

## JOURNAL OF THE SENATE

## Sixty-first Legislative Assembly

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Bismarck, April 29, 2009

The Senate convened at 8:00 a.m., with President Dalrymple presiding.

The prayer was offered by Pastor Dale Nabben, Missouri Slope Lutheran Care Center, Bismarck.

The roll was called and all members were present except Senator Oehlke.

A quorum was declared by the President.

## MOTION

**SEN. CHRISTMANN MOVED** that SB 2391 be moved to the top of the Seventh order, which motion prevailed.

## CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. ERBELE MOVED** that the conference committee report on SB 2391 as printed on SJ page 1573 be adopted, which motion prevailed on a voice vote.

SB 2391, as amended, was placed on the Eleventh order.

## SECOND READING OF SENATE BILL

**SB 2391:** A BILL for an Act to amend and reenact section 50-06-26 of the North Dakota Century Code, relating to the alternatives-to-abortion services program; to provide for reports to the legislative council; and to provide an appropriation.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 1 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nothing; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** Fiebigler

Engrossed SB 2391 passed and the title was agreed to.

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## REPORT OF CONFERENCE COMMITTEE

**SB 2199, as reengrossed:** Your conference committee (Sens. Cook, Hogue, Anderson and Reps. Belter, Drovdal, S. Kelsh) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1281-1284, adopt amendments as follows, and place SB 2199 on the Seventh order:

That the House recede from its amendments as printed on pages 1281-1284 of the Senate Journal and pages 1357-1360 of the House Journal and that Reengrossed Senate Bill No. 2199 be amended as follows:

Page 1, line 1, after "Act" insert "to create a property tax relief sustainability fund;"

Page 1, line 4, replace "and" with a comma and after "57-15-31" insert ", and 57-38-30 and subsection 1 of section 57-38-30.3"

Page 1, line 5, after "districts" insert ", corporate income tax rates, and income tax rates for individuals, estates, and trusts", after the first semicolon insert "to repeal section 15.1-27-20.1 of the North Dakota Century Code, relating to the effect of the general fund levy of school districts on state aid allocations;", and after the second semicolon insert "to provide for transfers;"

Page 2, line 22, after "4." insert "The authority for a levy of up to a specific number of mills under this section approved by electors of a school district before July 1, 2009, is terminated effective for taxable years after 2015. If the electors of a school district subject to this subsection have not approved a levy for taxable years after 2015 of up to a specific number of mills under this section by December 31, 2015, the school district levy limitation for subsequent years is subject to the limitations under section 57-15-01.1 or this section.

5."

Page 2, line 23, replace "2010" with "2015"

Page 2, line 24, after "of" insert "up to"

Page 2, line 25, replace "2010" with "2015"

Page 3, after line 29, insert:

**"SECTION 4. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-30. Imposition and rate of tax on corporations.** A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first ~~three~~ twenty-five thousand dollars of taxable income, at the rate of two and ~~six-tenths~~ one-tenth percent.
- b. On all taxable income ~~above three~~ exceeding twenty-five thousand dollars and not ~~in excess of eight~~ exceeding fifty thousand dollars, at the rate of ~~four and one-tenth~~ five and twenty-five hundredths percent.
- c. On all taxable income ~~above eight~~ exceeding fifty thousand dollars and not ~~in excess of twenty thousand dollars~~, at the rate of ~~five and six-tenths~~ six and four-tenths percent.
- d. ~~On all taxable income above twenty thousand dollars and not in excess of thirty thousand dollars, at the rate of six and four-tenths percent.~~
- e. ~~On all taxable income above thirty thousand dollars, at the rate of six and one-half percent.~~
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

**SECTION 5. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

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

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

|  |  |
|--|--|
| If North Dakota taxable income is:               | The tax is equal to:   |
| Not over <del>\$27,050</del> <u>\$33,950</u>     | <del>2.40%</del> <u>1.84%</u>  |
| Over <del>\$27,050</del> <u>\$33,950</u> but not | <del>\$568.05</del> <u>\$624.68</u> plus <del>3.92%</del> <u>3.44%</u> |

|  |  |
|--|--|
| over <del>\$65,550</del> <u>\$82,250</u>           | of amount over <del>\$27,050</del> <u>\$33,950</u>         |
| Over <del>\$65,550</del> <u>\$82,250</u> but not   | <del>\$2,077.25</del> <u>\$2,286.20</u> plus 4.34% 3.81%   |
| over <del>\$136,750</del> <u>\$171,550</u>         | of amount over <del>\$65,550</del> <u>\$82,250</u>         |
| Over <del>\$136,750</del> <u>\$171,550</u> but not | <del>\$5,467.33</del> <u>\$5,688.53</u> plus 5.04% 4.42%   |
| over <del>\$297,350</del> <u>\$372,950</u>         | of amount over <del>\$136,750</del> <u>\$171,550</u>       |
| Over <del>\$297,350</del> <u>\$372,950</u>         | <del>\$13,261.57</del> <u>\$14,590.41</u> plus 5.54% 4.86% |
|  | of amount over <del>\$297,350</del> <u>\$372,950</u>       |

b. Married filing jointly and surviving spouse.

|  |  |
|--|--|
| If North Dakota taxable income is:                 | The tax is equal to:                                       |
| Not over <del>\$45,200</del> <u>\$56,750</u>       | <del>2.40%</del> <u>1.84%</u>                              |
| Over <del>\$45,200</del> <u>\$56,750</u> but not   | <del>\$949.20</del> <u>\$1,044.20</u> plus 3.92% 3.44%     |
| over <del>\$109,250</del> <u>\$137,050</u>         | of amount over <del>\$45,200</del> <u>\$56,750</u>         |
| Over <del>\$109,250</del> <u>\$137,050</u> but not | <del>\$3,459.96</del> <u>\$3,806.52</u> plus 4.34% 3.81%   |
| over <del>\$166,500</del> <u>\$208,850</u>         | of amount over <del>\$109,250</del> <u>\$137,050</u>       |
| Over <del>\$166,500</del> <u>\$208,850</u> but not | <del>\$5,944.64</del> <u>\$6,542.10</u> plus 5.04% 4.42%   |
| over <del>\$297,350</del> <u>\$372,950</u>         | of amount over <del>\$166,500</del> <u>\$208,850</u>       |
| Over <del>\$297,350</del> <u>\$372,950</u>         | <del>\$12,539.45</del> <u>\$13,795.32</u> plus 5.54% 4.86% |
|  | of amount over <del>\$297,350</del> <u>\$372,950</u>       |

c. Married filing separately.

|   |  |
|---|--|
| If North Dakota taxable income is:                | The tax is equal to:                                     |
| Not over <del>\$22,600</del> <u>\$28,375</u>      | <del>2.40%</del> <u>1.84%</u>                            |
| Over <del>\$22,600</del> <u>\$28,375</u> but not  | <del>\$474.60</del> <u>\$522.10</u> plus 3.92% 3.44%     |
| over <del>\$54,625</del> <u>\$68,525</u>          | of amount over <del>\$22,600</del> <u>\$28,375</u>       |
| Over <del>\$54,625</del> <u>\$68,525</u> but not  | <del>\$1,729.98</del> <u>\$1,903.26</u> plus 4.34% 3.81% |
| over <del>\$83,250</del> <u>\$104,425</u>         | of amount over <del>\$54,625</del> <u>\$68,525</u>       |
| Over <del>\$83,250</del> <u>\$104,425</u> but not | <del>\$2,972.34</del> <u>\$3,271.05</u> plus 5.04% 4.42% |
| over <del>\$148,675</del> <u>\$186,475</u>        | of amount over <del>\$83,250</del> <u>\$104,425</u>      |
| Over <del>\$148,675</del> <u>\$186,475</u>        | <del>\$6,269.73</del> <u>\$6,897.66</u> plus 5.54% 4.86% |
|   | of amount over <del>\$148,675</del> <u>\$186,475</u>     |

d. Head of household.

|  |  |
|--|--|
| If North Dakota taxable income is:                 | The tax is equal to:                                       |
| Not over <del>\$36,250</del> <u>\$45,500</u>       | <del>2.40%</del> <u>1.84%</u>                              |
| Over <del>\$36,250</del> <u>\$45,500</u> but not   | <del>\$761.25</del> <u>\$837.20</u> plus 3.92% 3.44%       |
| over <del>\$93,650</del> <u>\$117,450</u>          | of amount over <del>\$36,250</del> <u>\$45,500</u>         |
| Over <del>\$93,650</del> <u>\$117,450</u> but not  | <del>\$3,041.33</del> <u>\$3,312.28</u> plus 4.34% 3.81%   |
| over <del>\$151,650</del> <u>\$190,200</u>         | of amount over <del>\$93,650</del> <u>\$117,450</u>        |
| Over <del>\$151,650</del> <u>\$190,200</u> but not | <del>\$5,528.53</del> <u>\$6,084.06</u> plus 5.04% 4.42%   |
| over <del>\$297,350</del> <u>\$372,950</u>         | of amount over <del>\$151,650</del> <u>\$190,200</u>       |
| Over <del>\$297,350</del> <u>\$372,950</u>         | <del>\$12,871.84</del> <u>\$14,161.61</u> plus 5.54% 4.86% |
|  | of amount over <del>\$297,350</del> <u>\$372,950</u>       |

e. Estates and trusts.

|  |  |
|--|--|
| If North Dakota taxable income is:             | The tax is equal to:                                 |
| Not over <del>\$1,800</del> <u>\$2,300</u>     | <del>2.40%</del> <u>1.84%</u>                        |
| Over <del>\$1,800</del> <u>\$2,300</u> but not | <del>\$37.80</del> <u>\$42.32</u> plus 3.92% 3.44%   |
| over <del>\$4,250</del> <u>\$5,350</u>         | of amount over <del>\$1,800</del> <u>\$2,300</u>     |
| Over <del>\$4,250</del> <u>\$5,350</u> but not | <del>\$133.84</del> <u>\$147.24</u> plus 4.34% 3.81% |
| over <del>\$6,500</del> <u>\$8,200</u>         | of amount over <del>\$4,250</del> <u>\$5,350</u>     |
| Over <del>\$6,500</del> <u>\$8,200</u> but not | <del>\$231.49</del> <u>\$255.83</u> plus 5.04% 4.42% |
| over <del>\$8,900</del> <u>\$11,150</u>        | of amount over <del>\$6,500</del> <u>\$8,200</u>     |
| Over <del>\$8,900</del> <u>\$11,150</u>        | <del>\$352.45</del> <u>\$386.22</u> plus 5.54% 4.86% |
|  | of amount over <del>\$8,900</del> <u>\$11,150</u>    |

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

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

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a

nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. For taxable years beginning after December 31, ~~2004~~ 2009, the tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes."

Page 5, after line 2, insert:

"7. For all purposes under law relating to allocation of funds among political subdivisions based on property tax levies, property taxes levied by a school district are the amount that would have been levied without the mill reduction grant provided to the school district under this chapter."

Page 5, line 5, replace "combined education" with "general fund"

Page 5, line 8, replace "combined education" with "general fund"

Page 5, line 18, remove "a or"

Page 5, line 19, replace "combined education" with "general fund"

Page 5, line 26, replace "combined" with "general fund"

Page 5, line 27, remove "education"

Page 5, line 30, after "district" insert "general fund"

Page 6, after line 6, insert:

**"SECTION 7. Property tax relief sustainability fund.** The property tax relief sustainability fund is a special fund in the state treasury. Moneys in the fund may be spent, pursuant to legislative appropriations, for property tax relief programs.

**SECTION 8. REPEAL.** Section 15.1-27-20.1 of the North Dakota Century Code is repealed."

Page 6, line 8, replace "permanent oil tax trust" with "general"

Page 6, after line 11, insert:

**"SECTION 10. TRANSFER - PERMANENT OIL TAX TRUST FUND - GENERAL FUND.** The office of management and budget shall transfer the sum of \$295,000,000 from the permanent oil tax trust fund to the general fund on July 1, 2009.

**SECTION 11. TRANSFER - PERMANENT OIL TAX TRUST FUND - PROPERTY TAX RELIEF SUSTAINABILITY FUND.** The office of management and budget shall transfer the sum of \$295,000,000 from the permanent oil tax trust fund to the property tax relief sustainability fund on July 1, 2010."

Page 6, line 12, remove "and" and after "3" insert ", 4, and 5"

ReNUMBER accordingly

Reengrossed SB 2199 was placed on the Seventh order of business on the calendar.

#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. COOK MOVED** that the conference committee report on Reengrossed SB 2199 be adopted.

**REQUEST**

**SEN. COOK REQUESTED** a recorded roll call vote on the motion to adopt the conference committee report on Reengrossed SB 2199, which request was granted.

**ROLL CALL**

The question being on the motion to adopt the conference committee report on Reengrossed SB 2199, the roll was called and there were 26 YEAS, 21 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Lyson; Miller; Nething; Nodland; Oehlke; Olafson; Stenehjem; Wanzek; Wardner

**NAYS:** Anderson; Bakke; Behm; Dotzenrod; Fiebiger; Heckaman; Horne; Krauter; Lindaas; Marcellais; Mathern; Nelson; O'Connell; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Triplett; Warner

The conference committee report on Reengrossed SB 2199 was adopted.

Reengrossed SB 2199, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2199:** A BILL for an Act to create a property tax relief sustainability fund; to create and enact two new subdivisions to subsection 3 of section 57-15-01.1 and chapter 57-64 of the North Dakota Century Code, relating to allocation of state funds to school districts for mill levy reduction grants; to amend and reenact sections 57-15-14, 57-15-31, and 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to property tax levies of school districts, corporate income tax rates, and income tax rates for individuals, estates, and trusts; to repeal section 15.1-27-20.1 of the North Dakota Century Code, relating to the effect of the general fund levy of school districts on state aid allocations; to provide an appropriation; to provide for transfers; and to provide an effective date.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 2 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** Marcellais; Mathern

Reengrossed SB 2199 passed and the title was agreed to.

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

**MR. PRESIDENT:** The Speaker has appointed Rep. Kreidt to replace Rep. Bellew on the Conference Committee on HB 1012.

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

**MR. PRESIDENT:** The Speaker has appointed Rep. Nelson to replace Rep. Bellew on the Conference Committee on HB 1014.

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

**MR. PRESIDENT:** The Speaker has appointed Rep. Pollert to replace Rep. Bellew on the Conference Committee on SB 2004.

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

**MR. PRESIDENT:** The Speaker has appointed Rep. Nelson to replace Rep. Bellew on the Conference Committee on SB 2010.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2199, SB 2391.

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

**MR. PRESIDENT:** The House has adopted the conference committee report on: SB 2006, SB 2016, SB 2017.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1449.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2097, SB 2195, SB 2230.

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

**MR. PRESIDENT:** The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2201.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 1:00 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Dalrymple presiding.

**MOTION**

**SEN. OLAFSON MOVED** that SCR 4038 be amended as follows, which motion prevailed on a voice vote.

In lieu of the amendments printed on pages 1567 and 1568 of the Senate Journal, Senate Concurrent Resolution No. 4038 is amended as follows:

Page 1, line 15, after "state" insert "after June 30, 2011,"

Page 1, line 17, after the underscored period insert "On July 1, 2011, the state treasurer shall transfer to the public health investment trust fund all tobacco settlement dollars obtained by the state under section IX(c)(2) of the agreement before July 1, 2011, which are unexpended and unobligated on July 1, 2011."

Page 1, line 20, remove ", including immunization programs, cancer"

Page 1, line 21, remove "screening and prevention, diabetes screening and control, and aging services"

Renumber accordingly

**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4038:** A concurrent resolution to create and enact a new section to article X of the Constitution of North Dakota, relating to the creation of a public health investment trust fund.

**ROLL CALL**

The question being on the final adoption of the amended resolution, which has been read, and is PLACED ON THE CALENDAR WITHOUT RECOMMENDATION, the roll was called and there were 24 YEAS, 23 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Lyson; Nething; Nodland; Olafson; Stenehjem; Wanzek; Wardner

**NAYS:** Anderson; Bakke; Behm; Dotzenrod; Fiebiger; Heckaman; Horne; Krauter; Lindaas; Marcellais; Mathern; Miller; Nelson; O'Connell; Oehlke; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Triplett; Warner

Engrossed SCR 4038 was declared adopted, and the title was agreed to on a roll call vote.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. KLEIN MOVED** that the conference committee report on Engrossed SB 2308 as printed on SJ pages 1571-1573 be adopted.

**REQUEST**

**SEN. WARNER REQUESTED** a verification vote on the motion to adopt the conference committee report on Engrossed SB 1308, which request was granted.

The conference committee report on Engrossed SB 2308 was adopted.

Engrossed SB 2308, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2308:** A BILL for an Act to create and enact section 50-25.1-15.1 of the North Dakota Century Code, relating to abandonment of an infant at a fire station; and to amend and reenact sections 18-05.1-02 and 18-05.1-03 of the North Dakota Century Code, relating to payments to a deceased firefighter's survivor.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 18 YEAS, 29 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Bakke; Behm; Dotzenrod; Fiebiger; Holmberg; Krauter; Lindaas; Marcellais; Mathern; Miller; Nelson; O'Connell; Potter; Robinson; Schneider; Seymour; Taylor; Triplett

**NAYS:** Anderson; Andrist; Bowman; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Horne; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Lyson; Nething; Nodland; Oehlke; Olafson; Pomeroy; Stenehjem; Wanzek; Wardner; Warner

Reengrossed SB 2308 lost.

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**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently failed to pass: SB 2308.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2199.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2002, SB 2006, SB 2016, SB 2017, SB 2097, SB 2195, SB 2201, SB 2230.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1011, HB 1017, HB 1035, HB 1151, HB 1295, HB 1304, HB 1425, HB 1436.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**

**MR. SPEAKER:** The President has signed: SCR 4037.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolution was delivered to the Secretary of State for filing on April 29, 2009: SCR 4037.

**COMMUNICATION FROM GOVERNOR JOHN HOEVEN**

This is to inform you that on April 24, 2009, I have signed the following: SB 2028, SB 2051, SB 2098, SB 2114, SB 2116, SB 2163, SB 2171, SB 2251, SB 2270, SB 2293, SB 2338, SB 2415, SB 2421, SB 2438, SB 2441, and SB 2443.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 6:00 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Dalrymple presiding.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2012, as engrossed:** Your conference committee (Sens. Wardner, Stenehjem, Warner and Reps. Delzer, Carlson, Kaldor) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1474-1479, adopt amendments as follows, and place SB 2012 on the Seventh order:

That the House recede from its amendments as printed on pages 1474-1479 of the Senate Journal and pages 1680-1685 of the House Journal and that Engrossed Senate Bill No. 2012 be amended as follows:

Page 1, line 2, after the semicolon insert "to provide an appropriation to the state treasurer; to provide for budget section reports; to provide for a state disaster relief fund; to create and enact a new section to chapter 24-01 and a new section to chapter 54-27 of the North Dakota Century Code, relating to the name of United States highway 85 and transportation funding reports;"; after "sections" insert "24-02-35.2," and after "54-27-19.1" insert ", 57-40.3-10"

Page 1, line 4, after "disasters" insert ", the proceeds from the sale of road materials,"

Page 1, line 6, remove "and" and replace "a transfer" with "transfers; to provide for legislative council studies; to provide an effective date; to provide an expiration date; and to declare an emergency"

Page 1, line 16, replace "24,194,030" with "20,047,015" and replace "151,520,269" with "147,373,254"

Page 1, line 17, replace "29,107,351" with "14,107,351" and replace "203,805,014" with "188,805,014"

Page 1, line 18, replace "96,855,896" with "113,267,450" and replace "645,576,994" with "661,988,548"

Page 1, line 19, replace "16,653,601" with "14,853,601" and replace "69,066,101" with "67,266,101"

Page 1, line 20, replace "166,810,878" with "162,275,417" and replace "1,069,968,378" with "1,065,432,917"

Page 1, line 21, replace "3.00" with "2.00" and replace "1,055.50" with "1,054.50"

Page 1, replace lines 22 through 24 with:

**"SECTION 2. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the department of transportation, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

|                                  |               |
|----------------------------------|---------------|
| Highway infrastructure           | \$170,126,497 |
| Grants to rural transit programs | 5,956,174     |
| Total federal funds              | \$176,082,671 |

The department of transportation may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated under this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

**SECTION 3. APPROPRIATION - STATE TREASURER - WEATHER-RELATED COST-SHARING PROGRAM.** There is appropriated out of any moneys in the general fund in the state treasury attributable to motor vehicle excise tax collections during the 2007-09 biennium, not otherwise appropriated, the sum of \$59,900,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing weather-related cost-sharing funds, for the period beginning with the effective date of this Act and ending June 30, 2009. The state treasurer shall distribute the funds appropriated under this section before June 30, 2009, as follows:

1. Ten million dollars to townships in accordance with the formula used to distribute funds to townships under section 54-27-19.1, except that



organized townships are not required to provide matching funds to receive distributions under this section.

2. Forty-one million four hundred thousand dollars to counties and cities in accordance with the formula used to distribute funds to counties and cities under subsection 2 of section 54-27-19.
3. Seven million five hundred thousand dollars to the state highway fund.
4. One million dollars to the public transportation fund to be distributed in accordance with section 39-04.2-04.

**SECTION 4. State disaster relief fund - Creation - Uses.** There is created in the state treasury a state disaster relief fund. Moneys in the fund are to be used subject to legislative appropriations for providing funding for defraying the expenses of state disasters, including providing funds required to match federal funds for expenses associated with presidential-declared disasters in the state. Any interest or other fund earnings must be deposited in the fund.

**SECTION 5. APPROPRIATION - TRANSFER.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$43,000,000, which the office of management and budget shall transfer to the state disaster relief fund during the period beginning with the effective date of this Act and ending June 30, 2009.

**SECTION 6. APPROPRIATION - ADJUTANT GENERAL - BUDGET SECTION APPROVAL.** There is appropriated out of any moneys in the state disaster relief fund in the state treasury, not otherwise appropriated, the sum of \$43,000,000, or so much of the sum as may be necessary, to the adjutant general for the purpose of providing emergency relief funding, for the period beginning with the effective date of this Act and ending June 30, 2011. The adjutant general may use up to \$20,000,000 of the funds appropriated in this section for the purpose of providing emergency snow removal grants to counties, cities, and townships in accordance with section 7 of this Act. The adjutant general may use up to \$23,000,000 of the funds appropriated in this section for paying costs relating to the 2009 flood disaster, snow removal damage to roads, and other disasters in accordance with section 8 of this Act.

**SECTION 7. EMERGENCY SNOW REMOVAL GRANTS - GUIDELINES - BUDGET SECTION REPORT.** A county, township, or city may apply to the department of emergency services for an emergency snow removal grant for reimbursement of up to fifty percent of the costs incurred by the county, township, or city for the period January 2009 through March 2009 that exceeds two hundred percent of the average costs incurred for these months in 2004 through 2008.

Each county, township, or city requesting reimbursement under this section shall submit the request in accordance with rules developed by the department of emergency services. The department of emergency services shall distribute these grants prior to June 30, 2009, and shall report to the budget section regarding the grants awarded under this section.

**SECTION 8. EMERGENCY DISASTER RELIEF GRANTS - GUIDELINES - BUDGET SECTION REPORT - BUDGET SECTION APPROVAL.** A political subdivision receiving federal emergency relief funding relating to disasters occurring from January 2009 through June 2009 may apply to the department of emergency services for an emergency relief grant of up to fifty percent of the local match required to receive the federal emergency relief funding. Each political subdivision requesting reimbursement under this section shall submit the request in accordance with rules developed by the department of emergency services. The department of emergency services may distribute up to \$13,000,000 of grants under this section. Any additional grant expenditures require budget section approval. The department of emergency services shall report to the budget section on grants awarded under this section in the fourth quarter of calendar year 2009 and the third quarter of calendar year 2010. Any funds provided for by the department of emergency services in this section which are not distributed to political subdivisions may be used to match federal disaster relief funds received for state purposes, subject to budget section approval.

**SECTION 9. APPROPRIATION - EXEMPTION.** There is appropriated out of any moneys in the state highway fund in the state treasury, not otherwise appropriated, the sum of \$7,500,000, or so much of the sum as may be necessary, and out of any moneys in the public transportation fund in the state treasury, not otherwise

appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the department of transportation for highway projects and public transportation grants, for the period beginning with the effective date of this Act and ending June 30, 2009. Funds appropriated in this section are not subject to section 54-44.1-11 and any unexpended funds may be spent by the department of transportation during the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 10. APPROPRIATION - TRANSFER - STATE HIGHWAY FUND.**

There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$4,600,000, which the office of management and budget shall transfer to the state highway fund for the purpose of defraying the expenses of highway projects in the Devils Lake area, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 11. USE OF HIGHWAY FUNDING - REPORT TO THE BUDGET**

**SECTION.** The department of transportation shall coordinate with the department of emergency services to compile information regarding the use of state, federal, emergency, and other highway funding by the department of transportation, counties, cities, and townships during the period beginning with the effective date of this Act and ending June 30, 2011. The department of transportation shall provide periodic reports to the budget section regarding the use of funds during the 2009-10 interim.

**SECTION 12. HIGHWAY FUNDING - ONE-TIME FUNDING.**

Any highway funding received by the state, counties, cities, and townships in excess of the amounts received through distributions from the highway tax distribution fund under section 54-27-19 or existing federal highway aid programs is considered one-time funding for the biennium beginning July 1, 2009, and ending June 30, 2011."

Page 2, remove lines 1 through 29

Page 3, replace lines 4 through 10 with:

"**SECTION 14.** A new section to chapter 24-01 of the North Dakota Century Code is created and enacted as follows:

**Theodore Roosevelt expressway - United States highway 85.** Notwithstanding any previous designation, the department shall designate United States highway 85 from the South Dakota border to the junction of United States highway 2 and United States highway 2 from the Montana border to the junction of United States highway 85 as the Theodore Roosevelt expressway and at a minimum shall place signs along the highway designating that name and may use any appropriate signs donated to the department.

**SECTION 15. AMENDMENT.** Section 24-02-35.2 of the North Dakota Century Code is amended and reenacted as follows:

**24-02-35.2. Deposit of sale proceeds - Continuing appropriation.** The proceeds from any sale of road materials made under section 24-02-35.1 must be deposited in the department of transportation fund. An amount not to exceed the total sum of the sales under section 24-02-35.1, but not to exceed ~~two hundred thousand~~ one million dollars a year, may be withdrawn upon voucher of the department for purchasing road materials. All moneys deposited in the fund pursuant to this section are hereby appropriated to the department for the purposes of this section."

Page 12, after line 17, insert:

"**SECTION 20.** A new section to chapter 54-27 of the North Dakota Century Code is created and enacted as follows:

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

**SECTION 21. AMENDMENT.** Section 57-40.3-10 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.3-10. (Effective through June 30, 2009 2011) Transfer of revenue.** All moneys collected and received under this chapter after moneys are deposited in the state aid distribution fund under section 57-39.2-26.1 must be transmitted monthly by the director of the department of transportation to the state treasurer to be transferred and credited as follows:

1. ~~Ten~~ Twenty-five percent to the highway fund.
2. ~~Ninety~~ Seventy-five percent to the state general fund.

**(Effective after June 30, 2009 2011) Transfer of revenue.** All moneys collected and received under this chapter must be transmitted monthly by the director of the department of transportation to the state treasurer to be transferred and credited to the general fund."

Page 13, after line 13, insert:

**"SECTION 24. LEGISLATIVE COUNCIL STUDY - FARGO DISTRICT OFFICE SITE.** During the 2009-10 interim, the legislative council shall consider studying the feasibility and desirability of relocating the Fargo district office facility. The study, if conducted, must include a review of the estimated value of the current site property, the best use of the current property, and potential locations for a new district office facility. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

**SECTION 25. LEGISLATIVE COUNCIL STUDY - FEDERAL TRANSPORTATION MATCHING FUNDS.** During the 2009-10 interim, the legislative council shall consider studying the potential options for matching federal highway construction funding. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Page 13, after line 15, insert:

**"SECTION 27. EMERGENCY.** Sections 2, 3, 4, 5, 6, 7, 8, and 9 of this Act are declared to be an emergency measure."

Renumber accordingly

#### **STATEMENT OF PURPOSE OF AMENDMENT - LC 98031.0228 FN 3**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

Engrossed SB 2012 was placed on the Seventh order of business on the calendar.

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

**SEN. WARDNER MOVED** that the conference committee report on Engrossed SB 2012 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2012, as amended, was placed on the Eleventh order.

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

**SB 2012:** A BILL for an Act to provide an appropriation for defraying the expenses of the department of transportation; to provide an appropriation to the state treasurer; to provide for budget section reports; to provide for a state disaster relief fund; to create and enact a new section to chapter 24-01 and a new section to chapter 54-27 of the North Dakota Century Code, relating to the name of United States highway 85 and transportation funding reports; to amend and reenact sections 24-02-35.2, 24-02-44, 39-04-19, 54-27-19, 54-27-19.1, 57-40.3-10, 57-43.1-06, and 57-43.2-04.2 of the North Dakota Century Code, relating to authority to borrow for disasters, the proceeds from the sale of road materials, and the collection and distribution of highway funds; to repeal section 39-04.2-03 of the North Dakota Century Code, relating to the registration fee for the public transportation fund; to provide for transfers; to provide for legislative council studies; to provide an effective date; to provide an expiration date; and to declare an emergency.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Reengrossed SB 2012 passed, the title was agreed to, and the emergency clause was declared carried.

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#### SECOND READING OF HOUSE BILL

**HB 1407:** A BILL for an Act to amend and reenact sections 39-04-19, 54-27-19, 54-27-19.1, 57-40.3-10, 57-43.1-06, and 57-43.2-04.2 of the North Dakota Century Code, relating to the collection and distribution of highway funds; to repeal section 39-04.2-03 of the North Dakota Century Code, relating to the registration fee for the public transportation fund; and to provide an expiration date.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 1 YEAS, 46 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** O'Connell

**NAYS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Reengrossed HB 1407, as amended, lost.

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#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. CHRISTMANN MOVED** that the conference committee report on Engrossed SB 2021 as printed on SJ pages 1569-1571 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2021, as amended, was placed on the Eleventh order.

#### SECOND READING OF SENATE BILL

**SB 2021:** A BILL for an Act to provide an appropriation for defraying the expenses of the information technology department; to provide a contingent appropriation; to provide for transfers; to provide for a legislative council study; to provide for a report; to provide a continuing appropriation; to amend and reenact section 15.1-02-18 of the North Dakota Century Code, relating to membership of the statewide longitudinal data system committee; and to declare an emergency.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Reengrossed SB 2021 passed, the title was agreed to, and the emergency clause was declared carried.

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#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. KILZER MOVED** that the conference committee report on Engrossed SB 2007 as printed on SJ pages 1568-1569 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2007, as amended, was placed on the Eleventh order.

### SECOND READING OF SENATE BILL

**SB 2007:** A BILL for an Act to provide an appropriation for defraying the expenses of the veterans' home and department of veterans' affairs; to provide for contingent funding; to provide an exception to the moratorium on expansion of basic care bed capacity; to provide legislative intent; and to provide for a report to the budget section.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Reengrossed SB 2007 passed and the title was agreed to.

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### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. FLAKOLL MOVED** that the conference committee report on HB 1360 as printed on SJ pages 1576-1578 be adopted, which motion prevailed on a voice vote.

HB 1360, as amended, was placed on the Fourteenth order.

### SECOND READING OF HOUSE BILL

**HB 1360:** A BILL for an Act to create and enact a new section to chapter 15.1-09.1 of the North Dakota Century Code, relating to the rights of regional education association employees; and to amend and reenact subsection 11 of section 15-39.1-04, section 15-39.1-23, subsection 17 of section 65-01-02, and section 65-04-04 of the North Dakota Century Code, relating to the rights of regional education association employees, the inclusion of teachers employed by regional education associations in the teachers' fund for retirement, to provide a date by which workforce safety and insurance premiums paid by regional education associations are due, and to reconcile references to other education entities.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 1 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** Dever

HB 1360, as amended, passed and the title was agreed to.

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### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. KRAUTER MOVED** that the conference committee report on Engrossed HB 1006 as printed on SJ page 1573 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1006, as amended, was placed on the Fourteenth order.

### SECOND READING OF HOUSE BILL

**HB 1006:** A BILL for an Act to provide an appropriation for defraying the expenses of the office of the state tax commissioner and for payment of state reimbursement under the homestead tax credit; to provide for a transfer; to amend and reenact section 57-01-04 of the North Dakota Century Code, relating to the tax commissioner's salary; to provide an exemption from the provisions of section 54-44.1-11 of the North Dakota Century

Code; to provide legislative intent; and to provide for a report to the legislative assembly.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjerm; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed HB 1006, as amended, passed and the title was agreed to.

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#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. DEVER MOVED** that the conference committee report on Reengrossed HB 1057 as printed on SJ pages 1574-1575 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1057, as amended, was placed on the Fourteenth order.

#### SECOND READING OF HOUSE BILL

**HB 1057:** A BILL for an Act to create and enact a new section to chapter 37-18 of the North Dakota Century Code, relating to department of veterans' affairs employees; to amend and reenact section 37-14-18 of the North Dakota Century Code, relating to county veterans' service officers; to provide for reports to the legislative council; and to provide an appropriation.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 39 YEAS, 8 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bakke; Behm; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hogue; Holmberg; Horne; Kilzer; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjerm; Triplett; Wardner; Warner

**NAYS:** Andrist; Bowman; Christmann; Heckaman; Klein; O'Connell; Taylor; Wanzek

Reengrossed HB 1057, as amended, passed and the title was agreed to.

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#### MOTION

**SEN. CHRISTMANN MOVED** that HB 1368 be moved to the top of the Seventh order, which motion prevailed.

#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. HOGUE MOVED** that the conference committee report on Reengrossed HB 1368 as printed on SJ page 1578 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1368, as amended, was placed on the Fourteenth order.

#### SECOND READING OF HOUSE BILL

**HB 1368:** A BILL for an Act to create and enact chapter 18-13 of the North Dakota Century Code, relating to reduced ignition propensity standards for cigarettes; to provide a penalty; to provide an appropriation; to provide an effective date; and to provide an expiration date.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 26 YEAS, 21 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bakke; Behm; Dotzenrod; Fiebiger; Grindberg; Heckaman; Horne; Krauter; Krebsbach; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; O'Connell; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Warner

**NAYS:** Andrist; Bowman; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Hogue; Holmberg; Kilzer; Klein; Lee, G.; Lee, J.; Nodland; Oehlke; Stenehjerm; Triplett; Wanzek; Wardner

Reengrossed HB 1368, as amended, passed and the title was agreed to.

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**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently passed: SCR 4038.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently failed to pass: HB 1407.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has appointed Rep. Berg to replace Rep. Svedjan on the Conference Committee on HB 1481.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2007.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1006, HB 1057, HB 1360, HB 1368.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2012, SB 2021.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has adopted the conference committee report on: SB 2022, SB 2248.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1002, HB 1005, HB 1509, HB 1540.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2005, SB 2013, SB 2023, SB 2198, SB 2225, SB 2266.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1018, HB 1019.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has adopted the conference committee report, subsequently passed, and the emergency clause failed: SB 2064.

#### MOTION

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Thursday, April 30, 2009, which motion prevailed.

#### REPORT OF STANDING COMMITTEE

**HB 1020, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1020 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "an exemption" with "exemptions"

Page 1, line 3, replace "provide an appropriation for repayment of the line of credit" with "declare an emergency"

Page 1, line 12, replace "488,031" with "522,808" and replace "2,942,897" with "2,977,674"

Page 1, line 13, replace "137,000,806" with "137,223,637" and replace "307,545,203" with "307,768,034"

Page 1, line 14, replace "137,488,837" with "137,746,445" and replace "310,488,100" with "310,745,708"

Page 1, line 15, replace "136,298,107" with "134,799,793" and replace "298,420,123" with "296,921,809"

Page 1, line 16, replace "1,190,730" with "2,946,652" and replace "12,067,977" with "13,823,899"

Page 1, after line 24, insert:

**"SECTION 3. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** There is appropriated out of any federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, the sum of \$12,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing funding for the southwest pipeline project, for the period beginning with the effective date of this Act and ending June 30, 2011.

The state water commission may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available."

Page 2, after line 17, insert:

**"SECTION 7. LEGISLATIVE INTENT - FARGO FLOOD CONTROL.** It is the intent of the sixty-first legislative assembly that a total of \$75,000,000 be committed by the state as the state cost-share for Fargo flood control, of which \$45,000,000 is provided for the biennium beginning July 1, 2009, and ending June 30, 2011, in the water and atmospheric resources line item in section 1 of this Act.

**SECTION 8. FARGO FLOOD CONTROL EXPENDITURES - EXEMPTION.** Funds spent by the state water commission for Fargo flood control during the 2009-11 biennium may be used only for land purchases and construction and may not be used for administration, engineering, legal, planning, or other similar purposes. Any funds allocated by the state water commission for Fargo flood control of up to \$45,000,000 for the 2009-11 biennium which are not spent by June 30, 2011, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects.

**SECTION 9. LEGISLATIVE INTENT - STATE WATER COMMISSION PROJECTS.** It is the intent of the sixty-first legislative assembly that of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, the state water commission provide funding for the following projects, for the biennium beginning July 1, 2009, and ending June 30, 2011:

|  |           |
|--|-----------|
| Digital elevation mapping project  | \$300,000 |
| Enhancement of the local share of funding<br>for the Renwick dam in Pembina County   | \$100,000 |
| Evaluate, in conjunction with state, local,<br>and federal officials and entities,<br>long-term flood control solutions in<br>the Red River valley | \$500,000 |
| Michigan spillway in Nelson County   | \$500,000 |

**SECTION 10. LEGISLATIVE INTENT - NELSON COUNTY WATER RESOURCE DISTRICT.** It is the intent of the sixty-first legislative assembly that the state water commission assist the Nelson County water resource district by providing engineering and permitting services, for the biennium beginning July 1, 2009, and ending June 30, 2011.



**SECTION 11. BANK OF NORTH DAKOTA LOAN AUTHORIZATION - APPROPRIATION.** The state water commission may borrow the sum of \$22,000,000, or so much of the sum as may be necessary, from the Bank of North Dakota, which is appropriated for the purpose of emergency flood control and other critical water needs, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 12. EMERGENCY.** Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98020.0207 FN 3**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2008:** Your conference committee (Sens. Krebsbach, Bowman, Seymour and Reps. Dosch, Berg, Glassheim) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1247, adopt amendments as follows, and place SB 2008 on the Seventh order:

That the House recede from its amendments as printed on page 1247 of the Senate Journal and page 1179 of the House Journal and that Senate Bill No. 2008 be amended as follows:

Page 1, line 12, replace "747,117" with "635,817" and replace "4,873,525" with "4,762,225"

Page 1, line 15, replace "1,020,366" with "909,066" and replace "6,197,788" with "6,086,488"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98027.0102 FN 2**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

SB 2008 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2038, as engrossed:** Your conference committee (Sens. Flakoll, G. Lee, Bakke and Reps. Skarphol, R. Kelsch, Williams) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1350-1351, adopt amendments as follows, and place SB 2038 on the Seventh order:

That the House recede from its amendments as printed on pages 1350 and 1351 of the Senate Journal and pages 1413 and 1414 of the House Journal and that Engrossed Senate Bill No. 2038 be amended as follows:

Page 1, line 5, remove "to the legislative council" and remove the second "a"

Page 1, line 6, replace "study" with "studies"

Page 12, line 16, replace the colon with "the"

Page 12, line 17, remove "a. The" and replace the semicolon with "and the"

Page 12, line 18, remove "b. The" and replace the semicolon with a period

Page 12, remove lines 19 and 20

Page 15, after line 15, insert:

**"SECTION 8. STATE BOARD OF HIGHER EDUCATION - REPORTS TO SIXTY-SECOND LEGISLATIVE ASSEMBLY.** Each institution under the control of the state board of higher education shall report to the appropriations committees of the sixty-second legislative assembly regarding:

1. A comparison of the budgeted amounts to actual expenditures by major expenditure type for the fiscal year ending June 30, 2010.

2. A comparison of the budgeted amounts to actual expenditures by major expenditure type through the most recent month available at the time the report is presented to the appropriations committees.

#### **SECTION 9. LEGISLATIVE COUNCIL STUDY - HIGHER EDUCATION.**

1. During the 2009-10 interim, the legislative council chairman shall appoint an interim higher education committee to study issues affecting higher education.
2. The interim committee shall hold at least six education summit meetings to discuss topics that may include:
  - a. Alternative uses of institutions and changes to institutional missions;
  - b. Issues affecting two-year campuses;
  - c. Tuition affordability, including a review of tuition reciprocity agreements;
  - d. Accessibility of higher education;
  - e. Workforce needs;
  - f. Contributions to economic development;
  - g. Utilization and capacity of higher education institution facilities;
  - h. Quality of education being delivered; and
  - i. Revenue-neutral policies that would aid in the reduction of student loan debt.
3. The chairman of the interim higher education committee may invite summit topic experts, representatives of the North Dakota university system, the private sector, and students to participate in the summit meetings to provide information to the committee as determined necessary to assist the committee in conducting its study.
4. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

Engrossed SB 2038 was placed on the Seventh order of business on the calendar.

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

**SB 2178:** Your conference committee (Sens. Lyson, Nething, Fiebiger and Reps. Wieland, Nelson, Kerzman) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1168, adopt amendments as follows, and place SB 2178 on the Seventh order:

That the House recede from its amendments as printed on page 1168 of the Senate Journal and pages 1093 and 1094 of the House Journal and that Senate Bill No. 2178 be amended as follows:

Page 1, line 6, replace "\$500,000" with "\$375,000"

Page 1, line 11, replace "12,263" with "9,198"

Page 1, line 12, replace "28,203" with "21,151"

Page 1, line 13, replace "17,956" with "13,467"

Page 1, line 14, replace "14,620" with "10,965"

Page 1, line 15, replace "17,373" with "13,031"

Page 1, line 16, replace "33,665" with "25,248"

Page 1, line 17, replace "27,505" with "20,628"

Page 1, line 18, replace "19,080" with "14,310"

Page 1, line 19, replace "21,938" with "16,453"

Page 1, line 20, replace "13,459" with "10,095"

Page 1, line 21, replace "15,913" with "11,934"

Page 1, line 22, replace "10,981" with "8,237"

Page 1, line 23, replace "17,044" with "12,783"

Page 1, line 24, replace "250,000" with "187,500"

ReNUMBER accordingly

SB 2178 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1002, as engrossed:** Your conference committee (Sens. Krebsbach, Kilzer, Warner and Reps. Thoreson, Dosch, S. Meyer) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1002-1003, adopt amendments as follows, and place HB 1002 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1002 and 1003 of the House Journal and pages 772 and 773 of the Senate Journal and that Engrossed House Bill No. 1002 be amended as follows:

Page 1, line 2, after the third semicolon insert "to provide a contingent appropriation; to provide an exemption,"

Page 1, line 16, replace "307,132" with "495,016" and replace "2,941,625" with "3,129,509"

Page 1, line 17, replace "1,096,769" with "1,123,769" and replace "3,155,950" with "3,182,950"

Page 1, line 19, replace "2,824,877" with "2,854,877" and replace "8,314,107" with "8,344,107"

Page 1, line 21, replace "1,308,778" with "1,553,662" and replace "14,419,682" with "14,664,566"

Page 1, line 22, replace "38,660" with "41,113" and replace "8,912,525" with "8,914,978"

Page 1, line 23, replace "1,270,118" with "1,512,549" and replace "5,507,157" with "5,749,588"

Page 1, line 24, replace "0.00" with "1.00" and replace the second "27.00" with "28.00"

Page 2, line 11, replace "1,328,618" with "1,571,049" and replace "5,869,157" with "6,111,588"

Page 2, line 12, replace "38,660" with "3,441,811" and replace "8,912,525" with "12,315,676"

Page 2, line 13, replace "1,367,278" with "5,012,860" and replace "14,781,682" with "18,427,264"

Page 2, after line 19, insert:

**"SECTION 3. LOAN AUTHORIZATION - CONTINGENT APPROPRIATION - BUDGET SECTION APPROVAL.** Subject to budget section approval, the secretary of state may borrow up to \$3,400,698 from the Bank of North Dakota, which is appropriated to the secretary of state for the purpose of implementing the North Dakota business development engine computer project, during the biennium beginning July 1, 2009, and ending June 30, 2011. The secretary of state may request budget section approval only if the revenues projected by the secretary of state and the office of management and budget to be generated as a result of provisions of chapter 102 of the 2007 Session Laws over the term of the proposed loan based on the trend of actual corporate charters granted are anticipated to be sufficient to repay the proposed loan, including interest over the term of the loan."

Page 2, after line 31, insert:

**"SECTION 5. EXEMPTION - GENERAL SERVICES OPERATING FUND.** Any unexpended and unobligated balance remaining in the secretary of state's general services operating fund on June 30, 2009, is not subject to the provisions of section 54-09-08, and any unexpended funds are available and may be expended by the secretary of state, during the biennium beginning July 1, 2009, and ending June 30, 2011, for the database and processing platform migration project."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98003.0304 FN 1**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

Engrossed HB 1002 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1005, as engrossed:** Your conference committee (Sens. Fischer, Grindberg, Robinson and Reps. Dosch, Kempenich, S. Meyer) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1115, adopt amendments as follows, and place HB 1005 on the Seventh order:

That the Senate recede from its amendments as printed on page 1115 of the House Journal and page 954 of the Senate Journal and that Engrossed House Bill No. 1005 be amended as follows:

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

Page 1, line 3, after "treasurer" insert "; and to provide for a legislative council study"

Page 2, after line 4, insert:

**"SECTION 4. LEGISLATIVE COUNCIL STUDY - ELECTED OFFICIALS' SALARIES.** During the 2009-10 interim, the legislative council shall consider studying the salaries of state elected officials. The study must include a comparison of salaries, the number of full-time equivalent and temporary employees supervised by the elected official, and the complexity of each elected official's responsibilities. The study must also include a comparison to similar positions in other states. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98006.0305 FN 1**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

Engrossed HB 1005 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1018, as engrossed:** Your conference committee (Sens. Holmberg, Christmann, Robinson and Reps. Wald, Hawken, Onstad) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1172-1173, adopt amendments as follows, and place HB 1018 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1172 and 1173 of the House Journal and page 1005 of the Senate Journal and that Engrossed House Bill No. 1018 be amended as follows:

Page 1, line 2, after "society" insert "; and to declare an emergency"

Page 1, line 11, replace "924,572" with "1,202,290" and replace "8,090,957" with "8,368,675"

Page 1, line 13, replace "622,631" with "472,631" and replace "4,046,212" with "3,896,212"

Page 1, line 19, replace "2,112,002" with "2,239,720" and replace "16,005,371" with "16,133,089"

Page 1, line 20, replace "(1,534,979)" with "(1,659,929)" and replace "3,783,787" with "3,658,837"

Page 1, line 21, replace "3,646,981" with "3,899,649" and replace "12,221,584" with "12,474,252"

Page 1, line 22, replace "1.00" with "2.00" and replace "61.00" with "62.00"

Page 2, after line 27, insert:

**"SECTION 5. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the state historical society, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

|  |           |
|--|-----------|
| Protective structure for locomotive at Camp Hancock                                      | \$150,000 |
| Fort Totten commissary storehouse exhibit and signage                                    | 385,000   |
| Geographic information system scanning and integration                                   | 150,000   |
| Total federal funds (from department of transportation transportation enhancement funds) | \$685,000 |

The state historical society may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

**SECTION 6. EMERGENCY.** Section 5 of this Act is declared to be an emergency measure."

ReNUMBER accordingly

#### **STATEMENT OF PURPOSE OF AMENDMENT - LC 98018.0203 FN 1**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

Engrossed HB 1018 was placed on the Seventh order of business on the calendar.

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

**HB 1019, as engrossed:** Your conference committee (Sens. Krebsbach, Bowman, Seymour and Reps. Martinson, Klein, Williams) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1382-1384, adopt amendments as follows, and place HB 1019 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1382-1384 of the House Journal and pages 1264 and 1265 of the Senate Journal and that Engrossed House Bill No. 1019 be amended as follows:

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

Page 1, line 3, after "reenact" insert "subsection 5 of section 55-08-05 and"

Page 1, line 4, after "grants" insert "and concession agreements; to provide legislative intent; and to declare an emergency"

Page 1, line 17, replace "2,013,331" with "2,775,814" and replace "12,912,192" with "13,674,675"

Page 1, line 18, replace "(855,725)" with "(575,725)" and replace "7,780,799" with "8,060,799"

Page 1, line 20, replace "2,226,522" with "3,269,005" and replace "23,711,076" with "24,753,559"

Page 1, line 21, replace "(1,504,114)" with "(1,200,063)" and replace "11,844,003" with "12,148,054"

Page 1, line 22, replace "3,730,636" with "4,469,068" and replace "11,867,073" with "12,605,505"

Page 1, line 23, replace "0" with "2.50" and replace "50.50" with "53.00"

Page 2, line 4, replace "404,254" with "1,991,600" and replace "1,141,108" with "2,728,454"

Page 2, line 7, replace "4,254" with "1,591,600" and replace "1,141,108" with "2,728,454"

Page 2, line 9, replace "204,254" with "1,791,600" and replace "1,141,108" with "2,728,454"

Page 2, line 14, replace "3,934,890" with "6,260,668" and replace "13,008,181" with "15,333,959"

Page 2, line 15, replace "(1,704,114)" with "(600,063)" and replace "11,844,003" with "12,948,054"

Page 2, line 16, replace "2,230,776" with "5,660,605" and replace "24,852,184" with "28,282,013"

Page 2, line 22, replace "2,010,514" with "2,359,768"

Page 2, line 25, replace "0" with "86,600"

Page 2, after line 26, insert:

|  |   |            |
|--|---|------------|
| "International Peace Garden loan repayment | 0 | 1,850,000" |
|--|---|------------|

Page 2, line 29, replace "2,485,514" with "4,771,368"

Page 3, after line 18, insert:

**"SECTION 6. AMENDMENT.** Subsection 5 of section 55-08-05 of the North Dakota Century Code is amended and reenacted as follows:

5. Provide facilities for the sale to the public of food, nonintoxicating beverages, except beer and wine sales as provided in subsections 6 and 7, and other merchandise and personal services of a suitable nature, and make buildings, structures, and other recreational facilities available for use and occupancy by the public, or contract for the lease of the buildings, structures, and facilities to a concessionaire to be operated on the terms and compensation basis as the director determines to be in the best interest of the state. The duration of a concession agreement may not exceed twenty years. A bond must be required of each concessionaire in the amount the director determines, conditioned upon the faithful performance of all duties under the lease and proper accounting for all funds."

Page 4, after line 11, insert:

**"SECTION 8. LEGISLATIVE INTENT - FEDERAL FISCAL STIMULUS FUNDS.** It is the intent of the sixty-first legislative assembly that the Fort Abraham Lincoln foundation be encouraged to seek federal fiscal stimulus funds for architectural and archeological services at Fort Abraham Lincoln.

**SECTION 9. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the parks and recreation department, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

|  |           |
|--|-----------|
| Turtle River state park pedestrian bridge        | \$300,000 |
| Turtle Mountain scenic byway acquisition/trails  | 200,000   |
| Fort Abraham Lincoln CCC building rehabilitation | 300,000   |
| Total federal funds                              | \$800,000 |

The parks and recreation department may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

**SECTION 10. EMERGENCY.** Section 9 of this Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98019.0215 FN 1**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

Engrossed HB 1019 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1449, as engrossed:** Your conference committee (Sens. Erbele, Triplett, Hogue and Reps. Keiser, DeKrey, Pinkerton) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1177, adopt amendments as follows, and place HB 1449 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1012 and 1013 of the Senate Journal and page 1177 of the House Journal and that Engrossed House Bill No. 1449 be amended as follows:

Page 1, line 1, after "49-02-27" insert "and subdivision a of subsection 5 of section 49-22-03"

Page 1, line 2, after "facilities" insert "and to the definition of energy conversion facility; and to provide for a legislative council study of the development of wind and other natural resources"

Page 1, line 8, overstrike "may" and insert immediately thereafter "shall"

Page 1, line 9, overstrike "may" and insert immediately thereafter "must"

Page 1, line 15, overstrike "and"

Page 1, line 17, after "restored" insert "; and

f. Present and future natural resource development"

Page 1, line 19, replace "the facility remaining after" with "underground foundation not removed during"

Page 1, line 20, replace "remaining portion of the facility" with "such underground foundation"

Page 1, line 21, replace "The facility includes any cables, foundations, buildings, or other ancillary" with:

**"SECTION 2. AMENDMENT.** Subdivision a of subsection 5 of section 49-22-03 of the North Dakota Century Code is amended and reenacted as follows:

- a. Generation ~~of one hundred thousand kilowatts or more~~ exceeding sixty megawatts of electricity;

**SECTION 3. LEGISLATIVE COUNCIL STUDY - DEVELOPMENT OF WIND AND OTHER NATURAL RESOURCES.** During the 2009-10 interim, the legislative council shall study the development of wind resources and other natural resources in the same location. The study must include a review of laws relating to the siting and decommissioning of wind energy conversion facilities, the desirability of an environmental assessment as a condition of siting, and the desirability of regulation to address the effects of wind energy conversion facilities on water, soil, cultural resources, and future development of other natural resources. The legislative council

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

Page 1, remove line 22

Renumber accordingly

Engrossed HB 1449 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1509, as engrossed:** Your conference committee (Sens. Hogue, Erbele, Schneider and Reps. DeKrey, Damschen, S. Kelsh) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1219-1220, adopt amendments as follows, and place HB 1509 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1219 and 1220 of the House Journal and pages 1014 and 1015 of the Senate Journal and that Engrossed House Bill No. 1509 be amended as follows:

Page 1, line 2, after "leases" insert "; and to provide for a legislative council study of wind easement and wind energy leases"

Page 1, line 8, remove "Must be written in a clear and coherent manner using words with common"

Page 1, remove lines 9 and 10

Page 1, line 11, remove "b."

Page 1, line 23, replace "c. Must" with "b. May not", after "executed" insert "by the parties until", replace "five" with "ten", and after "the" insert "first proposed"

Page 2, line 1, replace "d." with "c.", replace "contain a" with "require either party to maintain the", replace "clause keeping" with "of any negotiations or", and replace "agreement or" with "any proposed lease or easement except that the parties may agree to a mutual confidentiality agreement in the final executed lease or easement"

Page 2, line 2, remove "related negotiations confidential"

Page 2, line 3, replace "e." with "d."

Page 2, line 4, after the underscored period insert "When a wind energy facility is being constructed and when it is completed, the property owner must make accommodations to the developer, owner, or operator of the facility for the facility's business operations to allow the construction and operation of the wind energy facility."

Page 2, line 5, replace "f." with "e."

Page 2, line 6, after the second "wind" insert "energy"

Page 2, line 7, replace "g." with "f." and after "wind" insert "energy"

Page 2, line 11, replace "h." with "g."

Page 2, remove lines 14 through 16

Page 2, line 17, replace "i." with "h."

Page 2, line 18, replace "generating" with "energy" and after "years" insert "unless the property owner receives the normal minimum lease payments that would have occurred if the wind energy facility had been operating during that time. For the purposes of this subdivision, the term "normal minimum lease payments" means a payment in the lease or easement called a "base amount" or "minimum payment", or similar language, or if the periodic payments received by the property owner in the last calendar year that the wind energy facility was in full operation"

Page 2, line 19, replace "k." with "i."

Page 2, remove lines 22 through 24



Page 2, line 25, replace "generating" with "energy", replace "property" with "general liability", and replace "on the" with "relating to claims for property damage or bodily injury arising out of the construction or operation of the wind energy facility project site and may"

Page 2, line 26, remove "facility and" and replace the second "and" with an underscored period

Page 2, remove line 27

Page 2, line 29, remove "or the owner of the facility does not carry property insurance as"

Page 2, line 30, remove "required under subsection 2 as determined by a court as a matter of law"

Page 3, line 1, replace "offer the relief as is requested by the property owner" with "order any relief allowed by law" and replace "The" with:

**"SECTION 2. LEGISLATIVE COUNCIL STUDY - WIND EASEMENTS AND WIND ENERGY LEASES.** During the 2009-2010 interim, the legislative council shall consider studying wind easements and wind energy leases. The study must include consideration of confidentiality clauses, the liability of each party for damages and taxes, instrument provisions relating to insurance and the need for insurance, and the concerns of property owners and wind developers. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Page 3, remove lines 2 through 7

Renumber accordingly

Engrossed HB 1509 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1540, as reengrossed:** Your conference committee (Sens. J. Lee, Dever, Marcellais and Reps. Hofstad, Damschen, Conklin) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1309-1310, adopt amendments as follows, and place HB 1540 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1309 and 1310 of the House Journal and pages 859 and 860 of the Senate Journal and that Reengrossed House Bill No. 1540 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 3 of section 50-01.2-03.2 of the North Dakota Century Code, relating to the funding of economic assistance programs in counties with federally recognized Indian reservation land; to provide an appropriation; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Subsection 3 of section 50-01.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

3. Notwithstanding any other provisions of law, the department shall reimburse county social service boards for expenses of locally administered economic assistance programs in counties in which ~~more than twenty percent of the caseload for these programs consists of people who reside on a~~ the percentage of that county's average total supplemental nutrition assistance program caseload for the previous fiscal year which reside on federally recognized Indian reservation ~~or property tax exempt tribal trust lands is ten percent or more.~~ The reimbursement must be such that:
  - a. An affected county's ~~expenses~~ actual direct costs and indirect costs allocated based on a percentage of each county's direct economic assistance and social services costs for locally administered economic assistance programs in excess of the statewide average of such costs, expressed in mills, for all other counties will be reimbursed at ~~one hundred percent~~ the percentage of that county's average total

supplemental nutrition assistance program caseload for the previous state fiscal year which reside on federally recognized Indian reservation land not to exceed ninety percent;

- b. ~~Each calendar year the~~ The affected counties will receive quarterly ~~allocations payments~~ based on the actual county ~~expenses direct and indirect costs~~, as provided in subdivision a, for the ~~state fiscal year ending the previous June thirtieth and the most recent taxable valuations published pursuant to section 57-13-07 available on that date~~ state fiscal year; and
- c. At the end of each fiscal year the actual quarterly payments paid must be reconciled to the current year of calculation of actual direct and indirect costs as provided in subdivision a and supplemental nutrition assistance program caseload and counties must be compensated accordingly in the first quarter of the new fiscal year; and
- e. ~~d.~~ The reimbursement will be calculated for each county and reported to the county social service board prior to ~~August~~ September first of the year preceding the allocation.

## **SECTION 2. APPROPRIATION.**

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$549,938, or so much of the sum as may be necessary, to the department of human services for the purpose of reimbursing the expenses of locally administered economic assistance programs in counties that contain federally recognized Indian reservation land, for the biennium beginning July 1, 2009, and ending June 30, 2011.
2. Each affected county shall reduce that county's human services budget by the amount saved by the implementation of section 1 of this Act and shall publish the property tax savings in that county's official newspaper.

**SECTION 3. EFFECTIVE DATE.** This Act becomes effective on July 1, 2010."

Renumber accordingly

Reengrossed HB 1540 was placed on the Seventh order of business on the calendar.

The Senate stood adjourned pursuant to Senator Christmann's motion.

**Fran A. Gronberg, Secretary**