

**JOURNAL OF THE SENATE**

**Fifty-ninth Legislative Assembly**

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**Bismarck, April 20, 2005**

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

The prayer was offered by Pastor Don Burnett, Bismarck Baptist Church, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. SCHOBINGER MOVED** that the conference committee report on Engrossed SB 2267 as printed on SJ pages 1528-1530 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2267, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2267:** A BILL for an Act to create and enact section 57-39.2-26.2 of the North Dakota Century Code, relating to allocation of sales, use, and motor vehicle excise tax revenues to a state matching program for senior citizen services and programs; to amend and reenact subsection 5 of section 57-15-56 and section 57-39.2-26 of the North Dakota Century Code, relating to a state matching program for senior citizen services and programs; to provide a continuing appropriation; to provide a statement of legislative intent; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Reengrossed SB 2267 passed and the title was agreed to.

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**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 2267.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 20, 2005: SB 2047, SB 2111, SB 2174, SB 2187, SB 2200, SB 2251, SB 2266, SB 2302, SB 2372.

**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 CONFERENCE COMMITTEE**

**SB 2359:** Your conference committee (Sens. Cook, Urlacher, Every and Reps. Drovdal, Weiler, Conrad) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 829, adopt amendments as follows, and place SB 2359 on the Seventh order:

That the House recede from its amendments as printed on page 829 of the Senate Journal and page 977 of the House Journal and that Senate Bill No. 2359 be amended as follows:

Page 1, line 3, after "a" insert "remote seller or"

Page 1, line 4, after "agreements" insert "; and to provide an effective date"

Page 1, line 21, after the period insert "A retailer that is a remote seller that, through a certified service provider or by other means, pays the tax due within the time limitations under section 57-39.2-12 or chapter 57-39.4 on taxable sales made before July 1, 2007, may deduct and retain one and one-half percent of the tax due or such lower percentage as agreed in the compensation or monetary allowance agreement as approved by the streamlined sales and use tax governing board. The limitation of subsection 2 does not apply to the amount a retailer who is a remote seller is allowed to deduct and retain under this subsection. For purposes of this subsection, "remote seller" means a retailer that does not have an adequate physical presence to establish nexus in this state for sales tax purposes."

Page 2, line 3, after the period insert "A retailer that is a remote seller that, through a certified service provider or by other means, pays the tax due within the time limitations under section 57-39.2-12 or chapter 57-39.4 on taxable sales made before July 1, 2007, may deduct and retain one and one-half percent of the tax due or such lower percentage as agreed in the compensation or monetary allowance agreement as approved by the streamlined sales and use tax governing board. The limitation of subsection 2 does not apply to the amount a retailer who is a remote seller is allowed to deduct and retain under this subsection. For purposes of this subsection, "remote seller" means a retailer that does not have an adequate physical presence to establish nexus in this state for sales tax purposes."

**SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years occurring after September 30, 2005."

Renumber accordingly

SB 2359 was placed on the Seventh order of business on the calendar.

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

**SEN. COOK MOVED** that the conference committee report on SB 2359 be adopted, which motion prevailed on a voice vote.

SB 2359, as amended, was placed on the Eleventh order.

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

**SB 2359:** A BILL for an Act to amend and reenact subsection 2 of section 57-39.2-11, subsection 1 of section 57-39.2-12.1, and subsection 1 of section 57-40.2-07.1 of the North Dakota Century Code, relating to compensation of a remote seller or certified service provider under streamlined sales tax collection agreements; and to provide an effective date.

#### **ROLL CALL**

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

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

**NAYS:** Mathern; Schobinger

Engrossed SB 2359 passed and the title was agreed to.

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

**SB 2050:** Your conference committee (Sens. Cook, Urlacher, Every and Reps. Drovdal, Weiler, Conrad) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 828 and place SB 2050 on the Seventh order.

SB 2050 was placed on the Seventh order of business on the calendar.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. COOK MOVED** that the conference committee report on SB 2050 be adopted, which motion prevailed on a voice vote.

**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 2359.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report on: SB 2050.

**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: HCR 3060.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2217, SB 2270.

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

**MR. PRESIDENT:** The Speaker has signed: HB 1108, HB 1189, HB 1342, HB 1346, HB 1370, HB 1454, HB 1500, HB 1531.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 4:30 p.m., which motion prevailed.

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

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

**MR. PRESIDENT:** The Speaker has appointed Rep. Brusegaard to replace Rep. Wald on the Conference Committee on HB 1020.

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

**MR. PRESIDENT:** The Speaker has appointed Rep. Brusegaard to replace Rep. Wald on the Conference Committee on SB 2003.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2204, SB 2274.

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

**MR. SPEAKER:** The President has signed: SB 2361, SB 2388.

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

**MR. SPEAKER:** The President has signed: HB 1074, HB 1172, HB 1181, HB 1291, HB 1301, HB 1332, HB 1522, HCR 3036.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2217, SB 2270.

**COMMUNICATION FROM GOVERNOR JOHN HOEVEN**

This is to inform you that on April 18, 2005, I have signed the following: SB 2026, SB 2078, SB 2129, SB 2133, SB 2146, SB 2179, SB 2195, SB 2205, SB 2237, SB 2256, SB 2294, SB 2303, SB 2324, and SB 2384.

Also, on April 19, 2005, I have signed the following: SB 2096, SB 2149, SB 2341, and SB 2383.

Also, on April 20, 2005, I have signed the following: SB 2342.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Seventh, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Thursday, April 21, 2005, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2011, as engrossed:** Your conference committee (Sens. Christmann, Bowman, Tallackson and Reps. Kempenich, Timm, Williams) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1116, adopt amendments as follows, and place SB 2011 on the Seventh order:

That the House recede from its amendments as printed on page 1116 of the Senate Journal and pages 1293 and 1294 of the House Journal and that Engrossed Senate Bill No. 2011 be amended as follows:

Page 1, line 16, replace "106,028" with "103,906"

Page 1, line 17, replace "426,648" with "406,680"

Page 1, line 18, replace "38,843" with "38,219"

Page 1, line 19, replace "571,519" with "548,805"

Page 1, line 20, replace "(739,628)" with "(747,802)"

Page 1, line 21, replace "1,311,147" with "1,296,607"

Page 2, line 3, replace "2,347,462" with "2,345,340"

Page 2, line 4, replace "30,861,479" with "30,841,511"

Page 2, line 5, replace "1,055,187" with "1,054,563"

Page 2, line 6, replace "34,264,128" with "34,241,414"

Page 2, line 7, replace "14,741,459" with "14,733,285"

Page 2, line 8, replace "19,522,669" with "19,508,129"

Page 2, line 10, replace "\$7,521,970" with "\$7,516,175"

ReNUMBER accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### Senate Bill No. 2011 - Highway Patrol - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Administration	\$2,355,742	\$2,347,462	(\$2,122)	\$2,345,340	\$2,345,340	
Field operations	30,946,277	30,861,479	(19,968)	30,841,511	31,041,511	(\$200,000)
Law Enforcement Training Academy	1,057,609	1,055,187	(624)	1,054,563	1,054,563	
Total all funds	\$34,359,628	\$34,264,128	(\$22,714)	\$34,241,414	\$34,441,414	(\$200,000)
Less estimated income	<u>14,554,138</u>	<u>14,741,459</u>	<u>(8,174)</u>	<u>14,733,285</u>	<u>14,733,285</u>	
General fund	\$19,805,490	\$19,522,669	(\$14,540)	\$19,508,129	\$19,708,129	(\$200,000)
FTE	186.00	187.00	(1.00)	186.00	187.00	(1.00)

#### Dept. 504 - Highway Patrol - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE	REMOVES NEW POSITION AND FUNDING <sup>1</sup>	ADDS SALARY EQUITY FUNDING <sup>2</sup>	TOTAL CONFERENCE COMMITTEE CHANGES
Administration	(\$2,122)			(\$2,122)
Field operations	(19,968)	(\$194,467)	\$194,467	(19,968)
Law Enforcement Training Academy	(624)			(624)
Total all funds	(\$22,714)	(\$194,467)	\$194,467	(\$22,714)
Less estimated income	<u>(8,174)</u>	<u>(28,209)</u>	<u>28,209</u>	<u>(8,174)</u>
General fund	(\$14,540)	(\$166,258)	\$166,258	(\$14,540)
FTE	0.00	(1.00)	0.00	(1.00)

<sup>1</sup> The field operations line item is reduced by \$194,467, of which \$166,258 is from the general fund and \$28,209 is from the highway tax distribution fund, to remove the new trooper position added in the executive budget.

<sup>2</sup> This amendment adds \$194,467, of which \$166,258 is from the general fund and \$28,209 is from the highway tax distribution fund, for providing salary equity adjustments for troopers and sergeants. In addition, the Highway Patrol may spend up to \$219,000 of savings from within its 2005-07 biennium budget for providing additional salary equity adjustments for troopers and sergeants. The House had added \$200,000 from the general fund and allowed the Highway Patrol to use up to \$219,000 of savings for salary equity adjustments.

Engrossed SB 2011 was placed on the Seventh order of business on the calendar.

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

**William R. Horton, Secretary**

