

JOURNAL OF THE SENATE

Fifty-ninth Legislative Assembly

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Bismarck, April 18, 2005

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

The prayer was offered by Major Dale Hale, Commanding Officer, The Salvation Army, Bismarck.

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

A quorum was declared by the President.

SECOND READING OF HOUSE BILL

HB 1334: A BILL for an Act to establish a state employee compensation pool and to provide for transfers of appropriation authority, subject to budget section approval.

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 3 YEAS, 43 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Espegard; O'Connell; Stenehjem

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

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1334 lost.

SECOND READING OF HOUSE BILL

HB 1301: A BILL for an Act to create and enact subsection 10 to section 54-44.1-06 of the North Dakota Century Code, relating to requiring bonding information in the budget data contents; and to amend and reenact section 54-44.1-08 of the North Dakota Century Code, relating to budget reports to the legislative assembly.

ROLL CALL

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

YEAS: Andrist; Bowman; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Kringstad; Lee, J.; Lyson; Mathern; Mutch; O'Connell; Stenehjem; Syverson; Tollefson; Trenbeath; Urlacher; Warner

NAYS: Brown; Fairfield; Krebsbach; Lee, G.; Lindaas; Nelson; Nething; Robinson; Schobinger; Seymour; Tallackson; Taylor; Thane; Traynor; Triplett; Wardner

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1301 passed and the title was agreed to.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3036: A concurrent resolution directing the Legislative Council to study state agency and institution continuing appropriation authority.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

HCR 3036 was declared adopted, and the title was agreed to on a voice vote.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed unchanged: HB 1301, HCR 3036.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has failed to pass: HB 1334.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on April 18, 2005: SB 2026, SB 2078, SB 2096, SB 2129, SB 2133, SB 2146, SB 2149, SB 2179, SB 2195, SB 2205, SB 2237, SB 2256, SB 2294, SB 2303, SB 2324, SB 2341, SB 2342, SB 2383, SB 2384.

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 2190, SB 2300.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The Speaker has appointed Rep. Carlson to replace Rep. Berg on the Conference Committee on SB 2018.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The Speaker has appointed Rep. Carlson to replace Rep. Berg on the Conference Committee on SB 2032.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: Your signature is respectfully requested on: HB 1074, HB 1172, HB 1181, HB 1324, HB 1332, HB 1522.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed: HB 1203, HB 1222, HB 1231, HB 1275, HB 1417, HB 1434, HB 1437, HB 1453.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed: HCR 3059.

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.

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: HCR 3060.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: Your signature is respectfully requested on: HB 1291.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1259, HB 1459.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: Your signature is respectfully requested on: HB 1301, HCR 3036.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 5:00 p.m., which motion prevailed.

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

REPORT OF CONFERENCE COMMITTEE

SB 2007: Your conference committee (Sens. Andrist, Kilzer, Robinson and Reps. Wieland, Bellow, Metcalf) recommends that the **HOUSE RECEDE** from the House amendments

on SJ pages 1178-1180, adopt amendments as follows, and place SB 2007 on the Seventh order:

That the House recede from its amendments as printed on pages 1178-1180 of the Senate Journal and pages 1437-1439 of the House Journal and that Senate Bill No. 2007 be amended as follows:

Page 1, line 2, after "affairs" insert "; and to provide legislative intent"

Page 2, line 5, replace "\$172,347" with "\$247,032"

Page 2, line 6, replace "495,074" with "463,074"

Page 2, line 7, replace "27,809" with "20,852"

Page 2, line 8, replace "350,536" with "236,894"

Page 2, line 9, replace "(984,496)" with "(996,290)"

Page 2, line 10, replace "1,335,032" with "1,233,184"

Page 2, line 13, replace "153,045" with "125,291"

Page 2, line 15, replace "196,539" with "168,785"

Page 2, line 16, replace "1,531,611" with "1,401,969"

Page 2, line 17, replace "\$1,027,990" with "\$1,039,784"

Page 2, line 18, replace "503,621" with "362,185"

Page 2, line 27, replace "7,803,390" with "7,728,705"

Page 2, line 28, replace "3,206,778" with "3,174,778"

Page 2, line 29, replace "357,563" with "350,606"

Page 2, line 30, replace "11,367,731" with "11,254,089"

Page 3, line 1, replace "6,986,627" with "6,974,833"

Page 3, line 2, replace "4,381,104" with "4,279,256"

Page 3, line 5, replace "677,337" with "649,583"

Page 3, line 6, replace "677,337" with "649,583"

Page 3, line 7, replace "5,058,441" with "4,928,839"

Page 3, line 8, replace "6,986,627" with "6,974,833"

Page 3, line 9, replace "12,045,068" with "11,903,672"

Page 3, after line 9, insert:

"SECTION 4. LEGISLATIVE INTENT - VETERANS' HOME STAFFING POLICY. It is the intent of the fifty-ninth legislative assembly that the veterans' home review its policy of staffing for basic care services, including the number of licensed practical nurses as compared to certified nurse assistants scheduled for each shift, and to present a report to the appropriations committees of the sixtieth legislative assembly during the agency's budget presentation regarding justification for the staffing policy and information on savings that may be realized from changes in the policy."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2007 - Summary of Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Veterans' Home						
Total all funds	\$11,367,731	\$11,367,731	(\$113,642)	\$11,254,089	\$11,243,046	\$11,043
Less estimated income	6,986,627	6,986,627	(11,794)	6,974,833	6,974,833	
General fund	\$4,381,104	\$4,381,104	(\$101,848)	\$4,279,256	\$4,268,213	\$11,043
Department of Veterans' Affairs						
Total all funds	\$677,337	\$677,337	(\$27,754)	\$649,583	\$649,583	\$0
Less estimated income						
General fund	\$677,337	\$677,337	(\$27,754)	\$649,583	\$649,583	\$0
Bill Total						
Total all funds	\$12,045,068	\$12,045,068	(\$141,396)	\$11,903,672	\$11,892,629	\$11,043
Less estimated income	6,986,627	6,986,627	(11,794)	6,974,833	6,974,833	
General fund	\$5,058,441	\$5,058,441	(\$129,602)	\$4,928,839	\$4,917,796	\$11,043

Senate Bill No. 2007 - Veterans' Home - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Salaries and wages	\$7,803,390	\$7,803,390	(\$74,685)	\$7,728,705	\$7,728,705	
Operating expenses	3,206,778	3,206,778	(32,000)	3,174,778	3,156,778	\$18,000
Capital assets	<u>357,563</u>	<u>357,563</u>	<u>(6,957)</u>	<u>350,606</u>	<u>357,563</u>	<u>(6,957)</u>
Total all funds	\$11,367,731	\$11,367,731	(\$113,642)	\$11,254,089	\$11,243,046	\$11,043
Less estimated income	<u>6,986,627</u>	<u>6,986,627</u>	<u>(11,794)</u>	<u>6,974,833</u>	<u>6,974,833</u>	
General fund	\$4,381,104	\$4,381,104	(\$101,848)	\$4,279,256	\$4,268,213	\$11,043
FTE	90.97	90.97	0.00	90.97	90.97	0.00

Dept. 313 - Veterans' Home - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	REDUCES COMPENSATION PACKAGE TO 3/4	REDUCES SALARIES AND WAGES LINE ITEM ²	REDUCES FUNDING FOR OPERATIONS ³	REMOVES FUNDING FOR REPAIRS IN COMMANDANT'S HOUSE ⁴	REMOVES FUNDING RELATING TO COST OF A NEW LAWNMOWER
Salaries and wages	(\$12,106)	(\$22,579)	(\$40,000)			
Operating expenses				(\$25,000)		(\$7,000)
Capital assets					<u>(\$6,957)</u>	
Total all funds	(\$12,106)	(\$22,579)	(\$40,000)	(\$25,000)	(\$6,957)	(\$7,000)
Less estimated income	<u>(11,794)</u>					
General fund	(\$312)	(\$22,579)	(\$40,000)	(\$25,000)	(\$6,957)	(\$7,000)
FTE	0.00	0.00	0.00	0.00	0.00	0.00

TOTAL CONFERENCE COMMITTEE CHANGES

Salaries and wages	(\$74,685)
Operating expenses	<u>(32,000)</u>
Capital assets	<u>(6,957)</u>
Total all funds	(\$113,642)
Less estimated income	<u>(11,794)</u>
General fund	(\$101,848)
FTE	0.00

¹ This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

² The conference committee agreed with the House amendment to reduce the salaries and wages line item due to a change in the overtime policy.

³ The conference committee reduced funding for operating expenses by \$25,000. The House amendment provided for a \$50,000 reduction.

⁴ The conference committee reduced funding to make repairs to the bathroom in the commandant's residence.

⁵ The conference committee removed funding for operations, this amount is equal to the cost of a new lawnmower included in the Veterans' Home appropriation.

Senate Bill No. 2007 - Department of Veterans' Affairs - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Veterans' Affairs	<u>\$677,337</u>	<u>\$677,337</u>	<u>(\$27,754)</u>	<u>\$649,583</u>	<u>\$649,583</u>	

Total all funds	\$677,337	\$677,337	(\$27,754)	\$649,583	\$649,583	\$0
Less estimated income						
General fund	\$677,337	\$677,337	(\$27,754)	\$649,583	\$649,583	\$0
FTE	6.00	6.00	0.00	6.00	6.00	0.00

Dept. 321 - Department of Veterans' Affairs - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	REDUCES COMPENSATION PACKAGE TO 3/4	REMOVES FUNDING FOR ADMINISTRATIVE COMMITTEE TRAVEL EXPENSES ²	REDUCES FUNDING FOR PROFESSIONAL SERVICES ³	TOTAL CONFERENCE COMMITTEE CHANGES
Veterans' Affairs	(\$749)	(\$2,005)	(\$20,000)	(\$5,000)	(\$27,754)
Total all funds	(\$749)	(\$2,005)	(\$20,000)	(\$5,000)	(\$27,754)
Less estimated income					
General fund	(\$749)	(\$2,005)	(\$20,000)	(\$5,000)	(\$27,754)
FTE	0.00	0.00	0.00	0.00	0.00

¹ This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

² The conference committee agreed with the House amendment to remove funding to cover travel expenses of the Administrative Committee on Veterans' Affairs.

³ The conference committee agreed with the House amendment to reduce funding for professional services.

SB 2007 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. ANDRIST MOVED that the conference committee report on SB 2007 be adopted, which motion prevailed on a voice vote.

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

SECOND READING OF SENATE BILL

SB 2007: A BILL for an Act to provide an appropriation for defraying the expenses of the veterans' home and department of veterans' affairs; and to provide legislative intent.

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; Cook; Dever; Erbele; Espgaard; 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

ABSENT AND NOT VOTING: Christmann

Engrossed SB 2007 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SB 2274, as engrossed: Your conference committee (Sens. Mutch, Espgaard, Bercier and Reps. Ruby, Vigesaa, S. Meyer) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1144-1145, adopt amendments as follows, and place SB 2274 on the Seventh order:

That the House recede from its amendments as printed on pages 1144 and 1145 of the Senate Journal and pages 1308 and 1309 of the House Journal and that Engrossed Senate Bill No. 2274 be amended as follows:

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

Page 1, line 4, after "vehicles" insert "; and to declare an emergency"

Page 6, line 19, replace "Variable" with:

"1. For a motor vehicle manufactured after July 31, 2005, variable"

Page 6, line 22, after "compartment" insert "if there is more than one variable load suspension axle or retractable axle, or a combination of each" and after the underscored period insert

"2."

Page 6, line 24, after "device" insert "unless allowed by subsection 1"

Page 6, after line 27, insert:

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

ReNUMBER accordingly

Engrossed SB 2274 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. MUTCH MOVED that the conference committee report on Engrossed SB 2274 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2274, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2274: A BILL for an Act to create and enact two new sections to chapter 39-21 of the North Dakota Century Code, relating to axles on a vehicle; to amend and reenact subsection 2 of section 39-06.1-06 and sections 39-06.1-09, 39-12-02, 39-12-05.3, and 39-12-08 of the North Dakota Century Code, relating to weight and size limitations and permits for vehicles; 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; Cook; Dever; Erbele; Espgaard; 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

ABSENT AND NOT VOTING: Christmann

Reengrossed SB 2274 passed, the title was agreed to, and the emergency clause was declared carried.

REPORT OF CONFERENCE COMMITTEE

SB 2004, as engrossed: Your conference committee (Sens. Andrist, Kilzer, Mathern and Reps. Bellew, Delzer, Kerzman) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1309-1311, adopt amendments as follows, and place SB 2004 on the Seventh order:

That the House recede from its amendments as printed on pages 1309-1311 of the Senate Journal and pages 1570-1573 of the House Journal and that Engrossed Senate Bill No. 2004 be amended as follows:

Page 1, line 2, after "health" insert "; to create and enact a new subsection to section 23-01-05 of the North Dakota Century Code, relating to the state health officer's duty to establish an environmental review process for commercial buildings"

Page 1, line 10, after "campgrounds" insert "; to provide for a report to the legislative council; to provide legislative intent"

Page 2, line 7, replace "2,712,149" with "2,080,994"

Page 2, line 8, replace "1,288,653" with "1,462,724"

Page 2, line 10, replace "5,901,038" with "5,111,538"

Page 2, line 11, replace "903,645" with "902,898"

Page 2, line 14, replace "7,085,117" with "5,837,786"

Page 2, line 15, replace "6,826,931" with "5,602,356"

Page 2, line 16, replace "258,186" with "235,430"

Page 2, line 22, replace "32,685,078" with "32,053,923"

Page 2, line 23, replace "25,439,910" with "25,613,981"

Page 2, line 25, replace "42,591,666" with "41,802,166"

Page 2, line 26, replace "8,686,742" with "8,685,995"

Page 2, line 28, replace "126,667,865" with "125,420,534"

Page 2, line 29, replace "113,308,587" with "112,084,012"

Page 2, line 30, replace "13,359,278" with "13,336,522"

Page 3, line 13, replace "\$280,000" with "\$340,000"

Page 4, after line 26, insert:

"SECTION 13. A new subsection to section 23-01-05 of the North Dakota Century Code is created and enacted as follows:

- a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and
 - (3) If there are no known environmental causes identified, a statement that no known causes exist.
- b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner."

Page 7, line 22, remove "funded by grants, fees, and increases in tobacco taxes"

Page 7, after line 27, insert:

"SECTION 21. LEGISLATIVE COUNCIL STUDY - PUBLIC HEALTH INFRASTRUCTURE AND FOOD AND LODGING INSPECTIONS. The legislative council shall study, during the 2005-06 interim, the state's public health unit infrastructure and the ability of the public health units to respond to public health issues. The study must include an assessment of the efficiency of operations, given the personnel and financial resources available, and the effectiveness of services, given the lines of governmental authority of the current infrastructure. The study must include the efficiency of the food and lodging investigation services provided by the state department of health and the public health units and must develop a plan maximizing efficiencies through a coordinated system and fee structure. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 22. LEGISLATIVE COUNCIL STUDY - TOBACCO SETTLEMENT COLLECTIONS. The legislative council shall consider studying, during the 2005-06 interim, whether to change guidelines for funding programs as a result of additional tobacco settlement collections that are anticipated to be received and deposited in the community health trust fund from 2008 through 2017. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 23. LEGISLATIVE INTENT - WORKSITE WELLNESS PILOT PROJECT. It is the intent of the fifty-ninth legislative assembly that the state department of health may use federal funding to match nonstate funding and contract with a nonstate entity for a worksite wellness pilot project during the 2005-07 biennium. The state department of health shall provide a report on the pilot project to the sixtieth legislative assembly.

SECTION 24. LEGISLATIVE INTENT - FUNDING FOR ABSTINENCE PROGRAMS. It is the intent of the fifty-ninth legislative assembly that the state department of health pursue \$220,000 for abstinence programs from federal grants or other sources and that the new funding be in addition to existing funding for abstinence programs.

SECTION 25. LEGISLATIVE INTENT - FEDERAL BIOTERRORISM FUNDING. It is the intent of the fifty-ninth legislative assembly that the full-time equivalent employee positions funded with federal bioterrorism grants be discontinued when the funding for the programs ends.

SECTION 26. BASIC CARE SURVEY PILOT PROJECT - LEGISLATIVE COUNCIL REPORT. The state department of health shall develop a pilot project to test an announced basic care survey process. The pilot project must begin with fifty percent of the state-licensed basic care providers surveyed receiving an announced survey and the remaining receiving an unannounced survey. The state department of health shall evaluate the survey pilot project and submit a report to the legislative council during the 2005-06 interim. The report must include a recommendation of whether the unannounced survey process should continue for all basic care facilities. The pilot project must include standard basic care surveys and all complaint investigations must be unannounced."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2004 - State Department of Health - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Salaries and wages	\$32,816,481	\$32,685,078	(\$631,155)	\$32,053,923	\$32,179,923	(\$126,000)
Operating expenses	25,322,640	25,439,910	174,071	25,613,981	25,546,623	67,358
Capital assets	1,514,469	1,514,469		1,514,469	1,514,469	
Grants	42,466,666	42,591,666	(789,500)	41,802,166	41,827,166	(25,000)
Tobacco prevention and control	8,689,062	8,686,742	(747)	8,685,995	8,685,995	
WIC food payments	<u>15,750,000</u>	<u>15,750,000</u>		<u>15,750,000</u>	<u>15,750,000</u>	
Total all funds	\$126,559,318	\$126,667,865	(\$1,247,331)	\$125,420,534	\$125,504,176	(\$83,642)
Less estimated income	<u>112,120,210</u>	<u>113,308,587</u>	<u>(1,224,575)</u>	<u>112,084,012</u>	<u>112,167,654</u>	<u>(83,642)</u>
General fund	\$14,439,108	\$13,359,278	(\$22,756)	\$13,336,522	\$13,336,522	\$0
FTE	317.00	317.00	(5.50)	311.50	312.50	(1.00)

Dept. 301 - State Department of Health - Detail of Conference Committee Changes

	REMOVES FUNDING FOR PHYSICIAN LOAN REPAYMENT PROGRAM ¹	CHANGES FUNDING SOURCE FOR FOOD AND LODGING INSPECTIONS ²	DECREASES OPERATIONS FOR FOOD AND LODGING INSPECTIONS ³	REMOVES 1 FTE FOOD AND LODGING INSPECTOR POSITION ⁴	REMOVES FUNDING FOR THE NURSE SCHOLARSHIP AND GRANT PROGRAM ⁵	REDUCES FUNDING FOR QUICK RESPONSE UNIT PILOT PROJECT ⁶
Salaries and wages				(\$90,077)		
Operating expenses		\$25,000	(\$68,512)			
Capital assets						
Grants	(\$125,000)				(\$489,500)	(\$100,000)
Tobacco prevention and						

control WIC food payments						
Total all funds	(\$125,000)	\$25,000	(\$68,512)	(\$90,077)	(\$489,500)	(\$100,000)
Less estimated income		<u>(114,116)</u>	<u>(68,512)</u>	<u>(63,054)</u>	<u>(489,500)</u>	<u>(100,000)</u>
General fund	(\$125,000)	\$139,116	\$0	(\$27,023)	\$0	\$0
FTE	0.00	0.00	0.00	(1.00)	0.00	0.00

	ADDS FUNDING FOR ARSENIC PROGRAM 7	DECREASES FUNDING FOR HEALTHY NORTH DAKOTA PROGRAM 8	REMOVES 1 FTE POSITION AND FUNDING FOR ASTHMA PROGRAM 9	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE 10	ADDS FUNDING FOR DOMESTIC VIOLENCE PREVENTION GRANTS 11	ADDS FUNDING FOR ABSTINENCE PROGRAMS 12
Salaries and wages		(\$282,240)	(\$93,774)	(\$39,064)		
Operating expenses	\$700,000	34,474	(510,491)			\$220,000
Capital assets						
Grants		(135,000)			\$60,000	
Tobacco prevention and control				(747)		
WIC food payments						
Total all funds	\$700,000	(\$382,766)	(\$604,265)	(\$39,811)	\$60,000	\$220,000
Less estimated income	<u>700,000</u>	<u>(382,766)</u>	<u>(604,265)</u>	<u>(29,962)</u>	<u>60,000</u>	<u>220,000</u>
General fund	\$0	\$0	\$0	(\$9,849)	\$0	\$0
FTE	0.00	(2.50)	(1.00)	0.00	0.00	0.00

	REMOVES FUNDING FOR DATA WAREHOUSE PROGRAM 13	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	(\$126,000)	(\$631,155)
Operating expenses	(226,400)	174,071
Capital assets		
Grants		(789,500)
Tobacco prevention and control		(747)
WIC food payments		
Total all funds	(\$352,400)	(\$1,247,331)
Less estimated income	<u>(352,400)</u>	<u>(1,224,575)</u>
General fund	\$0	(\$22,756)
FTE	(1.00)	(5.50)

¹ The conference committee removed \$125,000 from the general fund for the state-community matching physician loan repayment program and the state-community matching loan repayment program for nurse practitioners, physician assistants, and certified nurse midwives. The House removed \$100,000 from this program.

² The conference committee adjusted food and lodging inspections funding to provide a net amount of \$125,000 from the general fund for the program. The House version provided \$100,000 from the general fund for food and lodging inspections.

³ The conference committee reduced operating expenses for food and lodging inspections by \$68,512. The House reduction was for \$117,270. The anticipated food and lodging fee increase will be \$190,000. The House version would have increased fees by \$155,242.

The total funding for food and lodging for the executive budget, Senate, and conference committee versions are:

	EXECUTIVE RECOMMENDATION	SENATE VERSION	CONFERENCE COMMITTEE VERSION
General fund	\$652,865	\$12,907	\$125,000
Special funds	<u>109,547</u>	<u>866,775</u>	<u>621,093</u>
Total	\$762,412	\$879,682	\$746,093

⁴ The conference committee agreed with the House amendment to remove 1 FTE environmental health inspector position, which was included in the executive recommendation to conduct additional food and lodging inspections.

⁵ The conference committee agreed with the House amendment to remove funding from the health care trust fund for the scholarship and nurses' student loan repayment grant program.

⁶ The conference committee agreed with the House amendment to decrease funding from the health care trust fund for the quick response unit pilot project from \$225,000 to \$125,000.

⁷ The conference committee agreed with the House amendment to increase other funds spending authority for the department to receive a grant to address arsenic issues in southeastern North Dakota.

⁸ The conference committee agreed with the House amendment to remove 2.5 FTE positions and decreased funding for the Healthy North Dakota program by \$382,766. The remaining Healthy North Dakota funding authority is for contract services related to a worksite wellness pilot project (\$135,000).

⁹ The conference committee agreed with the House amendment to remove 1 FTE program administrator position and decreased the funding for the asthma program. The department is to request approval from the Emergency Commission and Budget Section if federal funding for this program is authorized.

¹⁰ This amendment reduces the funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

11 The conference committee agreed with the House amendment to increase funding from the domestic violence prevention fund for grants. Additional revenues of approximately \$60,000 are anticipated to be generated for the fund if 2005 Senate Bill No. 2361 is approved by the 2005 Legislative Assembly.

12 The conference committee added \$220,000 of other funds spending authority for abstinence programs with the intent that the State Department of Health pursue additional funding to what is currently available for the programs.

13 The conference committee removed funding and 1 FTE position related to the department's data warehouse program.

The conference committee agreed with the House amendment providing for a study to determine the funding guidelines for additional tobacco settlement funds that are anticipated to be received during the 2007-09 biennium.

The conference committee provided \$220,000 of spending authority for abstinence education programs and added an intent section that the State Department of Health pursue additional federal or other funds for abstinence programs.

The conference committee agreed with the House amendment to provide intent that FTE positions funded with federal bioterrorism grants not be continued by the department when the funding stops.

The conference committee agreed with the House amendment providing for a pilot project for the State Department of Health to conduct announced basic care surveys.

The conference committee provided for the State Department of Health to establish an environmental review process for commercial buildings.

The conference committee provided for a Legislative Council study of food and lodging inspection programs.

The conference committee agreed with the House amendment providing for a worksite wellness pilot project to be contracted with a nonstate entity by the State Department of Health.

Engrossed SB 2004 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. ANDRIST MOVED that the conference committee report on Engrossed SB 2004 be adopted, which motion prevailed on a verification vote.

Engrossed SB 2004, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2004: A BILL for an Act to provide an appropriation for defraying the expenses of the state department of health; to create and enact a new subsection to section 23-01-05 of the North Dakota Century Code, relating to the state health officer's duty to establish an environmental review process for commercial buildings; to amend and reenact subsection 1 of section 19-02.1-24, section 19-08-04, subsections 5 and 8 of section 23-09-01, and sections 23-09-16, 23-09-24, 23-09.1-02.2, and 23-10-03 of the North Dakota Century Code, relating to licensure of food vending machines, beverage sales, food and lodging establishments, assisted living facilities, pushcarts, mobile food units, salvaged food distributors, bed and breakfasts, mobile home parks, trailer parks, and campgrounds; to repeal sections 19-08-05, 23-09-17, 23-09.1-03, and 23-10-05 of the North Dakota Century Code, relating to license fee amounts for beverage sales, food and lodging establishments, mobile food units, pushcarts, bed and breakfasts, mobile home parks, trailer parks, and campgrounds; to provide for a report to the legislative council; to provide legislative intent; and to provide for a legislative council study.

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; Cook; Dever; Erbele; Espgaard; Every; Fischer; Flakoll; Freborg; Grindberg; Hacker; Holmberg; Kilzer; Klein; Krauter; Krebsbach;

Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nething; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

NAYS: Fairfield; Heitkamp; Mathern; Nelson; O'Connell

ABSENT AND NOT VOTING: Christmann

Reengrossed SB 2004 passed and the title was agreed to.

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 2004, SB 2007.

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

MR. SPEAKER: The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2274.

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 2298.

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

MR. PRESIDENT: The House has failed to pass: SB 2261.

MOTION

SEN. KLEIN MOVED that the absent members be excused, which motion prevailed.

MOTION

SEN. KLEIN MOVED that the Senate be on the Fourth, Fifth, Ninth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Tuesday, April 19, 2005, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

HB 1259, as reengrossed: Your conference committee (Sens. Hacker, Trenbeath, Triplett and Reps. Carlson, Monson, Williams) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1192, adopt amendments as follows, and place HB 1259 on the Seventh order:

That the Senate recede from its amendments as printed on page 1192 of the House Journal and page 789 of the Senate Journal and that Reengrossed House Bill No. 1259 be amended as follows:

Page 1, line 9, after the semicolon insert "to provide an appropriation; to provide a contingent appropriation;"

Page 2, line 11, remove the overstrike over "~~Continuing~~"

Page 2, line 12, remove the overstrike over "~~appropriation~~"

Page 2, line 13, remove the overstrike over "~~are appropriated to the department on a continuing basis~~"

Page 2, line 14, remove "may be spent by the department pursuant to legislative appropriations"

Page 10, line 17, after "expense" insert ", game group dues, and retailer commissions"

Page 10, line 19, replace "Fifty" with "Starting July 1, 2005, fifty"

Page 15, after line 3, insert:

"SECTION 10. APPROPRIATION - ATTORNEY GENERAL - LOTTERY.

There is appropriated out of any moneys in the lottery operating fund in the state treasury, not otherwise appropriated, the sum of \$3,620,171, or so much of the sum as may be necessary, to the attorney general for the purpose of defraying the administrative and other operating costs of the North Dakota lottery, for the biennium

beginning July 1, 2005, and ending June 30, 2007. The attorney general is authorized nine full-time equivalent positions for administering the lottery.

SECTION 11. CONTINGENT APPROPRIATION - ADDITIONAL LOTTERY FUNDING - BUDGET SECTION REPORT. There is appropriated out of any moneys in the lottery operating fund in the state treasury, not otherwise appropriated, the sum of \$279,020, or so much of the sum as may be necessary, to the attorney general for the purpose of defraying additional administrative and other operating costs of the North Dakota lottery if these costs exceed the funding appropriated in section 10 of this Act, for the biennium beginning July 1, 2005, and ending June 30, 2007. The attorney general is authorized to hire up to two additional full-time equivalent positions under this section. The attorney general shall report any expenditures made or employees hired pursuant to this section to the budget section. If the additional funding and full-time equivalent authorization provided by this section is not adequate, the attorney general may seek emergency commission approval for additional spending or full-time equivalent authority."

Renumber accordingly

Reengrossed HB 1259 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1459, as reengrossed: Your conference committee (Sens. Brown, J. Lee, Warner and Reps. Price, Devlin, Sandvig) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1563-1564, adopt amendments as follows, and place HB 1459 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1563 and 1564 of the House Journal and pages 879-881 of the Senate Journal and that Reengrossed House Bill No. 1459 be amended as follows:

Page 1, line 1, after "chapter" insert "50-06 and a new section to chapter"

Page 1, line 2, after the first "to" insert "creation of a prescription drug monitoring program and" and replace "a report" with "reports to the legislative council; to provide for a legislative council study; to provide legislative intent; to provide an expiration date"

Page 1, after line 4, insert:

"SECTION 1. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Prescription drug monitoring program. The department of human services shall seek federal grant funds for the planning and implementing of a prescription drug monitoring program. Upon receipt of federal grant funds, the department of human services shall adopt rules necessary to implement the prescription drug monitoring program and shall implement the program. State agencies shall cooperate with the department to ensure the success of the program."

Page 1, line 9, replace "for neonates and the two" with "to include a concentrated, but not an exclusive, emphasis for the two thousand medical assistance recipients with the highest cost for treatment of chronic diseases and the families of neonates that can benefit from case management services"

Page 1, remove line 10

Page 1, line 11, remove "chronic diseases"

Page 1, replace lines 15 through 18 with:

- "2. Require medical assistance providers to use the appropriate diagnosis or reason and procedure codes when submitting claims for medical assistance reimbursement; review and develop recommendations to identify instances in which a provider of services is not properly reporting diagnosis or reason and procedure codes when submitting claims for medical assistance reimbursements; and review and recommend any specific providers from which a potential benefit might be obtained by requiring additional diagnosis or reason and procedure codes."

Page 2, after line 19, insert:

"SECTION 3. PRESCRIPTION DRUG MONITORING PROGRAM WORKING GROUP - REPORT TO LEGISLATIVE COUNCIL.

1. The department of human services shall form a prescription drug monitoring program working group of interested individuals to:
 - a. Identify problems relating to the abuse and diversion of controlled substances and how a prescription drug monitoring program may address these problems.
 - b. Identify a strategy and propose a prescription drug monitoring program through which to address the identified problems, including consideration of how the program would fit into the overall strategy. Factors to be addressed in the program must include:
 - (1) Determination of what types of prescription drugs will be monitored.
 - (2) Determination of what types of drug dispensers will be required to participate in the program.
 - (3) Determination of what data will be required to be reported.
 - (4) Determination of what persons will be allowed to access data, what types of data will be accessible, and how to ensure appropriate protection of data.
 - (5) Determination of the entity that will implement and sustain the program.
 - c. Establish how the program will be implemented, the fiscal requirements for implementation, and the timelines for implementation. In establishing how the program will be implemented, the working group shall consider the feasibility and desirability of formal or informal educational outreach to North Dakota communities and interested persons.
 - d. Consider possible performance measures the state may use to assess the impact of the program and whether special data collection instruments would be required to effectively monitor the impact of the program.
 - e. Provide to the department of human services a draft of proposed administrative rules to implement the proposed program.
2. The membership of the working group may include representatives from the private and public sectors, including representatives from the North Dakota medical association; the North Dakota nurses association; the North Dakota pharmacists association; the North Dakota society of health-system pharmacists; the North Dakota board of pharmacy; the North Dakota dental association; the North Dakota veterinary medical association; the North Dakota healthcare association; the North Dakota long term care association; the university of North Dakota school of medicine and health sciences; law enforcement agencies, appointed by the attorney general; the department of human services; the state department of health; workforce safety and insurance; the information technology department; and the federally designated state peer review organization.
3. During the 2005-06 interim, the department of human services and the prescription drug monitoring program working group shall provide the legislative council with periodic status reports on the activities of the working group and the implementation of the program.
4. The department shall designate the chairman and vice chairman of the working group."

"SECTION 5. LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2005-06 interim, the medicaid medical reimbursement system, including costs of providing services, fee schedules, parity among provider groups, and access. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 6. LEGISLATIVE INTENT. It is the intent of the fifty-ninth legislative assembly that the department promptly initiate and conduct the rulemaking activity under chapter 28-32 which is deemed necessary to implement this Act.

SECTION 7. EXPIRATION DATE. Section 3 of this Act is effective through December 31, 2006, and after that date is ineffective."

Renumber accordingly

Reengrossed HB 1459 was placed on the Seventh order of business on the calendar.

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

William R. Horton, Secretary