

JOURNAL OF THE SENATE

Fifty-eighth Legislative Assembly

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Bismarck, April 3, 2003

The Senate convened at 9:00 a.m., with President Dalrymple presiding.

The prayer was offered by Reverend Mark Neale, Evangel Temple, Assembly of God, Bismarck.

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

A quorum was declared by the President.

REPORT OF DELAYED BILLS COMMITTEE

MR. PRESIDENT: Your **Delayed Bills Committee (Sen. Cook, Chairman)** has cast a vote of 5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING in favor of accepting the introduction of a concurrent resolution congratulating Bucky Maughan on election to the National Wrestling Hall of Fame.

The resolution will be SCR 4038.

FIRST READING OF SENATE CONCURRENT RESOLUTION

Sens. Kringstad, Nelson and Reps. Berg, Kroeber introduced:
(Approved by the Delayed Bills Committee)

SCR 4038: A concurrent resolution congratulating Bucky Maughan on election to the National Wrestling Hall of Fame.
Was read the first time.

MOTION

SEN. CHRISTMANN MOVED that the rules be suspended, that SCR 4038 not be printed, not be referred to committee, but be read in its entirety, be printed in the Journal, and placed on the calendar for immediate second reading and final passage, which motion prevailed.

Sens. Kringstad, Nelson and Reps. Berg, Kroeber introduced:
(Approved by the Delayed Bills Committee)

SENATE CONCURRENT RESOLUTION NO. 4038

A concurrent resolution congratulating Bucky Maughan on election to the National Wrestling Hall of Fame.

WHEREAS, Bucky Maughan became head wrestling coach at North Dakota State University in 1964, after a brilliant collegiate wrestling career, including NAIA national championships in 1962 and 1963 and an NCAA Division I national championship in 1963; and

WHEREAS, Bucky Maughan, over 38 years, has coached the Thundering Herd to 34 consecutive winning seasons, 394 dual meet wins, nine consecutive conference titles, and 25 top five finishes at the NCAA Division II national championships, including third place six times, second place five times, and four NCAA Division II national championships; and

WHEREAS, Bucky Maughan has coached 30 individual NCAA Division II national champions and 168 NCAA Division II and Division I All-Americans, and instilled a tradition of excellence in the North Dakota State University wrestling program that is a tribute to his leadership and coaching excellence; and

WHEREAS, Bucky Maughan was selected as NCAA Division II wrestling coach of the year in 1982, 1988, and 1998, was elected to the NCAA Division II and NAIA wrestling Hall of Fame, and has been named as one of the top 10 college wrestling coaches of all time in a poll taken by Wrestling USA magazine;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Assembly expresses its pride and extends its congratulations to Bucky Maughan on election to the National Wrestling Hall of Fame; and

BE IT FURTHER RESOLVED, that the Secretary of State forward enrolled copies of this resolution to Bucky Maughan and to the president and the athletic director of North Dakota State University.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4038: A concurrent resolution congratulating Bucky Maughan on election to the National Wrestling Hall of Fame.

The question being on the final adoption of the resolution, which has been read.

SCR 4038 was declared adopted and the title agreed to on a voice vote.

MOTION

SEN. CHRISTMANN MOVED that the Senate proceed to the Seventh order, which motion prevailed.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. TOLLEFSON MOVED that the conference committee report on Engrossed SB 2099 as printed on SJ page 989 be adopted, which motion prevailed on a voice vote.

SB 2099, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2099: A BILL for an Act to create and enact a new section to chapter 57-38 and a new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to the authority of the tax commissioner to provide for the rounding of dollar amounts on income tax returns, statements, forms, or other documents and an individual income tax deduction for the new and expanding business exemption; to repeal subdivision b of subsection 2 of section 57-35.3-02, subdivision i of subsection 1 of section 57-38-01.2, and subdivision g of subsection 1 of section 57-38-01.3 of the North Dakota Century Code, relating to the tax deduction for dividends; to provide an effective date; and to provide for retroactive application.

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, 1 NAY, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: O'Connell

ABSENT AND NOT VOTING: Tallackson

SB 2099, as amended, passed and the title was agreed to.

MOTION

SEN. CHRISTMANN MOVED that the Senate proceed to the Sixth order, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1212: SEN. NETHING (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 1067 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1212: A BILL for an Act to create and enact a new section to chapter 28-32 of the North Dakota Century Code, relating to requirement of consideration the effect of proposed administrative rules on small businesses, organizations, and political subdivisions; to provide for a legislative council study; 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Tallackson

HB 1212, as amended, passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

HB 1295, as engrossed: SEN. FLAKOLL (Education Committee) MOVED that the amendments on SJ pages 1068-1070 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1295: A BILL for an Act to amend and reenact section 15.1-02-13 of the North Dakota Century Code, relating to school district employee compensation reports.

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, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Tallackson

Engrossed HB 1295, as amended, passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

HB 1363, as engrossed: SEN. WARDNER (Government and Veterans Affairs Committee) MOVED that the amendments on SJ page 1070 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1363: A BILL for an Act to amend and reenact section 49-05-06 of the North Dakota Century Code, relating to public service commission rates change hearings.

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, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Tallackson

Engrossed HB 1363, as amended, passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

HB 1451, as engrossed: SEN. BROWN (Government and Veterans Affairs Committee) MOVED that the amendments on SJ page 1070 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1451: A BILL for an Act to provide for a state capitol entrance competition.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 41 YEAS, 5 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Stenehjem; Taylor; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Every; Mutch; Seymour; Syverson; Thane

ABSENT AND NOT VOTING: Tallackson

Engrossed HB 1451, as amended, passed and the title was agreed to.

MOTION

SEN. CHRISTMANN MOVED that the Senate proceed to the Fourteenth order and that HB 1361 be moved to the top of the Fourteenth order, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1361: A BILL for an Act to amend and reenact section 15.1-31-02 of the North Dakota Century Code, relating to grounds for the denial of open enrollment applications.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 16 YEAS, 30 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; Brown; Christmann; Cook; Grindberg; Heitkamp; Krauter; Krebsbach; Kringstad; Lee, J.; Nichols; Schobinger; Syverson; Tollefson; Urlacher; Wardner

NAYS: Andrist; Bercier; Christenson; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Holmberg; Kilzer; Klein; Lee, G.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Polovitz; Robinson; Seymour; Stenehjem; Taylor; Thane; Traynor; Trenbeath

ABSENT AND NOT VOTING: Tallackson

Reengrossed HB 1361 lost.

MOTION

SEN. CHRISTMANN MOVED that the Senate proceed to the Twelfth order, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. FLAKOLL MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on Engrossed HB 1486, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed HB 1486: Sens. Klein, Urlacher, Nichols.

MOTION

SEN. CHRISTMANN MOVED that SB 2135 be moved to the top of the Twelfth order, which motion prevailed.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FREBORG MOVED that the Senate do not concur in the House amendments to Reengrossed SB 2135 as printed on SJ page 1065 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Reengrossed SB 2135: Sens. G. Lee, Flakoll, Taylor.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TRAYNOR MOVED that the Senate do not concur in the House amendments to Engrossed SB 2255 as printed on SJ pages 1007-1008 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2255: Sens. Traynor, Trenbeath, Bercier.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TRENBEATH MOVED that the Senate do not concur in the House amendments to Engrossed SB 2358 as printed on SJ pages 1057-1059 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2358: Sens. Trenbeath, Nething, Taylor.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FISCHER MOVED that the Senate do not concur in the House amendments to Engrossed SB 2363 as printed on SJ page 1059 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2363: Sens. Lyson, Traynor, Heitkamp.

MOTION

SEN. CHRISTMANN MOVED that Sen. Fairfield replace Sen. Erbele on the Conference Committee on HB 1469, which motion prevailed.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SCR 4038.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1212, HB 1295, HB 1363, HB 1451.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has failed to pass: HB 1361.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2099.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2135, SB 2255, SB 2358, and SB 2363 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2135: Sens. G. Lee; Flakoll; Taylor

SB 2255: Sens. Traynor; Trenbeath; Bercier

SB 2358: Sens. Trenbeath; Nething; Taylor

SB 2363: Sens. Lyson; Traynor; Heitkamp

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The President has appointed as a conference committee to act with a like committee from the House on:

HB 1486: Sens. Klein; Urlacher; Nichols

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The President has appointed Sen. Fairfield to replace Sen. Erbele on the Conference Committee on HB 1469.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1066, HB 1087, HB 1271, HB 1325, HB 1358, HB 1399, HB 1478, HCR 3004, HCR 3011, HCR 3034, HCR 3059.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: SCR 4018.

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.

REPORT OF DELAYED BILLS COMMITTEE

MR. PRESIDENT: Your **Delayed Bills Committee (Sen. Cook, Chairman)** has cast a vote of 5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING in favor of accepting the introduction of a concurrent resolution honoring former Senator Evan Lips for his countless contributions and unselfish dedication to a better North Dakota and nation and congratulating him on the naming of an auditorium at the University of North Dakota School of Medicine and Health Sciences in his honor.

The resolution will be SCR 4039.

FIRST READING OF SENATE CONCURRENT RESOLUTION

Sens. Holmberg, Kringstad, Stenehjem and Reps. Delmore, Keiser, Svedjan introduced:
(Approved by the Delayed Bills Committee)

SCR 4039: A concurrent resolution honoring former Senator Evan Lips for his countless contributions and unselfish dedication to a better North Dakota and nation and congratulating him on the naming of an auditorium at the University of North Dakota School of Medicine and Health Sciences in his honor.

Was read the first time.

MOTION

SEN. CHRISTMANN MOVED that the rules be suspended, that SCR 4039 not be printed, not be referred to committee, but be read in its entirety, be printed in the Journal, and placed on the calendar for immediate second reading and final passage, which motion prevailed.

Sens. Holmberg, Kringstad, Stenehjem and Reps. Delmore, Keiser, Svedjan introduced:
(Approved by the Delayed Bills Committee)

SENATE CONCURRENT RESOLUTION NO. 4039

A concurrent resolution honoring former Senator Evan Lips for his countless contributions and unselfish dedication to a better North Dakota and nation and congratulating him on the naming of an auditorium at the University of North Dakota School of Medicine and Health Sciences in his honor.

WHEREAS, Evan Lips served our nation in the United States Marine Corps during World War II, and he was awarded the Legion of Merit, the Bronze Star, and the Presidential Unit Citation while serving with the Marines in the South Pacific; and

WHEREAS, Evan Lips, as a member of the University of North Dakota All-Centennial Football Team, was selected to be captain of the team, and he was named all-conference for three consecutive years; and

WHEREAS, Evan Lips epitomized the highest ideals of public service during 12 years as the mayor of Bismarck and during 38 years as a member of the Senate, where he served as Majority Leader and as chairman of the Appropriations Committee; and

WHEREAS, Evan Lips has given unselfishly of his time, talent, and resources for the benefit of others and is the recipient of numerous honors, including the Greater North Dakota Award, the Friend of Education Award, the UND Sioux Award, and, most recently, the Lifetime of Caring Award; and

WHEREAS, Evan Lips exhibited a lifelong dedication to providing quality educational opportunities for the citizens of North Dakota, including an essential role in the establishment of a four-year medical school; and

WHEREAS, the University of North Dakota has announced that on May 6, 2003, an auditorium at the University of North Dakota School of Medicine and Health Sciences will be named in honor of Evan Lips;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Assembly recognizes former Senator Evan Lips for his countless contributions and unselfish dedication to a better North Dakota and nation and congratulates him on the naming of an auditorium at the University of North Dakota School of Medicine and Health Sciences in his honor; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to former Senator Evan Lips, to the president of the University of North Dakota, and to the dean of the University of North Dakota School of Medicine and Health Sciences.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4039: A concurrent resolution honoring former Senator Evan Lips for his countless contributions and unselfish dedication to a better North Dakota and nation and congratulating him on the naming of an auditorium at the University of North Dakota School of Medicine and Health Sciences in his honor.

The question being on the final adoption of the resolution, which has been read.

SCR 4039 was declared adopted and the title was agreed to on a voice vote.

MOTION

SEN. CHRISTMANN MOVED that the remarks of former Senator Evan Lips be printed in the Journal, which motion prevailed.

REMARKS OF FORMER SENATOR EVAN LIPS

Mr. President and Members of the Senate: It is an honor for me to be here today to accept this resolution. I was called by the President of the University a couple of weeks ago indicating this would happen. Then I had to wait until the Board of Higher Education approved it; then I got notification that they approved it; and now the Senate has approved the resolution, which is really nice.

Thank you, Dave, for those kind words. I remember when we had 44 Senators out of 49. We elected 22 new ones and we had 22 old ones. So you see we had to hold things down a little bit, we didn't want to just tear everything up. We had the vote to do anything we wanted to do. And when we took a vetoed bill to the caucus, someone would make a motion to override the veto, and bingo, just like that, the motion was carried.

Well, I appreciate this very much. I always hold the Senate in the highest regard, and I tried to represent North Dakota and my district to the best of my abilities. I loved serving on Appropriations, I think that I could have almost made the budget presentations; all it did was it got a little bigger every two years. Any way, serving on Appropriations, you don't hear a lot of other bills, so my hobby was supporting Education and Human Services. Having been a mayor, I appreciated local interest in government.

When I first came in to the Senate in 1961, I walked through that door over there and I was a little scared. I think all of you were a little scared, to come walking into the Senate. But you know the first guy I saw was a Jamestown Senator, it wasn't Nething, but I won't say the name. He said, "Evan, you might be the Mayor of Bismarck, but here you're a just a freshman Senator." Well, that's pretty good! That's quite a deal, isn't it? Then I said, "Senator, I think I know my place." And I think I do.

Thank you very much, again, to all of you people. I appreciate it, especially to Dave Nething. Thank you very much.

MOTION

SEN. CHRISTMANN MOVED that SB 2033, SB 2150, SB 2248, SB 2249, and SB 2403 be moved to the top of the Twelfth order, which motion prevailed.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. KREBSBACH MOVED that the Senate do not concur in the House amendments to Engrossed SB 2033 as printed on SJ pages 1032-1041 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2033: Sens. Krebsbach, Brown, Nelson.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TRENBEATH MOVED that the Senate do not concur in the House amendments to Engrossed SB 2150 as printed on SJ page 981 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2150: Sens. Espeguard, Mutch, Bercier.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. KREBSBACH MOVED that the Senate do not concur in the House amendments to Engrossed SB 2248 as printed on SJ page 908 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2248: Sens. Brown, Dever, Fairfield.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. KREBSBACH MOVED that the Senate do not concur in the House amendments to Engrossed SB 2249 as printed on SJ page 1066 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2249: Sens. Wardner, Krebsbach, Nelson.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. KREBSBACH MOVED that the Senate do not concur in the House amendments to Engrossed SB 2403 as printed on SJ page 1065 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2403: Sens. Wardner, Dever, Fairfield.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. URLACHER MOVED that the Senate do concur in the House amendments to Reengrossed SB 2222 as printed on SJ pages 1041-1044, which motion prevailed on a voice vote.

Reengrossed SB 2222, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2222: A BILL for an Act to create and enact four new sections to chapter 4-14.1 of the North Dakota Century Code, relating to ethanol production subsidies; to amend and reenact sections 4-14.1-07, 39-04-39, and 57-43.1-03.1 of the North Dakota Century Code, relating to the distribution of motor vehicle registration fees and the taxation of motor vehicle fuel for agricultural purposes; to repeal section 4-14.1-07 of the North Dakota Century Code, relating to the duration and limitation of ethanol plant production incentives; to provide for a continuing appropriation; 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espeguard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg;

Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Tallackson

Reengrossed SB 2222 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. COOK MOVED that the Senate do concur in the House amendments to Engrossed SB 2259 as printed on SJ page 864, which motion prevailed on a voice vote.

Engrossed SB 2259, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2259: A BILL for an Act to amend and reenact section 40-63-07 of the North Dakota Century Code, relating to renaissance fund organizations.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 43 YEAS, 3 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espeguard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; Polovitz; Robinson; Schobinger; Seymour; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Fairfield; O'Connell; Stenehjem

ABSENT AND NOT VOTING: Tallackson

Reengrossed SB 2259 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. MUTCH MOVED that the Senate do concur in the House amendments to Engrossed SB 2302 as printed on SJ page 753, which motion prevailed on a voice vote.

Engrossed SB 2302, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2302: A BILL for an Act to amend and reenact subsection 4 of section 13-01-14 of the North Dakota Century Code, relating to late payment charges on medical or hospital bills.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 32 YEAS, 14 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Brown; Christmann; Dever; Erbele; Espeguard; Every; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lindaas; Lyson; Mutch; Nelson; Nething; Nichols; Polovitz; Robinson; Schobinger; Stenehjem; Taylor; Thane; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Bercier; Christenson; Cook; Fairfield; Fischer; Flakoll; Heitkamp; Krauter; Lee, J.; Mathern; O'Connell; Seymour; Syverson; Tollefson

ABSENT AND NOT VOTING: Tallackson

Reengrossed SB 2302 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FLAKOLL MOVED that the Senate do concur in the House amendments to Engrossed SB 2319 as printed on SJ page 959, which motion prevailed on a voice vote.

Engrossed SB 2319, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2319: A BILL for an Act amend and reenact section 19-18-04 of the North Dakota Century Code, relating to pesticide registration fees; to provide an appropriation; 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Tallackson

Reengrossed SB 2319 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. COOK MOVED that the Senate do concur in the House amendments to Engrossed SB 2320 as printed on SJ page 832, which motion prevailed on a voice vote.

Engrossed SB 2320, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2320: A BILL for an Act to amend and reenact subsection 75 of section 40-05-01 of the North Dakota Century Code, relating to the powers of a city governing body.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 44 YEAS, 2 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Cook; Lee, G.

ABSENT AND NOT VOTING: Tallackson

Reengrossed SB 2320 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FLAKOLL MOVED that the Senate do concur in the House amendments to SB 2323 as printed on SJ page 959, which motion prevailed on a voice vote.

SB 2323, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2323: A BILL for an Act to create and enact two new sections to chapter 20.1-08 of the North Dakota Century Code, relating to the governor's authority to restrict cervidae carcass imports due to chronic wasting disease and the governor's authority to declare an animal health emergency; 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg;

Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Tallackson

Engrossed SB 2323 passed, the title was agreed to, and the emergency clause was declared carried.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do concur in the House amendments to Engrossed SB 2330 as printed on SJ pages 832-833, which motion prevailed on a voice vote.

Engrossed SB 2330, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2330: A BILL for an Act to provide for a choice of options for individuals eligible for home and community-based living.

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, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Tallackson

Reengrossed SB 2330 passed and the title was agreed to.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2036, SB 2044, SB 2060, SB 2061, SB 2072, SB 2085, SB 2095, SB 2096, SB 2111, SB 2173, SB 2192, SB 2193, SB 2210, SB 2215, SB 2217, SB 2223, SB 2240, SB 2299, SB 2331, SB 2368, SB 2404.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The President has signed: HB 1024, HB 1060, HB 1161, HB 1213, HB 1246, HB 1251, HB 1260, HB 1296, HB 1301, HB 1330, HB 1350, HB 1352, HB 1353, HB 1360, HB 1371, HB 1404, HB 1420, HB 1424, HCR 3008, HCR 3023, HCR 3055, HCR 3056, HCR 3063, HCR 3076.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SCR 4039.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has concurred in the House amendments and subsequently passed: SB 2222, SB 2259, SB 2302, SB 2319, SB 2320, SB 2323, and SB 2330.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2033, SB 2150, SB 2248, SB 2249, and SB 2403 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2033: Sens. Krebsbach; Brown; Nelson

SB 2150: Sens. Espegard; Mutch; Bercier

SB 2248: Sens. Brown; Dever; Fairfield

SB 2249: Sens. Wardner; Krebsbach; Nelson

SB 2403: Sens. Wardner; Dever; Fairfield

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following resolution was delivered to the Secretary of State for filing on April 3, 2003: SCR 4018.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1504, HCR 3078.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has amended and subsequently passed: SB 2311.

HOUSE AMENDMENTS TO REENGROSSED SENATE BILL NO. 2311

In lieu of the amendments adopted by the House as printed on pages 1042 and 1043 of the House Journal, Reengrossed Senate Bill No. 2311 is amended as follows:

Page 1, remove lines 10 and 11

Page 2, line 16, remove "- Governor to appoint"

Page 2, line 17, replace "governor shall appoint an oil and gas research council composed of nine" with "oil and gas research council is composed of seven members, four of whom must currently be engaged in and have at least five years of active experience in the oil and natural gas exploration and production industry. The council consists of:

- a. Four members appointed by the governor from a list provided by the North Dakota oil and gas association. The governor may reject the list and request the association to submit a new list until the appointments are made.
- b. One member appointed by the governor from a list provided by the North Dakota association of oil and gas producing counties. The governor may reject the list and request the association to submit a new list until the appointment is made.
- c. The executive director of the North Dakota petroleum council, or the executive director's designee.
- d. A county commissioner from an oil-producing county appointed by the governor.
- e. The director of the oil and gas division and the state geologist shall serve on the council as advisory nonvoting members."

Page 2, remove lines 18 through 21

Page 2, line 23, replace the first "three" with "two" and replace the second "three" with "two"

Page 2, line 29, replace "Six" with "Four"

Page 3, line 5, replace "A member" with "Members" and replace "serves" with "appointed by the governor serve"

Page 4, line 12, replace "if the estimates for the oil and gas gross production tax and the oil" with "the first fifty thousand dollars of revenue from the state's share of the oil and gas production tax and oil extraction tax"

Page 4, remove line 13

Page 4, line 14, remove "hundred fifty-nine dollars, the excess, up to four thousand nine hundred dollars,"

Page 4, line 15, replace "as provided in this" with a period

Page 4, replace lines 16 through 22 with "In the 2003-05 biennium, if actual revenues for the 2001-03 biennium from the state general fund share of the oil and gas production tax and oil extraction tax exceeded seventy-one million sixty-four thousand dollars, the excess up to five hundred thousand dollars must be deposited in a special fund known as the oil and gas research fund, as provided in this section."

Page 4, line 23, remove "thousand six hundred fifty-nine dollars or less, transfers to the fund shall cease."

Page 4, line 24, replace "three" with "one"

Page 4, line 25, replace "two million" with "six hundred fifty thousand"

Page 4, line 27, replace "three" with "one"

ReNUMBER accordingly

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has amended and subsequently failed to pass: SB 2103.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has concurred in the Senate amendments and subsequently passed: HB 1278, HB 1320, HB 1321, HB 1351, HB 1388, HB 1394, HB 1415, and HB 1416.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has concurred in the Senate amendments and subsequently passed: HB 1058, HB 1138, HB 1204, HB 1207, HB 1221, HB 1231, HB 1256, and HB 1275.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has concurred in the Senate amendments and subsequently passed: HB 1426.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1190 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1190: Reps. Severson; Tieman; Thorpe

MOTION

SEN. CHRISTMANN MOVED that the absent member be excused, which motion prevailed.

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 8:30 a.m., Friday, April 4, 2003, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1005, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1005 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "314,621" with "314,311"

Page 1, line 12, replace "38,722" with "40,990"

Page 1, line 13, replace "353,343" with "355,301"

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1005 - Indian Affairs Commission - Senate Action

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$318,109	\$314,621	(\$310)	\$314,311
Operating expenses	<u>41,222</u>	<u>38,722</u>	<u>2,268</u>	<u>40,990</u>
Total all funds	\$359,331	\$353,343	\$1,958	\$355,301
Less estimated income	_____	_____	_____	_____
General fund	\$359,331	\$353,343	\$1,958	\$355,301
FTE	3.00	3.00	0.00	3.00

Dept. 316 - Indian Affairs Commission - Detail of Senate Changes

	RESTORES FUNDING FOR COMPUTER REPLACEMENT 1	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE 2	REDUCES FUNDING FOR INFORMATION TECHNOLOGY COSTS 3	TOTAL SENATE CHANGES
Salaries and wages		(\$310)		(\$310)
Operating expenses	\$2,500		(\$232)	2,268
Total all funds	\$2,500	(\$310)	(\$232)	\$1,958
Less estimated income				
General fund	\$2,500	(\$310)	(\$232)	\$1,958
FTE	0.00	0.00	0.00	0.00

1 This amendment restores the funding removed by the House for personal computer replacement.

2 This amendment reduces funding for state employee health insurance premiums from \$493 per month to \$488.70 per month.

3 This amendment reduces funding for information technology by \$232 from the general fund, which represents a reduction in information technology funding from the general fund of approximately 4 percent.

REPORT OF STANDING COMMITTEE

HB 1006, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1006 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "675,043" with "674,424"

Page 1, line 14, replace "9,160,411" with "9,159,792"

Page 1, line 15, replace "8,637,911" with "8,637,292"

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1006 - Aeronautics Commission - Senate Action

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$682,118	\$675,043	(\$619)	\$674,424
Operating expenses	1,831,368	1,831,368		1,831,368
Capital assets	134,000	134,000		134,000
Grants	<u>6,520,000</u>	<u>6,520,000</u>		<u>6,520,000</u>
Total all funds	\$9,167,486	\$9,160,411	(\$619)	\$9,159,792
Less estimated income	<u>8,644,986</u>	<u>8,637,911</u>	(619)	<u>8,637,292</u>
General fund	\$522,500	\$522,500	\$0	\$522,500
FTE	6.00	6.00	0.00	6.00

Dept. 412 - Aeronautics Commission - Detail of Senate Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE 1	TOTAL SENATE CHANGES
Salaries and wages	(\$619)	(\$619)
Operating expenses		
Capital assets		
Grants		
Total all funds	(\$619)	(\$619)
Less estimated income	(619)	(619)
General fund	\$0	\$0
FTE	0.00	0.00

1 This amendment reduces the funding for state employee health insurance premiums from \$493 per month to \$488.70 per month.

REPORT OF STANDING COMMITTEE

HB 1008, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed HB 1008 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "2,987,222" with "2,984,539"

Page 1, line 11, replace "3,659,948" with "3,657,265"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:**House Bill No. 1008 - Department of Financial Institutions - Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$3,018,549	\$2,987,222	(\$2,683)	\$2,984,539
Operating expenses	<u>672,726</u>	<u>672,726</u>		<u>672,726</u>
Total all funds	\$3,691,275	\$3,659,948	(\$2,683)	\$3,657,265
Less estimated income	<u>3,691,275</u>	<u>3,659,948</u>	<u>(2,683)</u>	<u>3,657,265</u>
General fund	\$0	\$0	\$0	\$0
FTE	25.00	25.00	0.00	25.00

Dept. 413 - Department of Financial Institutions - Detail of Senate Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	TOTAL SENATE CHANGES
Salaries and wages	(\$2,683)	(\$2,683)
Operating expenses		
Total all funds	(\$2,683)	(\$2,683)
Less estimated income	<u>(2,683)</u>	<u>(2,683)</u>
General fund	\$0	\$0
FTE	0.00	0.00

¹ This amendment reduces the funding for state employee health insurance premiums from \$493 per month to \$488.70 per month.

REPORT OF STANDING COMMITTEE

HB 1010, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed HB 1010 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "426,084" with "425,568"

Page 1, line 10, replace "219,918" with "221,738"

Page 1, line 11, replace "1,559,607" with "1,415,857"

Page 1, after line 11, insert:

"Lewis and Clark bicentennial

183,750"

Page 1, line 12, replace "2,205,609" with "2,246,913"

Page 1, line 14, replace "983,394" with "1,024,698"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:**House Bill No. 1010 - Council on the Arts - Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$430,661	\$426,084	(\$516)	\$425,568
Operating expenses	222,918	219,918	1,820	221,738
Grants	1,415,857	1,559,607	(143,750)	1,415,857
Lewis and Clark Bicentennial	<u>183,750</u>		<u>183,750</u>	<u>183,750</u>
Total all funds	\$2,253,186	\$2,205,609	\$41,304	\$2,246,913
Less estimated income	<u>1,222,215</u>	<u>1,222,215</u>		<u>1,222,215</u>
General fund	\$1,030,971	\$983,394	\$41,304	\$1,024,698
FTE	5.00	5.00	0.00	5.00

Dept. 709 - Council on the Arts - Detail of Senate Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE 1	REDUCES FUNDING FOR INFORMATION TECHNOLOGY COSTS 2	RESTORES FUNDING FOR 2 NEW COMPUTERS 3	RESTORES LEWIS AND CLARK BICENTENNIAL LINE ITEM 4	RESTORES FUNDING FOR GRANTS 5	TOTAL SENATE CHANGES
Salaries and wages	(\$516)					(\$516)
Operating expenses		(\$1,180)	\$3,000			1,820
Grants				(\$183,750)	\$40,000	(143,750)
Lewis and Clark Bicentennial				<u>183,750</u>		<u>183,750</u>
Total all funds	(\$516)	(\$1,180)	\$3,000	\$0	\$40,000	\$41,304
Less estimated income						
General fund	(\$516)	(\$1,180)	\$3,000	\$0	\$40,000	\$41,304
FTE	0.00	0.00	0.00	0.00	0.00	0.00

1 This amendment reduces the funding for state employee health insurance premiums from \$493 per month to \$488.70 per month.

2 This amendment reduces the funding for information technology by \$1,180 from the general fund, which represents a reduction in information technology funding from the general fund of approximately 4 percent.

3 This amendment restores funding of \$3,000 from the general fund for two new computers which was removed by the House.

4 This amendment restores funding of \$183,750 from the general fund to the Lewis and Clark Bicentennial line item which was transferred to the grants line item by the House.

5 This amendment restores funding of \$40,000 from the general fund for grants which was removed by the House.

REPORT OF STANDING COMMITTEE

HB 1014, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed HB 1014 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "66,405" with "66,302"

Page 1, line 12, replace "73,295" with "73,398"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1014 - Children's Services Coordinating Committee - Senate Action

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$61,954	\$66,405	(\$103)	\$66,302
Operating expenses	58,681	73,295	103	73,398
Grants	<u>2,006,459</u>	<u>2,374,900</u>		<u>2,374,900</u>
Total all funds	\$2,127,094	\$2,514,600	\$0	\$2,514,600
Less estimated income	<u>2,127,094</u>	<u>2,514,600</u>		<u>2,514,600</u>
General fund	\$0	\$0	\$0	\$0
FTE	0.70	0.80	0.00	0.80

Dept. 324 - Children's Services Coordinating Committee - Detail of Senate Changes

REDUCES
RECOMMENDED

	FUNDING FOR HEALTH INSURANCE 1	TOTAL SENATE CHANGES
Salaries and wages	(\$103)	(\$103)
Operating expenses	103	103
Grants		
Total all funds	\$0	\$0
Less estimated income		
General fund	\$0	\$0
FTE	0.00	0.00

¹ The salaries and wages line item is reduced to reflect the reduction in state employee health insurance premiums from \$493 to \$488.70 per month. The funding reduced from the salaries and wages line item is added to the operating expenses line item.

REPORT OF STANDING COMMITTEE

HB 1018, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed HB 1018 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "1,092,106" with "938,648"

Page 1, line 10, replace "3,299,168" with "308,621"

Page 1, line 11, replace "all funds" with "special funds appropriation" and replace "4,391,274" with "1,247,269"

Page 1, remove lines 12 and 13

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1018 - Office of Administrative Hearings - Senate Action

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$949,968	\$1,092,106	(\$153,458)	\$938,648
Operating expenses	<u>313,621</u>	<u>3,299,168</u>	<u>(2,990,547)</u>	<u>308,621</u>
Total all funds	\$1,263,589	\$4,391,274	(\$3,144,005)	\$1,247,269
Less estimated income	<u>1,263,589</u>	<u>1,248,095</u>	<u>(826)</u>	<u>1,247,269</u>
General fund	\$0	\$3,143,179	(\$3,143,179)	\$0
FTE	8.00	9.00	(1.00)	8.00

Dept. 140 - Office of Administrative Hearings - Detail of Senate Changes

	REMOVES FUNDING FOR INDIGENT DEFENSE FEES ¹	REMOVES SALARIES AND FTE POSITION ²	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ³	TOTAL SENATE CHANGES
Salaries and wages		(\$152,632)	(\$826)	(\$153,458)
Operating expenses	<u>(\$2,990,547)</u>			<u>(2,990,547)</u>
Total all funds	(\$2,990,547)	(\$152,632)	(\$826)	(\$3,144,005)
Less estimated income			<u>(826)</u>	<u>(826)</u>
General fund	(\$2,990,547)	(\$152,632)	\$0	(\$3,143,179)
FTE	0.00	(1.00)	0.00	(1.00)

¹ This amendment removes the funding for indigent defense fees and the related responsibilities which were transferred from the judicial branch by the House pursuant to House Bill No. 1044. The indigent defense program will be funded in House Bill No. 1002 (Judicial Branch).

² This amendment removes the salaries and wages and related FTE position for administering the indigent defense contracts.

³ This amendment reduces funding for state employee health insurance premiums from \$493 per month to \$488.70 per month.

REPORT OF STANDING COMMITTEE

HB 1020, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO**

PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed HB 1020 was placed on the Sixth order on the calendar.

Page 1, line 2, after "education" insert "; to require a report to the budget section; to provide statements of legislative intent; and to provide for a transfer from the student loan trust fund"

Page 1, line 10, replace "2,969,634" with "2,966,641"

Page 1, line 11, replace "621,845" with "958,398"

Page 1, line 12, replace "19,637,083" with "19,291,883"

Page 1, after line 13, insert:
"Workforce training 1,350,000"

Page 1, line 14, after "grants" insert "- Category I" and replace "357,452" with "357,452"

Page 1, after line 14, insert:
"Postsecondary education vocational grants - Category II 1,000,000"

Page 1, line 15, replace "24,211,774" with "26,550,134"

Page 1, line 16, replace "10,874,593" with "11,874,500"

Page 1, line 17, replace "13,337,181" with "14,675,634"

Page 1, after line 17, insert:

"SECTION 2. POSTSECONDARY EDUCATION VOCATIONAL GRANTS - CATEGORY II - REPORT TO THE BUDGET SECTION. The postsecondary education vocational grants - category II line item in section 1 is to provide funding for career and technical education programs offered through the North Dakota university system in high demand occupations and growth industries in North Dakota. The state board for vocational and technical education shall report to the December 2004 meeting of the budget section on the distribution of the postsecondary education vocational grants - category II for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 3. LEGISLATIVE INTENT - 2005-07 BIENNIUM GRANTS. It is the intent of the fifty-eighth legislative assembly that the executive budget recommend continued funding for the postsecondary education vocational grants - category II for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 4. LEGISLATIVE INTENT - HIGHER EDUCATION FUNDING. It is the intent of the fifty-eighth legislative assembly that the funds totaling \$2,350,000 included in the state board for vocational and technical education for workforce training and for postsecondary education grants - category II be considered by the North Dakota university system as a part of higher education's share of total general fund spending.

SECTION 5. STUDENT LOAN TRUST FUND TRANSFER. The industrial commission shall transfer to the state board for vocational and technical education the sum of \$1,000,000 from the North Dakota student loan trust fund, appropriated for the postsecondary education vocational grants - category II in section 1 of this Act."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1020 - Vocational Education - Senate Action

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$3,001,677	\$2,969,634	(\$2,993)	\$2,966,641
Operating expenses	621,845	621,845	336,553	958,398
Grants	20,037,083	19,637,083	(345,200)	19,291,883
Adult farm management	625,760	625,760		625,760
Workforce training	1,350,000		1,350,000	1,350,000
Postsecondary education vocational grants	357,452	357,452	(357,452)	
Postsecondary education vocational grants -			357,452	357,452

Category I Postsecondary education vocational grants - Category II			1,000,000	1,000,000
Total all funds	\$25,993,817	\$24,211,774	\$2,338,360	\$26,550,134
Less estimated income	<u>10,875,297</u>	<u>10,874,593</u>	<u>999,907</u>	<u>11,874,500</u>
General fund	\$15,118,520	\$13,337,181	\$1,338,453	\$14,675,634
FTE	27.50	27.50	0.00	27.50

Dept. 270 - Vocational Education - Detail of Senate Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	REDUCES FUNDING FOR INFORMATION TECHNOLOGY COSTS ²	RESTORES WORKFORCE TRAINING FUNDS REMOVED BY THE HOUSE ³	ADDS FUNDS FOR POSTSECONDARY GRANTS - CATEGORY II ⁴	TRANSFERS FUNDING FOR POSTSECONDARY GRANTS - CATEGORY I ⁵	TRANSFERS FUNDING FROM GRANTS TO OPERATING EXPENSES ⁶
Salaries and wages	(\$2,993)					
Operating expenses		(\$8,647)				\$345,200
Grants						(345,200)
Adult farm management						
Workforce training			\$1,350,000			
Postsecondary education vocational grants					(\$357,452)	
Postsecondary education vocational grants - Category I					357,452	
Postsecondary education vocational grants - Category II				\$1,000,000		
Total all funds	(\$2,993)	(\$8,647)	\$1,350,000	\$1,000,000	\$0	\$0
Less estimated income	<u>(93)</u>			<u>1,000,000</u>		
General fund	(\$2,900)	(\$8,647)	\$1,350,000	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00

TOTAL SENATE CHANGES

Salaries and wages	(\$2,993)
Operating expenses	336,553
Grants	(345,200)
Adult farm management	
Workforce training	1,350,000
Postsecondary education vocational grants	(357,452)
Postsecondary education vocational grants - Category I	357,452
Postsecondary education vocational grants - Category II	1,000,000
Total all funds	\$2,338,360
Less estimated income	<u>999,907</u>
General fund	\$1,338,453
FTE	0.00

¹ This amendment reduces the funding for state employee health insurance premiums from \$493 per month to \$488.70 per month.

² This amendment reduces funding for information technology by \$8,647 from the general fund, which represents a reduction in information technology funding from the general fund of approximately 4 percent.

³ This amendment restores funding of \$1,350,000 for workforce training which the House had transferred to the Department of Commerce in House Bill No. 1019.

⁴ This amendment adds funds of \$1,000,000 to a new line item, Postsecondary education vocational grants - Category II, for grants to support existing programs.

⁵ This amendment transfers the \$357,452 for Postsecondary education vocational grants to postsecondary education vocational grants - Category I.

⁶ This amendment transfers a total of \$345,200 from the grants line item to the operating expenses line item for proper classification of the funds. Of the \$345,200, \$245,200 is for the transition to teaching grant, and \$100,000 is for the career development web site.

This amendment also adds four sections to the bill, Sections 2, 3, 4, and 5. Section 2 requires the State Board for Vocational and Technical Education to report to the Budget Section on the distribution of the postsecondary education vocational grants - Category II. Section 3 is a section of legislative intent encouraging the executive budget to recommend funding the postsecondary education vocational grants - Category II for the 2005-07 biennium, and Section 4 is a section of legislative intent that the North Dakota University System consider funds for the workforce training and postsecondary education grants - Category II as part of higher education's share of the general fund spending. Section 5 transfers \$1 million from the student loan trust for postsecondary education vocational grants - Category II.

REPORT OF STANDING COMMITTEE

HB 1103: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1103 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1180, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1180 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact four new sections to chapter 54-44.4 of the North Dakota Century Code, relating to procurement of services, competitive sealed bid proposals, small purchases, and protested solicitations and awards; to amend and reenact sections 44-08-05.1, 54-44.4-01, 54-44.4-02, and 54-44.4-04, subsections 1 and 2 of section 54-44.4-05, section 54-44.4-06, and subsections 1, 2, and 4 of section 54-44.4-09 of the North Dakota Century Code, relating to purchasing policy, purchasing by the office of management and budget, solicitation criteria, exempt records, limited competitive and noncompetitive purchases, multistep sealed bids, and vendor registration; to require the director of the office of management and budget to study the state procurement process; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-08-05.1 of the North Dakota Century Code is amended and reenacted as follows:

44-08-05.1. Vouchers - Requirements for approval - Penalty - Action for violations. Any public officer or employee who has the power to approve a voucher for a department, agency, or institution for travel expenses or any other state expenditure of public funds shall determine before approving ~~such the~~ voucher ~~the following~~:

1. That the expenditure for travel or other expenditures were for lawful and official purposes.
2. If for travel expense, that the travel actually occurred, and that the sums claimed for travel expenses are actually due the individual who is seeking reimbursement, allowance, or payment.
3. If the voucher is for expenditure other than travel expense, that the expenditure is lawful and that the voucher contains no false claims.

For purchases made with the use of a purchasing card authorized under ~~subsection 8 of section 54-44.4-02~~ section 11 of this Act, an employee of the office of management and budget designated by the director of the office of management and budget, on behalf of all agencies, may review and approve vouchers under this section and make payments pursuant thereto. Any public officer or employee who willfully approves a voucher with knowledge it contains false or unlawful claims or that it does not otherwise meet the requirements of this section for approval is guilty of theft and punishable under ~~the provisions of~~ chapter 12.1-23. Any public officer or employee who, without the use of ordinary care and diligence, negligently approves a voucher for a department, agency, or institution containing false or unlawful claims or which does not otherwise meet the requirements of this section for approval is personally liable for any funds improperly expended. The director of the office of management and budget, members of the office of the budget, state auditor, or any other person who has knowledge of an actual or possible violation of this section shall make such information known to the attorney general. The attorney general shall investigate any alleged ~~violations~~ violation and, if a violation appears to exist, shall ~~criminally~~ prosecute under chapter 12.1-23 or

bring a civil suit for the recovery of such funds as may actually have been improperly paid against the payee and officer or employee who approved such voucher in violation of any of the above requirements or shall bring both such criminal action and civil suit. The officer or employee who approves any voucher negligently has the right of subrogation against the payee of such voucher in the event public funds have been improperly paid to the payee.

SECTION 2. AMENDMENT. Section 54-44.4-01 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-01. Declaration of policy - Definitions. It is ~~hereby declared to be~~ state policy to provide comprehensive purchasing services based upon sound procurement practices and principles wherein, through full competition with fair and equal opportunity to all qualified persons ~~and firms~~ to sell to the state, each state agency and institution shall obtain its necessary supplies commodities and equipment services at competitive cost, consistent with quality, time, and performance requirements, except as otherwise provided by law. As used in this chapter, unless the context requires otherwise:

1. "Commodities" means all property, including equipment, supplies, materials, printing, insurance, and leases of equipment.
2. "Procurement officer" means an individual duly authorized to enter and administer purchasing contracts and make written determinations with respect thereto and also includes an authorized representative acting within the limits of authority.
3. "Professional services" means those services requiring special knowledge, education, or skills when the qualifications and experience of the individual rendering the services are of primary importance and the individual is required to exercise professional judgment. Professional services providers include appraisers, attorneys, accountants, psychologists, physicians, dentists, planners, analysts, and consultants. The term includes human services under which a person provides direct health or social welfare services to the citizens on behalf of the state. The term does not include services defined in section 54-44.7-01.
4. "Purchasing agency" means a governmental entity in the executive branch of government other than the office of management and budget which is authorized by this chapter, rules adopted under this chapter, written policy of the office of management and budget, or by way of delegation from the office of management and budget to enter purchasing contracts for commodities and services.
5. "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance. The term does not include professional services.

SECTION 3. AMENDMENT. Section 54-44.4-01 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-01. Declaration of policy - Definitions. It is ~~hereby declared to be~~ state policy to provide comprehensive purchasing services based upon sound procurement practices and principles wherein, through full competition with fair and equal opportunity to all qualified persons ~~and firms~~ to sell to the state, each state agency and institution shall obtain its necessary supplies commodities and equipment services at competitive cost, consistent with quality, time, and performance requirements, except as otherwise provided by law. As used in this chapter, unless the context requires otherwise:

1. "Commodities" means all property, including equipment, supplies, materials, printing, insurance, and leases of equipment.
2. "Procurement officer" means an individual duly authorized to enter and administer purchasing contracts and make written determinations with respect thereto and also includes an authorized representative acting within the limits of authority.

3. "Professional services" means those services requiring special knowledge, education, or skills when the qualifications and experience of the individual rendering the services are of primary importance and the individual is required to exercise professional judgment. Professional services providers include appraisers, attorneys, accountants, psychologists, physicians, dentists, planners, analysts, and consultants. The term includes human services under which a person provides direct health or social welfare services to the citizens on behalf of the state. The term does not include services defined in section 54-44.7-01.
4. "Purchasing agency" means a governmental entity in the executive branch of government other than the office of management and budget which is authorized by this chapter, rules adopted under this chapter, written policy of the office of management and budget, or by way of delegation from the office of management and budget to enter purchasing contracts for commodities and services.
5. "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance. The term includes professional services.

SECTION 4. AMENDMENT. Section 54-44.4-02 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-02. Office of management and budget purchasing services. The office of management and budget shall purchase or lease or otherwise arrange for the procurement, for all state agencies and institutions in the executive branch of state government, all materials, furniture, fixtures, printing, insurance, services, and other commodities, ~~except the~~. The following commodities and services, however, are not subject to the procurement requirements of this chapter:

1. Land, buildings, space, or the rental thereof.
2. Telephone and telegraph service and electrical light and power services.
3. Public books, maps, periodicals, and technical pamphlets.
4. Department of transportation materials, equipment, and supplies in accordance with section 24-02-16.
5. Procurements through a contract or other instrument executed by the industrial commission under chapter 54-17.5.
6. Professional services, unless the office of management and budget agrees to procure professional services in response to an agency's written request.
6. 7. Services for the maintenance or servicing of equipment by the manufacturer or authorized servicing agent of that equipment when the maintenance or servicing can best be performed by the manufacturer or authorized service agent, or when such a contract would otherwise be advantageous to the state.
7. 8. Emergency purchases the office of management and budget cannot make within the required time and which involve public health or public safety, or when immediate expenditures are necessary for repairs of state property to protect it against further loss or damage, or to prevent or minimize serious disruption in state services. Emergency purchases must be made with the level of competition practicable under the circumstances, and a written determination of the basis for the emergency and for the selection of the particular contractor must be included in the contract file.
8. ~~Such specific items or items~~
9. Commodities and services costing less than a specified amount as determined and indicated by written directive by the director of the office of management and budget. ~~The director may organize and administer, including by contract with a provider, a system of procurement for items agencies are authorized to purchase under this subsection which includes use of a procurement card. If the director establishes and administers a~~

~~purchasing card system, the director may designate which agencies are required to use it for purchasing of items designated under this subsection costing less than a specified amount designated in writing by the director.~~

10. Specified commodities and services as determined by written directive by the director of the office of management and budget.
11. Employee benefit services, trust-related services, and investment management services obtained by an agency with a fiduciary responsibility regarding those services.

All purchases made by the office of management and budget or a state agency or institution to which authority to purchase has been delegated by the office of management and budget must be made in accordance with this chapter, rules adopted under this chapter, and written policies of the office of management and budget. The office of management and budget shall purchase ~~items~~ commodities or services as requested by agencies and institutions under the jurisdiction of the state board of higher education and the legislative and judicial branches of state government. The agencies and institutions under the jurisdiction of the state board of higher education, with the office of management and budget, shall make such joint purchases of like ~~items~~ commodities or services of high common usage as determined jointly by the agencies and institutions under the jurisdiction of the state board of higher education and the office of management and budget as will result in less cost to the state. The office of management and budget, pursuant to terms and conditions imposed by it, may agree with political subdivisions that have organized a purchasing group pursuant to a joint powers agreement under chapter 54-40.3 to cooperatively purchase certain specific ~~items~~ commodities or services designated by the office of management and budget if the cooperative purchase will result in a benefit to the state and to the political subdivisions participating in the joint powers agreement.

SECTION 5. AMENDMENT. Section 54-44.4-02 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-02. Office of management and budget purchasing services. The office of management and budget shall purchase or lease or otherwise arrange for the procurement, for all state agencies and institutions in the executive branch of state government, all materials, furniture, fixtures, printing, insurance, services, and other commodities, ~~except the~~. The following commodities and services, however, are not subject to the procurement requirements of this chapter:

1. Land, buildings, space, or the rental thereof.
2. Telephone and telegraph service and electrical light and power services.
3. Public books, maps, periodicals, and technical pamphlets.
4. Department of transportation materials, equipment, and supplies in accordance with section 24-02-16.
5. ~~Professional services, unless the office of management and budget agrees to procure professional services in response to an agency's written request~~ Procurements through a contract or other instrument executed by the industrial commission under chapter 54-17.5.
6. Services for the maintenance or servicing of equipment by the manufacturer or authorized servicing agent of that equipment when the maintenance or servicing can best be performed by the manufacturer or authorized service agent, or when such a contract would otherwise be advantageous to the state.
7. Emergency purchases the office of management and budget cannot make within the required time and which involve public health or public safety, or when immediate expenditures are necessary for repairs of state property to protect it against further loss or damage, or to prevent or minimize serious disruption in state services. Emergency purchases must be made with the level of competition practicable under the circumstances, and a written determination of the basis for the emergency and for the selection of the particular contractor must be included in the contract file.

8. ~~Such specific items or items~~ Commodities and services costing less than a specified amount as determined ~~and indicated~~ by written directive by the director of the office of management and budget. ~~The director may organize and administer, including by contract with a provider, a system of procurement for items agencies are authorized to purchase under this subsection which includes use of a procurement card. If the director establishes and administers a purchasing card system, the director may designate which agencies are required to use it for purchasing of items designated under this subsection costing less than a specified amount designated in writing by the director.~~
9. Specified commodities and services as determined by written directive by the director of the office of management and budget.
10. Employee benefit services, trust-related services, and investment management services obtained by an agency with a fiduciary responsibility regarding those services.

All purchases made by the office of management and budget or a state agency or institution to which authority to purchase has been delegated by the office of management and budget must be made in accordance with this chapter, rules adopted under this chapter, and written policies of the office of management and budget. The office of management and budget shall purchase ~~items~~commodities or services as requested by agencies and institutions under the jurisdiction of the state board of higher education and the legislative and judicial branches of state government. The agencies and institutions under the jurisdiction of the state board of higher education, with the office of management and budget, shall make such joint purchases of like ~~items~~commodities or services of high common usage as determined jointly by the agencies and institutions under the jurisdiction of the state board of higher education and the office of management and budget as will result in less cost to the state. The office of management and budget, pursuant to terms and conditions imposed by it, may agree with political subdivisions that have organized a purchasing group pursuant to a joint powers agreement under chapter 54-40.3 to cooperatively purchase certain specific ~~items~~ commodities or services designated by the office of management and budget if the cooperative purchase will result in a benefit to the state and to the political subdivisions participating in the joint powers agreement.

SECTION 6. A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

Procurement of services. All services purchased by the office of management and budget or by an agency or institution in the executive branch of state government must comply with the standards and guidelines for procurement of services established by the office of management and budget. Before March first of each year, each agency or institution in the executive branch of state government which purchases services shall file with the office of management and budget a report regarding the services purchased the preceding year. The report must be provided on forms established and made available by the office of management and budget.

SECTION 7. AMENDMENT. Section 54-44.4-04 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-04. Office of management and budget - Rules. The office of management and budget shall adopt, ~~pursuant to~~in accordance with the procedures provided by chapter 28-32, rules necessary to administer this chapter. The written directives issued by the director exercising authority provided in~~subsection 8 of section sections~~ 54-44.4-02 and~~section~~ 54-44.4-03 need not be adopted as ~~rules under~~in accordance with chapter 28-32.

SECTION 8. AMENDMENT. Subsections 1 and 2 of section 54-44.4-05 of the North Dakota Century Code are amended and reenacted as follows:

1. Except as otherwise provided in sections 44-08-01 and 25-16.2-02, and in this ~~section~~ chapter, purchasing contracts must be awarded through a competitive bidding process to the lowest responsible bidder considering conformity with specifications, terms of delivery, and quality and serviceability, unless it is determined to be advantageous to the state to select a contractor through a competitive proposal process using other or additional criteria. The ~~office of management and budget~~procurement officer may reject any or all bids or negotiate for a lower price with a

successful bidder. Each bid received, with the name of the bidder, must be recorded. The office of management and budget may enter into term contracts for the acquisition of commodities or services and may make multiple awards for term commodity or service contracts when it deems a multiple award to be in the best interests of the state. ~~Until the date and time set for receiving and opening bids and proposals pursuant to a request for bids or proposals, all~~ All bids and proposals received under this chapter pursuant to a competitive sealed bid are exempt records under subsection 5 of section 44-04-17.1 until the date and time the bids are opened.

2. The office of management and budget shall adopt rules specifying the circumstances under which competition may be waived or limited, when negotiation may be used, and specifying the required justifications and procedures for using those methods of purchasing. The circumstances that may permit limited competitive, noncompetitive, or negotiated purchases include:
 - a. The commodity or service is available from only one ~~supplier~~ source.
 - b. The commodity or service is available from another governmental entity's contract.
 - c. The commodity or service is to be purchased for experimentation or trial.
 - d. ~~Competitive bidding has failed to produce a bidder~~ No acceptable bid or proposal was received pursuant to a competitive bidding or competitive proposal process.
 - e. Commodities are being purchased for over-the-counter resale.
 - f. Acceptable ~~goods~~ commodities or services are produced or provided by correctional institutions or other government agencies.
 - g. The anticipated cost of purchasing specified ~~goods~~ commodities or services is less than an amount determined by the office of management and budget which would justify the expense of a competitive bidding or competitive proposal process.
 - h. A used commodity is advantageous to the state and the commodity is available only on short notice.
 - i. The commodity is a component or replacement part for which there is no commercially available substitute and which can be obtained only from the manufacturer.
 - j. Compatibility with equipment currently owned by the state is essential to the proper functioning of that equipment.
 - k. The agency provides documentation indicating that the services or the circumstances are of such a nature that deviation from the procurement procedure is appropriate.

SECTION 9. AMENDMENT. Section 54-44.4-06 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-06. All purchases to be made in accordance with specifications - Multistep sealed bids.

1. For purposes of this chapter, specification means a description of all required physical, design, performance, functional, and other characteristics of ~~an item~~ a commodity or service the purchaser requires and, consequently, what a bidder must offer. ~~All purchases made by the office of management and budget, institutions of higher education, or any state agency or institution to which authority to purchase has been delegated, must be made in accordance with written policies of the office of management and budget and the agencies and institutions under the jurisdiction of the state board of higher education.~~ The office of management and budget and institutions of higher education shall develop

similar specifications for purchases of ~~items~~ commodities and services of high common usage. State agencies and institutions shall provide such assistance as may be requested by the office of management and budget and the institutions of higher education in the development of specifications. The office of management and budget and the institutions of higher education shall implement such procedures as are necessary for the inspection, testing, and acceptance of ~~supplies and equipment~~ commodities or services to determine that ~~goods~~ those received are in conformity with contract specifications.

2. When it is determined to be impractical to initially prepare a purchase description to support an award based on price, a solicitation may be issued requesting the submission of unpriced offers to be followed by a competitive bidding or competitive proposal process limited to those bidders or offerors found to be qualified under the criteria set forth in the first solicitation.

SECTION 10. A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

Competitive sealed proposals - Exempt records.

1. A contract for commodities or services may be entered by competitive sealed proposals when a determination is made that the use of competitive sealed bidding is either not practicable or not advantageous to the state. The request for proposal must state the relative importance of price and other factors and subfactors, if any.
2. Proposals must be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. All proposals received pursuant to a competitive sealed proposal process are exempt records under subsection 5 of section 44-04-17.1 until an award is made.
3. Discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and before award for the purpose of obtaining best and final offers. In conducting discussions, there may be no disclosure of any information derived from proposals submitted by competing offerors.
4. Unless all proposals are rejected, award must be made to the responsible offeror whose proposal conforms to the solicitation and is determined, in writing, to be the most advantageous to the state, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria may be used in the evaluation. The contract file must contain the basis on which the award is made. Written notice of the award of the contract to the successful offeror must be promptly given to all offerors.

SECTION 11. A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

Small purchases.

1. A procurement not exceeding the amount established by written directive of the director of the office of management and budget under section 54-44.4-02 or by the state board of higher education under subsection 5 of section 15-10-17 may be made in accordance with small purchase procedures.
2. A small purchase need not be made through competitive sealed bidding or competitive sealed proposals. However, small purchases must be made with competition that is practicable under the circumstances.
3. Procurement requirements may not be artificially divided as to constitute a small purchase under this section.

4. The director of the office of management and budget may establish and administer, including by contract with a provider, a system of procurement for commodities agencies are authorized to purchase under this section. If the director establishes a purchasing card system under this subsection, the director may designate which agencies are required to use the purchasing card system for purchasing commodities under this section.

SECTION 12. A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

Resolution of protested solicitations and awards.

1. An interested party may protest the award of a contract, the notice of intent to award a contract, or a solicitation for commodities or services by the office of management and budget or purchasing agency under this chapter. The protest must be submitted in writing to the procurement officer responsible for the contract or solicitation within seven calendar days after the protestor knows or should have known of the facts giving rise to the protest.
2. If a contract has been awarded, the procurement officer immediately shall give notice of a protest to the contractor. In the case of pending award, a stay of award may be requested. A stay must be granted unless a written determination is made that the award of the contract without delay is necessary to protect the interests of the state.
3. If the protest is not resolved by mutual agreement, the procurement officer promptly shall send by certified mail to the protestor a written decision containing the basis for the decision and inform the protestor of the protestor's right to appeal.
4. The protestor may file an appeal of the decision rendered by the procurement officer with the director of the office of management and budget or designee. An appeal must be filed in writing within seven calendar days after the protestor receives the decision rendered by the procurement officer of the office of management and budget or the purchasing agency. The appeal must include a copy of the decision being appealed and the basis for the appeal. Within seven calendar days the director of the office of management and budget or the director's designee shall send by certified mail written notice of the decision to the protestor.

SECTION 13. AMENDMENT. Subsections 1, 2, and 4 of section 54-44.4-09 of the North Dakota Century Code are amended and reenacted as follows:

1. The office of management and budget shall establish and maintain current lists of persons that desire to provide commodities or services to the state. Every person ~~or business entity~~ that desires to bid or submit a proposal on contracts for commodities or services awarded under this chapter must be an approved vendor in order to receive a request for bids or proposals. ~~Unless waived by the director of the office of management and budget, or the director's designee, a bid or proposal may not be considered under this section from any vendor that is not approved be placed on the bidders list.~~ The office of management and budget or the purchasing agency shall use the list when issuing invitation for bids or request for proposals over the amount established for small purchases, except as otherwise provided in this section.
2. To become an approved vendor a person ~~or business entity~~ shall file an application with the office of management and budget. The application must contain information requested by the office of management and budget, including business and persons' names, telephone numbers, addresses, federal tax identification numbers, type of business organization, ~~other permits or licenses issued by this state and related numbers, the nature of the business and the products sold,~~ the types of bids or proposals in commodities or services for which the applicant is interested, ~~references~~ in receiving solicitations, and other business information the office of management and budget determines relevant. The application must also contain a statement appointing the secretary of state as the applicant's agent for service of process pursuant to subsection 3. The application must be signed and certified by an owner,

partner, or company officer authorized by company bylaws or other organizational document to bind the company. The signature requirement may include the use of an electronic signature as defined in section 9-16-01 when authorized under section 9-16-17. The office of management and budget may require proof of the signing person's authority by certified copy of appropriate company documents.

4. ~~The director of the office of management and budget, or the director's designee, procurement officer may waive the requirements for registration with the secretary of state as provided in this section and authorize receipt of a bid or proposal from a vendor that unqualifiedly refuses to register as provided in this section if the director or the director's designee is not on the list of approved vendors if the procurement officer makes a written determination that:~~
- ~~a. A commodity is so unique and possesses such specific characteristics essential to the government program in question that it is available only from one source and not through wholesalers or retailers;~~
 - ~~b. An emergency as defined in subsection 7 of section 54-44.4-02 exists; or~~
 - ~~e. The commodity to be purchased is a one-time purchase for which at least two approved vendors are not available and the director of the office of management and budget, or the director's designee, determines consideration of bids or proposals from unregistered vendors is in the best interest of the state it is in the best interest of the state to receive the bid or proposal. The successful bidder or offeror must become approved before the award and the existence of this approval requirement must be stated in the solicitation. If an unapproved vendor is selected for award, the vendor's bid or proposal may be rejected if that vendor fails to become approved within sixty days or within a shorter period as specified in writing by the procurement officer. Before issuing a solicitation, the procurement officer may waive the approval requirement if the procurement officer determines, in consultation with the secretary of state, that registration with the secretary of state and appointment of an agent for service of process in this state are not required. The waiver of the approval requirement must be stated in the solicitation. In the event of a tie bid or proposal, the registered approved vendor must be given preference.~~

SECTION 14. OFFICE OF MANAGEMENT AND BUDGET - PROCUREMENT STUDY. During the 2003-04 interim, the director of the office of management and budget shall conduct a comprehensive study of the state procurement process, including all relevant laws, rules, and guidelines. The director shall prepare a bill to address inefficiencies, inconsistencies, and outmoded procurement provisions discovered as a result of this study and request introduction of the bill as an agency bill in the fifty-ninth legislative assembly.

SECTION 15. EFFECTIVE DATE. Sections 3, 5, and 6 of this Act become effective on July 1, 2004.

SECTION 16. EXPIRATION DATE. Sections 2 and 4 of this Act are effective through June 30, 2004, and after that date are ineffective."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE

SB 2384: Your conference committee (Sens. Espgaard, Klein, Every and Reps. M. Klein, N. Johnson, Thorpe) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 659-660 and place SB 2384 on the Seventh order.

SB 2384 was placed on the Seventh order of business on the calendar.

FIRST READING OF HOUSE BILL

HB 1504: A BILL for an Act to provide for a legislative council study of the state's business climate; and to provide for an appropriation.

Was read the first time and referred to the **Appropriations Committee**.

FIRST READING OF HOUSE CONCURRENT RESOLUTIONS

HCR 3078: A concurrent resolution urging Congress to appropriate sufficient funds to reimburse property owners for land inundated by Devils Lake, reimburse the city of Devils Lake for municipal water lines inundated by Devils Lake, and to provide funding for a state outlet from Devils Lake.

Was read the first time and referred to the **Natural Resources Committee**.

HCR 3079: A concurrent resolution urging Congress to continue the Schools and Libraries Universal Service Support Mechanism, more commonly known as the e-rate program.

Was read the first time and referred to the **Education Committee**.

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

WILLIAM R. HORTON, Secretary

