funds from the payroll clearing account established pursuant to section 54-52.3-03 to pay for consulting expenses. All moneys in the payroll clearing account, not otherwise appropriated, or so much of the moneys as may be necessary, are appropriated to the board on a continuing basis for the purpose of retaining a consultant as required for the administration of this chapter.~~

**SECTION 10. AMENDMENT.** Subsection 2 of section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. 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 Monthly, the employer shall pay monthly such contribution into the participating member's account from ~~the employer's~~ funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, ~~the employer~~ is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction 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 the contributions became due, penalty and interest to be paid on delinquent contributions may be waived.

**SECTION 11. CONTINGENT EFFECTIVE DATE - EXPIRATION DATE.** Section 7 of this Act becomes effective on the date identified by the executive director of the public employees retirement system in a certification to the legislative council as the effective date of a repeal of sections 4980H(a) and 4980H(b) of the Internal Revenue Code [26 U.S.C. 4980H(a) and 490H(b)] or the effective date of an amendment of sections 4980H(a) and 4980H(b) of the Internal Revenue Code [26 U.S.C. 4980H(a) and 490H(b)] resulting in the assessable payments under sections 4980H(a) and 4980H(b) [26 U.S.C. 4980H(a) and 490H(b)] becoming zero dollars. If this certification does not occur before August 1, 2019, Section 7 of this Act expires and is ineffective.

Approved April 4, 2017

Filed April 4, 2017

## CHAPTER 373

### SENATE BILL NO. 2032

(Legislative Management)  
(Government Finance Committee)

AN ACT to amend and reenact subsection 10 of section 4-05.1-19, section 54-59-19, and subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to reporting requirements for the state board of agricultural research and education, reporting requirements for the information technology department, and individual, estate, and trust income tax credits; and to repeal section 54-23.3-09, chapter 54-56, and sections 57-38-01.29 and 57-38-01.30, relating to reporting of new department of corrections and rehabilitation programs, the children's services coordinating committee, the homestead income tax credit, and the commercial property income tax credit.

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

**SECTION 1. AMENDMENT.** Subsection 10 of section 4-05.1-19 of the North Dakota Century Code is amended and reenacted as follows:

10. ~~Present~~Provide a status report to the budget section of the legislative management.

**SECTION 2. AMENDMENT.** Section 54-59-19 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-59-19. Information technology department annual report.**

The department shall prepare and present an annual report to the information technology committee. ~~In addition to the presentation of the annual report to the information technology committee, the department shall present a summary of the annual report to the budget section.~~ The report must contain:

1. A list of all projects for which financing agreements have been executed.
2. A comparison of the department's rates charged for services compared to rates charged for comparable services in other states and in the private sector.
3. Information regarding the delivery of services to agencies, including service dependability, agency complaints, and information technology department responsiveness.
4. A description of the status and progress of programs established pursuant to chapter 54-46 and as specifically required by section 54-46-11.

**192 SECTION 3. AMENDMENT.** Subsection 7 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

7. A taxpayer filing a return under this section is entitled to the following tax credits:
  - a. Family care tax credit under section 57-38-01.20.
  - b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
  - c. Agricultural business investment tax credit under section 57-38.6-03.
  - d. Seed capital investment tax credit under section 57-38.5-03.
  - e. Planned gift tax credit under section 57-38-01.21.
  - f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and 57-38-01.23.
  - g. Internship employment tax credit under section 57-38-01.24.
  - h. Workforce recruitment credit under section 57-38-01.25.
  - i. Angel fund investment tax credit under section 57-38-01.26.
  - j. Microbusiness tax credit under section 57-38-01.27.
  - k. Marriage penalty credit under section 57-38-01.28.
  - ~~l. Homestead income tax credit under section 57-38-01.29.~~
  - ~~m. Commercial property income tax credit under section 57-38-01.30.~~
  - n. Research and experimental expenditures under section 57-38-30.5.
  - e.m. Geothermal energy device installation credit under section 57-38-01.8.
  - ~~p.n.~~ Long-term care partnership plan premiums income tax credit under section 57-38-29.3.
  - e.o. Employer tax credit for salary and related retirement plan contributions of mobilized employees under section 57-38-01.31.
  - f.p. Automating manufacturing processes tax credit under section 57-38-01.33 (effective for the first five taxable years beginning after December 31, 2012).
  - s.q. Income tax credit for passthrough entity contributions to private education institutions under section 57-38-01.7.

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<sup>192</sup> Section 57-38-30.3 was also amended by section 1 of House Bill No. 1239, chapter 400, section 17 of House Bill No. 1043, chapter 57, section 2 of House Bill No. 1045, chapter 399, and section 2 of House Bill No. 1050, chapter 389.

<sup>193</sup> **SECTION 4. REPEAL.** Section 54-23.3-09 and chapter 54-56 and sections 57-38-01.29 and 57-38-01.30 of the North Dakota Century Code are repealed.

Approved March 15, 2017

Filed March 16, 2017

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<sup>193</sup> Section 57-38-01.29 was also repealed by section 20 of House Bill No. 1043, chapter 57; section 57-38-01.30 was also repealed by section 20 of House Bill No. 1043, chapter 57.

## CHAPTER 374

### SENATE BILL NO. 2104

(Government and Veterans Affairs Committee)  
(At the request of the Information Technology Department)

AN ACT to amend and reenact subsection 1 of section 54-59-39 of the North Dakota Century Code, relating to mandatory provisions of information and confidentiality.

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 54-59-39 of the North Dakota Century Code is amended and reenacted as follows:

1. The information technology department may request from any state agency:
  - a. All information required by 20 U.S.C. 9871(e)(2)(D);
  - b. Any other educational information the statewide longitudinal data system committee determines is required for a longitudinal data system to comply with state or federal law; and
  - c. Unemployment insurance wage data from job service North Dakota for education and workforce development program evaluations, except that ~~job service North Dakota~~ the information technology department may not ~~disclose~~ rediscover any data identifying an individual unless the redisclosure is expressly permitted by a written agreement between job service North Dakota and the department or is otherwise expressly permitted or required by federal or state law.

Approved March 14, 2017

Filed March 15, 2017

## CHAPTER 375

### SENATE BILL NO. 2188

(Senators Klein, Burckhard)  
(Representatives Hatlestad, Zubke)

AN ACT to create and enact a new section to chapter 54-60 of the North Dakota Century Code, relating to the authority of the department of commerce to provide boundary geography data to the United States census bureau.

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

**SECTION 1.** A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

#### **Boundary and annexation survey reporting.**

At the discretion of each political subdivision, the department shall act on behalf of political subdivisions to deliver a consolidated response to the boundary and annexation survey and provide legal boundary geography data to the United States census bureau. The department shall coordinate with political subdivisions to ensure consistent, accurate, and integrated geography is provided to the United States census bureau.

Approved April 11, 2017

Filed April 12, 2017

## CHAPTER 376

### SENATE BILL NO. 2144

(Senators Wardner, Oehlke, Heckaman)  
(Representatives D. Johnson, Monson, Boe)

AN ACT to amend and reenact sections 54-60.2-01 and 54-60.2-02 of the North Dakota Century Code, relating to workforce development grants for tribally controlled community colleges; and to provide an appropriation.

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

**SECTION 1. AMENDMENT.** Section 54-60.2-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-60.2-01. Establishment of workforce development grant for tribally controlled community colleges.**

There is established within the division of workforce development of the department of commerce a program to provide workforce development grants to tribally controlled community colleges in North Dakota. A tribally controlled community college in this state may apply to the department of commerce for a job training grant in such manner as the department of commerce prescribes. The department of commerce shall consult with the executive director of the Indian affairs commission to determine eligible tribally controlled community colleges and shall award grants based on the documented job placement rates at each eligible college.

**SECTION 2. AMENDMENT.** Section 54-60.2-02 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-60.2-02. ~~(Effective through July 31, 2017)~~ Purpose of grants.**

1. Any grant awarded under section 54-60.2-01 may be used at the discretion of the college:
  - a. For development or enhancement of programs that assist in providing certificates or degrees to North Dakota students attending the college that qualify the student to obtain jobs for which applicants are being sought within the state, as identified by the department of commerce, job service North Dakota, or any of the federally recognized Indian tribes within North Dakota; or
  - b. To assist any North Dakota student attending the college to establish, or to assist in establishing, a new business operating within North Dakota that will employ North Dakota citizens.
2. Any funds provided to tribally controlled community colleges must be used to supplement, not supplant, any existing program or funding source of the college.

~~**(Effective after July 31, 2017) Purpose of grants.** Any grant awarded under section 54-60.2-01 may be used at the discretion of the college:~~

1. ~~For development of programs that assist in providing certificates or degrees to North Dakota students attending the college that qualify the student to obtain jobs for which applicants are being sought within the state, as identified by the department of commerce, job service North Dakota, or any of the federally recognized Indian tribes within North Dakota; or~~
2. ~~To assist any North Dakota student attending the college to establish, or to assist in establishing, a new business operating within North Dakota that will employ North Dakota citizens.~~

~~Any funds provided to tribally controlled community colleges must be used to supplement, not supplant, any existing program or funding source of the college.~~

**SECTION 3. APPROPRIATION - STUDENT LOAN TRUST FUND.** There is appropriated out of any moneys in the student loan trust fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of providing workforce grants to tribally controlled community colleges, for the biennium beginning July 1, 2017, and ending June 30, 2019. The funding provided in this section is considered a one-time funding item.

Approved April 20, 2017

Filed April 21, 2017

## CHAPTER 377

### HOUSE BILL NO. 1235

(Representatives K. Koppelman, Delmore, Heinert, Kasper, Lefor, Roers Jones,  
Sukut)  
(Senators Armstrong, Holmberg, D. Larson, G. Lee, Unruh)

AN ACT to create and enact subsections 4 and 5 to section 54-61-02 of the North Dakota Century Code, relating to access to confidential records by the commission on legal counsel for indigents.

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

**SECTION 1.** Subsection 4 to section 54-61-02 of the North Dakota Century Code is created and enacted as follows:

4. Notwithstanding any provision of state law making the records confidential, but subject to any prohibitions in federal law, in addition to or in lieu of a subpoena, in determining eligibility for public defender services the commission may obtain access, relevant to making an eligibility determination for indigent defense services, to:
  - a. All records of other state and local government agencies relevant to determination of eligibility for indigent defense services, including:
    - (1) Vital statistics, including records of marriage, birth, and divorce;
    - (2) Local tax and revenue records, including information on residence address, employer, income, and assets;
    - (3) Records concerning real and titled personal property;
    - (4) Records of occupational and professional licenses and records concerning the ownership and control of corporations, partnerships, and other business entities;
    - (5) Employment security records;
    - (6) Workforce safety and insurance records pursuant to a release signed by an individual or as otherwise provided in section 65-05-32;
    - (7) Records of all agencies administering public assistance programs;
    - (8) Records of the department of transportation, which access is not subject to the requirements in section 39-16-03;
    - (9) Corrections records;
    - (10) Law enforcement records; and

- (11) Subject to an agreement with the state tax commissioner, state tax and revenue records, including information on residence address, employer, income, and assets; and
  
- b. Certain information contained in records held by private entities, subject to safeguards on privacy and information security, consisting of:
  - (1) The name, address, social security number, and other requested relevant income or asset information of the individual and the name and address of the employer of the individual, as appearing in customer records of public utilities, including cellular and wireless telephone service providers and cable television companies, pursuant to an administrative subpoena if requested; and
  
  - (2) Information on assets and liabilities of the individual held by financial institutions.

**SECTION 2.** Subsection 5 to section 54-61-02 of the North Dakota Century Code is created and enacted as follows:

- 5. If a government agency or private entity denies the commission access to records under subsection 4, the denial must include a statement of the legal authority for the denial.

Approved April 24, 2017

Filed April 25, 2017

## CHAPTER 378

### HOUSE BILL NO. 1403

(Representatives Kasper, Rick C. Becker, Boehning, Headland, Keiser, Louser,  
Nathe, D. Ruby)

(Senators Anderson, Bekkedahl, Casper, O. Larsen)

AN ACT to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to public employee health benefits transparency.

#### 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:

#### Health insurance benefits coverage - Prescription drug coverage - Transparency - Audits - Confidentiality.

1. If the prescription drug coverage component of a health insurance benefits coverage contract received in response to a request for bids under section 54-52.1-04 utilizes the services of a pharmacy benefits manager, either contracted directly with a pharmacy benefits manager or indirectly through the health insurer, in addition to the factors set forth under section 54-52.1-04 the board shall consider and give preference to an insurer's contract that:
  - a. Provides the board or the board's auditor with a copy of the insurer's current contract with the pharmacy benefits management company which controls the prescriptions drug coverage offered as part of the health insurance benefits coverage, and if the contract is revised or a new contract is entered, requires the insurer to provide the board with the revision or new contract within thirty days of the change.
  - b. Provides the board with monthly claims data and information on all programs being implemented or modified, including prior authorization, step therapy, mandatory use of generic drugs, or quantity limits.
  - c. Describes the extent to which the board may customize the benefit plan design, including copayments, coinsurance, deductibles, and out-of-pocket limits; the drugs that are covered; the formulary; and the member programs implemented.
  - d. Describes the audit rights of the board.
2. The board may conduct annual audits to the extent permitted under the contract terms agreed to under subsection 1. The audits must include:
  - a. A review of a complete set of electronic prescription coverage claims data reflecting all submitted claims, including information fields identified by the board.
  - b. A review of a list of all programs that have been implemented or modified during the audit period under subsection 1, and in connection with each

- program the auditor shall report on the cost, the cost savings or avoidance, member disruption, the process for and number of overrides or approvals and disapprovals, and clinical outcomes.
- c. Recommendations for proposed changes to the prescription drug benefit programs to decrease costs and improve plan beneficiaries' health care treatment.
3. Information provided to the board under the contract provisions required under this section are confidential; however, the board may disclose the information to retained experts and the information retains its confidential status in the possession of these experts.
4. The board may retain an auditor of the board's choice which is not a competitor of the pharmacy benefits manager; a pharmaceutical manufacturer representative; or any retail, mail, or specialty drug pharmacy representative or vendor.

Approved April 26, 2017

Filed April 27, 2017

## CHAPTER 379

### HOUSE BILL NO. 1148

(Representatives Porter, Maragos, Toman)  
(Senator Cook)

AN ACT to amend and reenact sections 54-52-01, 54-52-02.1, and 54-52-06.3 and subsections 3 and 4 of section 54-52-17 of the North Dakota Century Code, relating to a public employee retirement plan for firefighters.

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

<sup>194</sup> **SECTION 1. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52-01. (Effective through July 31, 2017) Definition of terms.**

As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include state employees who elect to become members of the retirement plan established under chapter 54-52.6.
5. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers'

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<sup>194</sup> Section 54-52-01 was also amended by section 12 of House Bill No. 1043, chapter 57, and section 2 of Senate Bill No. 2053, chapter 372.

fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.

6. "Employer" means a governmental unit.
7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
8. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
9. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
10. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
11. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
12. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
13. "Prior service" means service or employment prior to July 1, 1966.
14. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
15. "Public employees retirement system" means the retirement plan and program established by this chapter.
16. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
17. "Retirement board" or "board" means the governing authority created under section 54-52-03.
18. "Seasonal employee" means a participating member who does not work twelve months a year.

19. "Service" means employment on or after July 1, 1966.
20. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.
21. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
22. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

**(Effective after July 31, 2017) Definition of terms.** As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.
5. "Employee" means any ~~person~~ individual employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds

controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.

6. "Employer" means a governmental unit.
7. "Firefighter" means a participating member who is employed as a firefighter by a political subdivision and, notwithstanding subsection 13, for an individual employed after July 31, 2017, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A firefighter who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after July 31, 2017, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system. The term does not include a firefighter employee of the North Dakota national guard.
8. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
- ~~8-9.~~ "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
- ~~9-10.~~ "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
- ~~10-11.~~ "Participating member" means ~~an~~ an eligible ~~employees~~ employee who through payment into the plan ~~have~~ has established a claim against the plan.
- ~~11-12.~~ "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection ~~12~~ 13, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. ~~Participating members~~ A peace officer who is a participating member of the law enforcement retirement plan created by this chapter who begins ~~begin~~ begins employment after August 1, 2005, ~~are~~ is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
- ~~12-13.~~ "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- ~~13-14.~~ "Prior service" means service or employment ~~prior to~~ before July 1, 1966.

- 14-15. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
- 15-16. "Public employees retirement system" means the retirement plan and program established by this chapter.
- 16-17. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 17-18. "Retirement board" or "board" means the ~~seven persons designated by this chapter as the governing authority for the retirement system created under section 54-52-03.~~
- 18-19. "Seasonal employee" means a participating member who does not work twelve months a year.
- 19-20. "Service" means employment on or after July 1, 1966.
- 20-21. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.
- 21-22. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 22-23. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

**SECTION 2. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.1. Political subdivisions authorized to join public employees retirement system.**

1. A political subdivision may, on behalf of its permanent employees, on behalf of its peace officers, firefighters, and correctional officers separately from its other employees, and permanent noncertified employees only in the case of school districts, enter into agreements with the retirement board for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to those employees. The agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other

appropriate provisions as the retirement board and the political subdivision agree upon, but the agreement must provide that:

- a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace officers, firefighters, and correctional officers participating separately from other political subdivision employees.
  - b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the retirement board.
2. Notwithstanding any other provision of law, a political subdivision having an existing police or firefighter pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the board.
  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 for any past service liability and the required employer contribution must be an amount determined sufficient to 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.

**SECTION 3. 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, firefighters, and correctional officers employed by political subdivisions - Employer contribution.**

Each peace officer, firefighter, or correctional officer employed by a political subdivision that enters into an agreement with the retirement board on behalf of its peace officers, firefighters, 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, firefighter, 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 monthly reporting period of January 2013, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's, firefighter'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, firefighter'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, firefighter's, or correctional officer's assessment.

<sup>195</sup> **SECTION 4. AMENDMENT.** Subsections 3 and 4 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>195</sup> Section 54-52-17 was also amended by section 3 of Senate Bill No. 2053, chapter 372.

3. Retirement dates are defined as follows:
- a. Normal retirement date, except for a national guard security officer or firefighter, a firefighter employed by a political subdivision, 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 members first enrolled after December 31, 2015, except for a national guard security officer or firefighter, a firefighter employed by a political subdivision, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, 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 ninety and the member attains a minimum age of sixty and has not received a retirement benefit under this chapter.
  - c. Normal retirement date for a national guard security officer or firefighter is:
    - (1) 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 eligible years of employment; or
    - (2) When the national guard security officer or firefighter 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, firefighter, 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, firefighter, or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the peace officer, firefighter, 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.
  - e. 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 eligible years of employment; 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.
- f. 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.
- g. Early retirement date, except for a national guard security officer or firefighter, a firefighter employed by a political subdivision, 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 firefighter employed by a political subdivision or 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, firefighter, or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
- h. 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~~ became disabled during the period of eligible employment; and
  - (2) ~~Applies~~ 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.

4. The board shall calculate retirement benefits as follows:
  - a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
    - (1) Service benefit equals two percent of final average salary multiplied by the number of years of service employment.
    - (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
  - b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:
    - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
    - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
  - c. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
  - d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning ~~prior to~~before the normal retirement date, which is the earlier of age sixty-five or the age at which current service plus age equals eighty-five. Except for a national guard security officer or firefighter, a firefighter employed by a political subdivision, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.
  - e. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social

security benefits and by any workforce safety and insurance benefits paid.  
The minimum monthly disability retirement benefit under this section is one hundred dollars.

Approved March 21, 2017

Filed March 22, 2017

## CHAPTER 380

### HOUSE BILL NO. 1189

(Representatives Keiser, Beadle, Boschee)  
(Senators Burckhard, Klein, Laffen, Robinson)

AN ACT to amend and reenact subsection 3 of section 54-44.7-03 and section 54-44.7-04 of the North Dakota Century Code, relating to procurement procedures and exceptions to bidding thresholds for state building projects.

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

<sup>196</sup> **SECTION 1. AMENDMENT.** Subsection 3 of section 54-44.7-03 of the North Dakota Century Code is amended and reenacted as follows:

3. The date for submission of information from interested persons or firms in response to an invitation must be not less than twenty-one days after publication of the invitation. Interested architect, engineer, and land surveying persons or firms must be required to respond to the invitation with the submission of the information required in general services administration forms ~~SF 254 and SF 255~~ form SF 330, architect-engineer related ~~services-questionnaire qualifications~~ for specific project, or such similar information as the agency selection committee may prescribe by rule.

**SECTION 2. AMENDMENT.** Section 54-44.7-04 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-44.7-04. Exception.**

1. All state agencies securing architect, engineer, construction management, or land surveying services for projects for which the fees are estimated not to exceed ~~twenty-five~~ thirty-five thousand dollars may employ the architects, engineers, construction managers, and land surveyors by direct negotiation and selection, taking into account all of the following:
  - a. The nature of the project.
  - b. The proximity of the architect, engineer, construction management, or land surveying services to the project.
  - c. The capability of the architect, engineer, construction manager, or land surveyor to produce the required services within a reasonable time.
  - d. Past performance.
  - e. Ability to meet project budget requirements.

This procedure shall still follow state policy set forth above.

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<sup>196</sup> Section 54-44.7-03 was also amended by section 11 of House Bill No. 1043, chapter 57.

2. Fees paid pursuant to this section during the twelve-month period immediately preceding negotiation of the contract by any single state agency for professional services performed by any one architectural, engineering, or land surveying person or firm may not exceed ~~fifty~~seventy thousand dollars. All persons or firms seeking to render professional services pursuant to this section shall furnish the state agency with which the firm is negotiating a list of professional services, including the fees paid, performed for the state agency during the twelve months immediately preceding the contract being negotiated.

Approved April 13, 2017

Filed April 13, 2017

## CHAPTER 381

### HOUSE BILL NO. 1427

(Representatives Olson, Rich S. Becker, B. Koppelman, K. Koppelman, Owens,  
Vetter)  
(Senators Holmberg, J. Lee, Luick)

AN ACT to provide for a legislative management study of refugee resettlement in North Dakota.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - REFUGEE RESETTLEMENT.** During the 2017-18 interim, the legislative management shall consider studying refugee resettlement in the state. The study must include consideration of the impact, if any, of refugees on the wages or working conditions of the local workforce, state and local law enforcement, state and local government services, housing, the provision of medical care, child care, translation and interpreter services, and public education, including the provision of English language training. The study must include examination of the relevant federal and state laws on refugee resettlement, the role state and local government agencies may have in refugee resettlement matters, an overview of the security measures taken by the United States government prior to refugee resettlement, integration outcomes, and the religious, political, economic, and social conditions of refugees' countries of origin, including the prevalence of violence and other forms of oppression against women and children in those countries. The study must include examination of the number of refugees resettled in the state, including the number of refugees resettled by age and gender, the number of refugees resettled who are under eighteen years of age, the number of refugees resettled who are between forty and sixty-five years of age, the number of refugees over sixty-five years of age, the number of refugees who are male, the number of refugees who are female, the number of refugee children enrolled in a public school, the number of refugee children accessing English language learner services, the initial resettlement locations for refugees, and the numbers of refugees resettled with and without family already residing in the United States. The study must include input from stakeholders, including refugee resettlement agencies, law enforcement personnel, social and clinical service providers, educational leaders, medical providers, and representatives of county social services agencies, affected municipalities, and the department of human services. The legislative management shall reports its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

Approved April 11, 2017

Filed April 12, 2017

**CHAPTER 382****HOUSE BILL NO. 1423**

(Representatives Mitskog, Monson, Sanford, Schreiber-Beck)  
(Senators Heckaman, J. Lee, Luick)

AN ACT to provide for a legislative management study of the elementary and secondary education funding formula.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - EDUCATION FUNDING FORMULA - IN LIEU OF TAXES.** During the 2017-18 interim, the legislative management shall consider studying the portion of the elementary and secondary education funding formula which relates to the utilization of in lieu of property tax funds for the purpose of identifying and addressing any inequities in the application of the formula. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

Approved March 30, 2017

Filed March 30, 2017

## CHAPTER 383

### HOUSE BILL NO. 1418

(Representatives Mock, Beadle, Maragos)

AN ACT to provide for a legislative management study of statements of interests.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STATEMENTS OF INTERESTS.** During the 2017-18 interim, the legislative management shall consider studying the purpose and content of statements of interests and the forms and information required to be filed, including the appropriate financial interests and other necessary content. The study must include consideration of whether supplementary statements or updates of information are necessary and a determination as to who is required to file statements of interest and who should be filing statements of interest. The study also must include a review of filing deadlines and consideration of how long records should be retained. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

Approved April 17, 2017

Filed April 17, 2017

## CHAPTER 384

### HOUSE BILL NO. 1358

(Representatives Beadle, D. Anderson, D. Johnson, M. Johnson, Lefor, Schreiber-Beck)  
(Senators Casper, Oban)

AN ACT to provide for a legislative management study of the use of open educational resources in the elementary and secondary school system.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - KINDERGARTEN THROUGH GRADE TWELVE OPEN EDUCATIONAL RESOURCES USAGE AND DEVELOPMENT.** During the 2017-18 interim, the legislative management shall consider studying the use of open educational resources in the elementary and secondary school system. The study must include an analysis of potential cost savings for school districts and the department of public instruction; the availability of private sector partnerships that can aid in the development, adoption, implementation, and funding of open educational resources; and the steps necessary to establish North Dakota as a #GoOpen state with the United States department of education. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

Approved March 22, 2017

Filed March 22, 2017

## CHAPTER 385

### HOUSE BILL NO. 1330

(Representatives Schatz, Carlson, Vigesaa)

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, the speaker of the house, and six senators and six representatives chosen biennially before the close of each regular legislative session.
2. In the house of representatives the majority leader shall appoint to the legislative management ~~four~~ members elected by the political party with the largest number of members in the house and the minority leader 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. The majority and minority leaders of the house of representatives shall make the appointments so as to give the two political parties having the most members in the house the same total proportionate representation on the legislative management as prevails in the house. In allocating the membership on the legislative management to each political party, the total number of members in the house of representatives must be divided by six; the resulting quotient must then be divided into the number of members of each of the two political parties of the house; the resulting quotient for each party of the house, rounded to the nearest whole number, is the number of members of that political party in the house to be on the legislative management. Notwithstanding this allocation, the minority political party in the house of representatives must be represented by at least two members on the legislative management.
3. In the senate the majority leader shall appoint to the legislative management ~~four~~ members elected by the 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. The majority and minority leaders of the senate shall make the appointments so as to give the two political parties having the most members in the senate the same total proportionate representation on the legislative management as prevails in the senate. In allocating the membership on the legislative management to each political party, the total number of members in the senate must be divided by six; the resulting quotient must then be divided into the number of members of each of the two political parties of the senate; the resulting quotient for each party of

the senate, rounded to the nearest whole number, is the number of members of that political party in the senate to be on the legislative management. Notwithstanding this allocation, the minority political party in the senate must be represented by at least two members on the legislative management.

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 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 re-elected to the senate, and no representative, who is not re-elected 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 re-elected 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 10, 2017

Filed April 10, 2017

## CHAPTER 386

### HOUSE BILL NO. 1318

(Representatives Schatz, Kasper, Rohr, D. Ruby, Toman)  
(Senators O. Larsen, Unruh)

AN ACT to provide for a legislative management study of the state aid funding formula for elementary and secondary education.

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

#### SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STATE AID FUNDING FORMULA FOR ELEMENTARY AND SECONDARY EDUCATION - COMMITTEE - APPOINTMENT - DUTIES.

1. During the 2017-18 interim, the legislative management shall consider appointing a committee consisting of five members of the senate and six members of the house of representatives to:
  - a. Examine how state aid for elementary and secondary education is determined and distributed under the state aid funding formula, analyze the impact of the state aid provided through the funding formula, and consider potential necessary changes to the funding formula to ensure equity, adequacy, and sustainability; and
  - b. Examine the delivery and administration of elementary and secondary education in the state and the short- and long-term policy and statutory changes that may result from or be necessitated by twenty-first century technological advances and global economics.
2. The legislative management shall designate the chairman and vice chairman of the committee.
3. The committee shall operate under the rules applicable to other legislative management committees, except the committee may create task forces or working groups to meet the study directives.
4. Any member of the legislative assembly appointed to serve on a task force or working group under this Act may receive per diem compensation and reimbursement for actual and necessary expenses, as provided by law. Any other individual appointed to serve on a task force or working group may receive reimbursement from the legislative council, for actual and necessary expenses, as provided by law for state officials.
5. The committee shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-sixth legislative assembly.

Approved April 13, 2017

Filed April 13, 2017

## CHAPTER 387

### HOUSE BILL NO. 1251

(Representatives Louser, Beadle, Brabandt, Dockter, B. Koppelman, M. Ruby, Vetter)  
(Senators Burckhard, Hogue)

AN ACT to provide for a legislative management study of the creation of an inmate housing construction program.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - INMATE HOUSING CONSTRUCTION PROGRAM.** During the 2017-18 interim, the legislative management shall consider studying the creation of an inmate housing construction program to provide inmates with housing construction vocational skills through the construction of homes to be made available for sale to low-income home buyers. The study must include an analysis of the grants available to support the program, the ability to establish partnerships with private industry and apprentice opportunities with labor groups, and the ability to work with private industry to provide for the sale and transport of the completed homes. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

Approved April 10, 2017

Filed April 10, 2017

**CHAPTER 388****HOUSE BILL NO. 1202**

(Representatives D. Ruby, Paur, Schobinger)  
(Senators Laffen, Oban, Unruh)

AN ACT to provide for a department of transportation study.

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

**SECTION 1. DEPARTMENT OF TRANSPORTATION STUDY - REPORT TO LEGISLATIVE ASSEMBLY.** The department of transportation, in collaboration and consultation with the autonomous vehicle technology industry, shall study the use of vehicles equipped with automated driving systems on the highways in this state and the data or information stored or gathered by the use of those vehicles. The study must include a review of current laws dealing with licensing, registration, insurance, data ownership and use, and inspection and how they should apply to vehicles equipped with automated driving systems. The department of transportation shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

Approved April 13, 2017

Filed April 13, 2017

## CHAPTER 389

### HOUSE BILL NO. 1050

(Legislative Management)  
(Political Subdivision Taxation Committee)

AN ACT to amend and reenact subsection 3 of section 54-35-26 and subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to the list of economic development tax incentives subject to regular review and the application of tax credits against individual income tax liability; to repeal section 57-38-01.27 of the North Dakota Century Code, relating to the microbusiness income tax credit; and to provide an effective date.

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

<sup>197</sup> **SECTION 1. AMENDMENT.** Subsection 3 of section 54-35-26 of the North Dakota Century Code is amended and reenacted as follows:

3. The legislative management interim committee assigned the study responsibility under this section may examine economic development tax incentives, shall complete analysis of the state-imposed tax aspects of the incentives it designates for analysis during the interim, and shall approve a plan to provide that each of the economic development tax incentives listed in this subsection is subject to a complete analysis within each six-year period. The interim committee may include in its recommendations any amendments to this section, including amendments to add or remove incentives from the list of incentives subject to analysis under this subsection. Analysis must be completed for state-imposed tax aspects of economic development tax incentives, including each of the following:
  - a. Renaissance zone credits and exemptions.
  - b. Research expense credit.
  - c. Agricultural commodity processing facility investment credit.
  - d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel blending credit, and biodiesel fuel equipment credit.
  - e. Seed capital investment credit.
  - f. Wage and salary credit.
  - g. Internship program credit.
  - h. ~~Microbusiness credit.~~
  - i. Angel fund investment credit.

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<sup>197</sup> Section 54-35-26 was also amended by section 1 of House Bill No. 1049, chapter 390, and section 5 of Senate Bill No. 2166, chapter 277.

- ~~j.i.~~ Workforce recruitment credit.
- ~~k.j.~~ Soybean or canola crushing facility construction or retrofit credit.
- ~~l.k.~~ Manufacturing automation equipment credit.
- ~~m.l.~~ New or expanding business exemption.
- ~~n.m.~~ Manufacturing and recycling equipment sales tax exemption.
- ~~o.n.~~ Coal severance and conversion tax exemptions.
- ~~p.o.~~ Oil and gas gross production and oil extraction tax exemptions.
- ~~q.p.~~ Fuel tax refunds for certain users.
- ~~r.q.~~ New jobs credit from income tax withholding.
- ~~s.r.~~ Any economic development tax incentive created by the sixty-fourth legislative assembly.

<sup>198</sup> **SECTION 2. AMENDMENT.** Subsection 7 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

7. A taxpayer filing a return under this section is entitled to the following tax credits:
  - a. Family care tax credit under section 57-38-01.20.
  - b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
  - c. Agricultural business investment tax credit under section 57-38.6-03.
  - d. Seed capital investment tax credit under section 57-38.5-03.
  - e. Planned gift tax credit under section 57-38-01.21.
  - f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and 57-38-01.23.
  - g. Internship employment tax credit under section 57-38-01.24.
  - h. Workforce recruitment credit under section 57-38-01.25.
  - i. Angel fund investment tax credit under section 57-38-01.26.
  - ~~j. Microbusiness tax credit under section 57-38-01.27.~~
  - ~~k.~~ Marriage penalty credit under section 57-38-01.28.

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<sup>198</sup> Section 57-38-30.3 was also amended by section 1 of House Bill No. 1239, chapter 400, section 17 of House Bill No. 1043, chapter 57, section 2 of House Bill No. 1045, chapter 399, and section 3 of Senate Bill No. 2032, chapter 373.

- l.k. Homestead income tax credit under section 57-38-01.29.
- m.l. Commercial property income tax credit under section 57-38-01.30.
- n.m. Research and experimental expenditures under section 57-38-30.5.
- o.n. Geothermal energy device installation credit under section 57-38-01.8.
- p.o. Long-term care partnership plan premiums income tax credit under section 57-38-29.3.
- q.p. Employer tax credit for salary and related retirement plan contributions of mobilized employees under section 57-38-01.31.
- r.q. Automating manufacturing processes tax credit under section 57-38-01.33 (effective for the first five taxable years beginning after December 31, 2012).
- s.r. Income tax credit for passthrough entity contributions to private education institutions under section 57-38-01.7.

**SECTION 3. REPEAL.** Section 57-38-01.27 of the North Dakota Century Code is repealed.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2016.

Approved April 28, 2017

Filed May 1, 2017

## CHAPTER 390

### HOUSE BILL NO. 1049

(Legislative Management)  
(Political Subdivision Taxation Committee)

AN ACT to amend and reenact subsection 3 of section 54-35-26 of the North Dakota Century Code, relating to the list of economic development tax incentives subject to regular review; to repeal section 57-38-30.1 of the North Dakota Century Code, relating to the wage and salary credit; and to provide an effective date.

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

<sup>199</sup> **SECTION 1. AMENDMENT.** Subsection 3 of section 54-35-26 of the North Dakota Century Code is amended and reenacted as follows:

3. The legislative management interim committee assigned the study responsibility under this section may examine economic development tax incentives, shall complete analysis of the state-imposed tax aspects of the incentives it designates for analysis during the interim, and shall approve a plan to provide that each of the economic development tax incentives listed in this subsection is subject to a complete analysis within each six-year period. The interim committee may include in its recommendations any amendments to this section, including amendments to add or remove incentives from the list of incentives subject to analysis under this subsection. Analysis must be completed for state-imposed tax aspects of economic development tax incentives, including each of the following:
  - a. Renaissance zone credits and exemptions.
  - b. Research expense credit.
  - c. Agricultural commodity processing facility investment credit.
  - d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel blending credit, and biodiesel fuel equipment credit.
  - e. Seed capital investment credit.
  - f. ~~Wage and salary credit.~~
  - g. Internship program credit.
  - ~~h-g.~~ Microbusiness credit.
  - ~~i-h.~~ Angel fund investment credit.
  - ~~j-i.~~ Workforce recruitment credit.

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<sup>199</sup> Section 54-35-26 was also amended by section 1 of House Bill No. 1050, chapter 389, and section 5 of Senate Bill No. 2166, chapter 277.

- k-j. Soybean or canola crushing facility construction or retrofit credit.
- l-k. Manufacturing automation equipment credit.
- m-l. New or expanding business exemption.
- n-m. Manufacturing and recycling equipment sales tax exemption.
- o-n. Coal severance and conversion tax exemptions.
- p-o. Oil and gas gross production and oil extraction tax exemptions.
- q-p. Fuel tax refunds for certain users.
- r-q. New jobs credit from income tax withholding.
- s-r. Any economic development tax incentive created by the sixty-fourth legislative assembly.

**SECTION 2. REPEAL.** Section 57-38-30.1 of the North Dakota Century Code is repealed.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2016.

Approved March 21, 2017

Filed March 22, 2017

## CHAPTER 391

### HOUSE BILL NO. 1431

(Representatives Mock, Hanson, Schneider)  
(Senator Oban)

AN ACT to amend and reenact section 54-35-02.8 of the North Dakota Century Code, relating to the legislative ethics committee.

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

**SECTION 1. AMENDMENT.** Section 54-35-02.8 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-35-02.8. Legislative ethics committee.**

The legislative management, during each biennium, shall appoint an ethics committee to consider or prepare a legislative code of ethics. The committee must include members of the majority and minority parties of each house. The committee may recommend legislation relating to legislative ethics. The committee shall operate according to the laws and procedures governing the operation of other legislative management interim committees.

Approved March 29, 2017

Filed March 30, 2017

## CHAPTER 392

### HOUSE BILL NO. 1173

(Representatives Kempenich, Kreidt, Nathe)  
(Senators Klein, Wanzek)

AN ACT to amend and reenact section 54-35-02.2 of the North Dakota Century Code, relating to the powers and duties of the legislative audit and fiscal review committee.

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

**SECTION 1. AMENDMENT.** Section 54-35-02.2 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-35-02.2. Powers and duties of the legislative audit and fiscal review committee.**

The legislative audit and fiscal review committee shall study and review audit reports as selected by the committee from those submitted by the state auditor, confer with the auditor and deputy auditors in regard to such reports, and when necessary, confer with representatives of the department, agency, or institution audited in order to obtain full and complete information in regard to any and all fiscal transactions and governmental operations of any department, agency, or institution of the state. Each department, agency, or institution shall furnish to the committee such aid, information, and assistance in regard to fiscal transactions and governmental operations as it may from time to time request. Whenever the committee may determine or have reason to believe that there may have been a violation of law relating to the receipt, custody, or expenditure of public funds by any state officer or employee, the committee shall present such evidence or information as may be in its possession to the attorney general. The attorney general shall receive and accept such evidence or information and shall immediately commence such additional investigation as the attorney general determines necessary. Upon completion of the investigation, if the evidence supplied by the committee and through the investigation indicates the probability of a violation of law by any state official or employee, the attorney general immediately shall prosecute such official or employee as provided by law. Whenever the committee may determine that a state agency, department, or institution has failed to correct an audit finding within two bienniums which the committee determines critically important, the committee may recommend the legislative assembly reduce the state agency, department, or institution's appropriation as compared with the amount appropriated to the agency, department, or institution for the previous biennium. The legislative management, through its committee on legislative audit and fiscal review, or such persons as may be directed or employed by the legislative council, is authorized, within the limits of legislative appropriations, to make such audits, examinations, or studies of the fiscal transactions or governmental operations of departments, agencies, or institutions of the state as the legislative management may determine necessary.

Approved March 22, 2017

Filed March 22, 2017

## CHAPTER 393

### HOUSE BILL NO. 1405

(Representatives Schneider, P. Anderson, Boschee, Delmore, Dobervich,  
Guggisberg, Hogan, Mitskog)  
(Senators Nelson, Oban)

AN ACT to amend and reenact section 54-34.3-10 of the North Dakota Century Code, relating to the commission on the status of women.

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

**SECTION 1. AMENDMENT.** Section 54-34.3-10 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-34.3-10. Commission on the status of women - Appointment - Expenses - Duties.**

1. There is established a commission on the status of women. This commission consists of five members. The governor shall appoint each member for a term of four years, staggered so that the term of at least one member expires July first of each year. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for only the remainder of the unexpired term.
2. The members are entitled to be paid for mileage and actual expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees.
3. This commission shall ~~coordinate~~:
  - a. Coordinate activities and serve as a clearinghouse and an advisory group to the division for information relating to economic development programs that focus on career development for women. ~~This commission shall prepare~~
  - b. Provide a biennial report by September first of each even-numbered year to the director of the department of commerce division of economic development and finance and the governor on the findings and recommendations of the commission and any proposed legislation necessary to implement the recommendations.
  - c. Prepare for and perform followup duties in connection with state, regional, and national conferences, encourage interest, participation, and cooperation with state departments, agencies, and other organizations in developing needed services, facilities, and opportunities, and provide consultant help to local organizations created for the purpose of coordinating activities for the economic and career development of women.

Approved March 13, 2017

Filed March 13, 2017

## CHAPTER 394

### HOUSE BILL NO. 1155

(Representatives Delzer, Bellew, Carlson, Monson, Streyle)

AN ACT to amend and reenact sections 54-27.2-01, 54-27.2-03, and 54-44.1-12 of the North Dakota Century Code, relating to the balance of the budget stabilization fund, transfers and expenditures from the budget stabilization fund, and the allotment of funds; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 54-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-27.2-01. Budget stabilization fund.**

The budget stabilization fund is a special fund in the state treasury. The state investment board shall supervise investment of the budget stabilization fund in accordance with chapter 21-10. Any interest or other budget stabilization fund earnings must be ~~deposited in~~credited to the fund. Any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund at the end of any fiscal year to an amount greater than ~~nine and one-half~~nine percent of the current biennial state general fund budget, as finally approved by the most recently adjourned special or regular session of the legislative assembly, may not be deposited ~~or retained in~~or credited to the fund but must be deposited instead in the state general fund.

**SECTION 2. AMENDMENT.** Section 54-27.2-03 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-27.2-03. Transfers and expenditures from budget stabilization fund.**

~~If the director of the office of management and budget projects that general fund revenues for the biennium will be at least two and one-half percent less than estimated by the most recently adjourned special or regular session of the legislative assembly, and if the governor orders a transfer, which must be reported to the budget section of the legislative management, the state treasurer shall transfer the appropriate funds from the budget stabilization fund to the state general fund to offset the decrease in general fund revenues. The amount transferred from the budget stabilization fund upon order of the governor may not exceed the difference between an amount two and one-half percent below the general fund revenue projections for the biennium of the most recently adjourned special or regular session of the legislative assembly and the general fund revenue projections for the biennium by the director of the office of management and budget. The amount~~

1. The governor may order transfers from the budget stabilization fund to the general fund as follows:
  - a. After general fund allotments totaling at least three percent have been made during the biennium under section 54-44.1-12, the governor may

- order a transfer up to an amount equal to three percent of general fund appropriations.
- b. If the maximum transfer from the budget stabilization fund is made to the general fund under subdivision a and an additional general fund allotment of at least one percent is made under section 54-44.1-12, the governor may order a transfer up to an amount equal to two percent of general fund appropriations.
  - c. If the maximum transfer from the budget stabilization fund is made to the general fund under subdivision b and an additional general fund allotment of at least one percent is made under section 54-44.1-12, the governor may order a transfer up to an amount equal to three percent of general fund appropriations.
  - d. If the maximum transfer from the budget stabilization fund is made to the general fund under subdivision c and an additional general fund allotment of at least one percent is made under section 54-44.1-12, the governor may transfer any remaining funds in the budget stabilization fund to the general fund.
  - e. The amount of a transfer made under any subdivision of this subsection may not exceed the difference between the general fund revenue projections for the biennium of the most recently adjourned special or regular session of the legislative assembly and the revised general fund revenue projections for the biennium, less the amounts of any allotments ordered under section 54-44.1-12 during the biennium, as determined by the director of the office of management and budget. For purposes of this subsection, "general fund revenue projections for the biennium" includes the general fund balance at the beginning of the biennium.
  - f. For purposes of this subsection, the calculation of total percentage general fund allotments made under section 54-44.1-12 must be based on total general fund allotments after any allotment exemption granted by the director of the budget compared to total general fund appropriations.
2. Any amounts transferred from the budget stabilization fund upon order of the governor to the state general fund may be expended within the limits of legislative guidelines and general fund appropriations of the most recently adjourned special or regular session of the legislative assembly. For purposes of this section, "general fund revenues for the biennium" and "general fund revenue projections for the biennium" include the general fund balance at the beginning of the biennium. "general fund appropriations" includes total biennium general fund appropriations approved by the most recently adjourned special or regular session of the legislative assembly. The director of the office of management and budget must provide a report to the budget section of the legislative management when a transfer is made under this section.

<sup>200</sup> **SECTION 3. AMENDMENT.** Section 54-44.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-12. Control over rate of expenditures.**

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<sup>200</sup> Section 54-44.1-12 was also amended by section 6 of Senate Bill No. 2272, chapter 368.

1. The director of the budget shall exercise continual control over the execution of the budget affecting the departments and agencies of state government, with the exception of the legislative and judicial branches. Execution means the analysis and approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of allotments. The allotment must be made by specific fund and all departments and agencies that receive moneys from that fund must be allotted on a uniform percentage basis; ~~except that appropriations to the department of public instruction for state school aid, transportation aid, and special education aid may only be allotted to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund as follows:~~
  - a. ~~The first two and one-half percent allotment from the general fund must be offset with a transfer from the foundation aid stabilization fund.~~
  - b. ~~Any general fund allotment in excess of two and one-half percent that is necessary, after all moneys available in the budget stabilization fund have been transferred to the general fund under section 54-27-2-03, may be offset with a transfer from the foundation aid stabilization fund~~
  - a. The following appropriations may be allotted only to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund:
    - (1) General fund appropriations to the department of public instruction for state school aid, transportation aid, and special education aid; and
    - (2) General fund appropriations to the department of career and technical education for grants to school districts.
  - b. After allotments of two and one-half percent have been ordered during a biennium, the director of the budget may exempt the following appropriations from up to one percent of an allotment each biennium:
    - (1) General fund appropriations to the department of corrections and rehabilitation; and
    - (2) General fund appropriations to the department of human services for direct care programs.
2. Before an allotment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director shall find one or more of the following circumstances to exist:
  - a. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropriations from the fund.
  - b. The payment or the obligation incurred is not authorized by law.
  - c. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, including:

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- (1) Statements of legislative intent expressed in enacted appropriation measures or other measures enacted by the legislative assembly; and
  - (2) Statements of purpose of amendment explaining amendments to enacted appropriation measures, as recorded in the journals of the legislative assembly.
- d. Circumstances or availability of facts not previously known or foreseen by the legislative assembly which make possible the accomplishment of the purpose of the appropriation at a lesser amount than that appropriated.

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

Approved April 18, 2017

Filed April 18, 2017

## CHAPTER 395

### HOUSE BILL NO. 1029

(Legislative Management)  
(Government Finance Committee)

AN ACT to create and enact a new section to chapter 54-27 of the North Dakota Century Code, relating to acceptance of federal funds; and to provide for a legislative management study of statutory and regulatory requirements placed on North Dakota state government agencies by United States government agencies.

#### 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:

##### **Federal funding requirements - State agency analysis.**

Each state agency, excluding entities under the control of the state board of higher education, prior to applying for or accepting federal grant funds, shall:

1. Consider the federal requirements that the state must comply with as a condition of receipt of the federal funds;
2. Determine that acceptance of the federal funds does not subject the state to undue federal oversight or regulations; and
3. Determine that the federal requirements are not in conflict with legislative intent.

##### **SECTION 2. LEGISLATIVE MANAGEMENT STUDY - STATUTORY AND REGULATORY REQUIREMENTS PLACED ON NORTH DAKOTA STATE GOVERNMENT AGENCIES BY UNITED STATES GOVERNMENT AGENCIES.**

During the 2017-18 interim, the legislative management shall consider studying the statutory and regulatory requirements placed on North Dakota state government agencies by United States government agencies as a condition of the receipt of federal funding to determine whether there are viable options to meet the needs of our state without having the federal government's oversight and involvement, which state needs can be met if federal funding associated with undesirable regulation or excessive direct and indirect costs is refused, and whether the benefits of accepting certain federal funds outweighs the requirements of participation in the federal programs. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

Approved March 29, 2017

Filed March 30, 2017

## CHAPTER 396

### HOUSE BILL NO. 1149

(Representative Porter)

AN ACT to amend and reenact section 54-10-27 of North Dakota Century Code, relating to audits of occupational and professional boards.

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

**SECTION 1. AMENDMENT.** Section 54-10-27 of the North Dakota Century Code is amended and reenacted as follows:

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

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

Approved April 10, 2017

Filed April 10, 2017