

## JOURNAL OF THE HOUSE

## Sixty-third Legislative Assembly

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Bismarck, April 25, 2013

The House convened at 8:00 a.m., with Acting Speaker Drovdal presiding.

The prayer was offered by Chaplain Gary Heaton, Sanford Health Care, Bismarck.

The roll was called and all members were present except Representatives Devlin and K. Koppelman.

A quorum was declared by the Acting Speaker.

**COMMUNICATION FROM GOVERNOR JACK DALRYMPLE**

This is to inform you that on April 24, 2013, I have signed the following: HB 1061, HB 1080, HB 1102, HB 1126, HB 1139, HB 1166, HB 1205, HB 1251, HB 1338, and HB 1440.

**MOTION**

**REP. VIGESAA MOVED** that SB 2354 be returned to the floor from conference committee and be placed on the Seventh order, which motion prevailed.

**ANNOUNCEMENT**

**ACTING SPEAKER DROVDAL ANNOUNCED** that Rep. Dockter will replace Rep. Headland on the Conference Committee on HB 1029.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. BRANDENBURG MOVED** that the conference committee report on Engrossed HB 1004 as printed on HJ pages 1905-1907 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1004, as amended, was placed on the Eleventh order of business.

**SECOND READING OF HOUSE BILL**

**HB 1004:** A BILL for an Act to provide an appropriation for defraying the expenses of the state auditor; and to amend and reenact section 54-10-10 of the North Dakota Century Code, relating to the salary of the state auditor.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 93 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Becker; Bellew; Belter; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Drovdal; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyesen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Wall; Weisz; Wieland; Williams; Zaiser

**ABSENT AND NOT VOTING:** Speaker Devlin

Reengrossed HB 1004 passed.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. BRANDENBURG MOVED** that the conference committee report on Reengrossed HB 1005 as printed on HJ pages 1907-1909 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1005, as amended, was placed on the Eleventh order of business.

**SECOND READING OF HOUSE BILL**

**HB 1005:** A BILL for an Act to provide an appropriation for defraying the expenses of the state treasurer; to amend and reenact subsection 18 of section 54-11-01, section 54-11-13, and subsection 5 of section 57-51.2-02 of the North Dakota Century Code, relating to the duties and salary of the state treasurer and a tribal oil and gas agreement; to provide legislative intent; 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 76 YEAS, 17 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Boehning; Boschee; Brabandt; Brandenburg; Damschen; Delmore; Dockter; Dosch; Drovdal; Fehr; Frantsvog; Froseth; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Karls; Kasper; Keiser; Kelsh, J.; Kempenich; Kiefert; Klein; Klemin; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyen; Louser; Maragos; Martinson; Meier; Monson; Mooney; Muscha; Nathe; Nelson, J.; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Wall; Weisz; Wieland; Williams; Zaiser

**NAYS:** Beadle; Becker; Bellew; Belter; Boe; Carlson; Delzer; Grande; Gruchalla; Headland; Johnson, N.; Kelsh, S.; Koppelman, B.; Koppelman, K.; Mock; Nelson, M.; Steiner

**ABSENT AND NOT VOTING:** Speaker Devlin

Reengrossed HB 1005 passed and the emergency clause was declared carried.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. KRETSCHMAR MOVED** that the conference committee report on Engrossed HB 1025 as printed on HJ pages 1909-1911 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1025, as amended, was placed on the Eleventh order of business.

**SECOND READING OF HOUSE BILL**

**HB 1025:** A BILL for an Act to amend and reenact sections 37-17.1-12, 37-17.1-16, 37-17.1-17, and 40-22-01.1 of the North Dakota Century Code, relating to liability and immunity during disaster responses and financing of repairs.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 91 YEAS, 2 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Becker; Bellew; Belter; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Drovdal; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa;

Wall; Weisz; Wieland; Williams; Zaiser

**NAYS:** Johnson, N.; Streyle

**ABSENT AND NOT VOTING:** Speaker Devlin

Reengrossed HB 1025 passed.

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

**REP. WEISZ MOVED** that the conference committee report on Engrossed HB 1041 as printed on HJ page 1911 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1041, as amended, was placed on the Eleventh order of business.

#### **SECOND READING OF HOUSE BILL**

**HB 1041:** A BILL for an Act to provide appropriations to the office of management and budget and the supreme court for guardianship and public administrator services.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 89 YEAS, 3 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Belter; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Drovdal; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyesen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Rust; Sanford; Schatz; Schmidt; Silbernagel; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigasaa; Wall; Weisz; Wieland; Williams; Zaiser

**NAYS:** Becker; Bellew; Ruby

**ABSENT AND NOT VOTING:** Skarphol; Speaker Devlin

Reengrossed HB 1041 passed.

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

**REP. DOSCH MOVED** that the conference committee report on SB 2016 as printed on HJ pages 1911-1913 be adopted, which motion prevailed on a voice vote.

SB 2016, as amended, was placed on the Fourteenth order of business.

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

**SB 2016:** A BILL for an Act to provide an appropriation for defraying the expenses of job service North Dakota.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 93 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Becker; Bellew; Belter; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Drovdal; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyesen; Louser; Maragos; Martinson; Meier;

Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Wall; Weisz; Wieland; Williams; Zaiser

**ABSENT AND NOT VOTING:** Speaker Devlin

SB 2016, as amended, passed.

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

**REP. SANFORD MOVED** that the conference committee report on Engrossed SB 2022 as printed on HJ pages 1913-1915 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2022, as amended, was placed on the Fourteenth order of business.

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

**SB 2022:** A BILL for an Act to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents; to amend and reenact subsection 1 of section 29-07-01.1 of the North Dakota Century Code, relating to the application fee for indigent defense services; 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 92 YEAS, 1 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Drovdal; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyesen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Wall; Weisz; Wieland; Williams; Zaiser

**NAYS:** Becker

**ABSENT AND NOT VOTING:** Speaker Devlin

Engrossed SB 2022, as amended, passed.

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

**REP. J. NELSON MOVED** that the conference committee report on Engrossed SB 2024 as printed on HJ pages 1915-1917 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2024, as amended, was placed on the Fourteenth order of business.

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

**SB 2024:** A BILL for an Act to provide an appropriation for defraying the expenses of the comprehensive tobacco control advisory committee; and to provide for a legislative management 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 47 YEAS, 46 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Boe; Boschee; Carlson; Delmore; Drovdal; Fehr; Glassheim; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Heilman;

Hogan; Holman; Hunskor; Johnson, N.; Keiser; Kelsh, J.; Kelsh, S.; Kiefert; Klemin; Kreidt; Kretschmar; Kreun; Laning; Maragos; Mock; Monson; Mooney; Muscha; Nelson, J.; Nelson, M.; Onstad; Oversen; Pollert; Porter; Sanford; Silbernagel; Strinden; Wall; Williams; Zaiser

**NAYS:** Becker; Bellew; Belter; Boehning; Brabandt; Brandenburg; Damschen; Delzer; Dockter; Dosch; Frantsvog; Froseth; Grande; Headland; Heller; Hofstad; Johnson, D.; Karls; Kasper; Kempenich; Klein; Koppelman, B.; Koppelman, K.; Larson; Looysen; Louser; Martinson; Meier; Nathe; Owens; Paur; Rohr; Ruby; Rust; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Toman; Trottier; Vigesaa; Weisz; Wieland

**ABSENT AND NOT VOTING:** Speaker Devlin

Engrossed SB 2024, as amended, failed.

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#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**REP. PORTER MOVED** that the conference committee report on SB 2226 as printed on HJ page 1917 be adopted, which motion prevailed on a voice vote.

SB 2226, as amended, was placed on the Fourteenth order of business.

#### SECOND READING OF SENATE BILL

**SB 2226:** A BILL for an Act to amend and reenact section 23-01.2-04 of the North Dakota Century Code, relating to a medical director; and to provide an appropriation for the North Dakota trauma system.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 82 YEAS, 11 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Becker; Bellew; Belter; Boe; Boehning; Boschee; Brandenburg; Carlson; Damschen; Delmore; Dockter; Drovda; Fehr; Frantsvog; Froseth; Glassheim; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klemin; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looysen; Maragos; Martinson; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Silbernagel; Skarphol; Steiner; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Wall; Weisz; Wieland; Williams; Zaiser

**NAYS:** Brabandt; Delzer; Dosch; Grande; Kasper; Klein; Koppelman, B.; Louser; Meier; Schmidt; Streyle

**ABSENT AND NOT VOTING:** Speaker Devlin

SB 2226, as amended, passed.

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

**MR. PRESIDENT:** The Speaker has appointed Rep. Dockter to replace Rep. Headland on the Conference Committee on HB 1029.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1004, HB 1005, HB 1025, HB 1041.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2016, SB 2022, SB 2226.

**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 2242.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1010, HB 1014, HB 1302.

**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 2094.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1002, HB 1021, HB 1022.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2005, SB 2006, SB 2008, SB 2010, SB 2017, SB 2023, SB 2160, SB 2211, SB 2267.

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

**MR. SPEAKER:** The President has signed: HB 1002, HB 1021, HB 1022.

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

**MR. SPEAKER:** The President has signed: SB 2030, SB 2074, SB 2210, SB 2243, SB 2338.

**ANNOUNCEMENT**

**ACTING SPEAKER DROVDAL ANNOUNCED** that the House would stand in recess until 1:00 p.m.

**THE HOUSE RECONVENED** pursuant to recess taken, with Acting Speaker Drovdal presiding.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2219:** Your conference committee (Sens. Burckhard, Krebsbach, Murphy and Reps. Wieland, Bellew, Holman), having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

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

**MR. SPEAKER:** The conference committee was unable to agree, and the President has appointed as a new conference committee to act with a like committee from the House on:

**SB 2219:** Sens. Burckhard; Krebsbach; Murphy

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. DELZER MOVED** that the conference committee report on SB 2219 be adopted, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**REP. VIGESAA MOVED** that the Acting Speaker appoint a new committee of three to act with a like committee from the Senate as a Conference Committee on SB 2219, which motion prevailed.

**THE ACTING SPEAKER APPOINTED** as a new Conference Committee on:

**SB 2219:** Reps. Wieland, Bellew, Holman

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

**MR. PRESIDENT:** The House has dissolved the House conference committee and has appointed as a new conference committee to act with a like committee from the Senate on:

**SB 2219:** Reps. Wieland; Bellew; Holman

**REPORT OF CONFERENCE COMMITTEE**

**HB 1007, as engrossed:** Your conference committee (Sens. G. Lee, Holmberg, Robinson and Reps. Kempenich, Hawken, Glassheim) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1084-1085, adopt amendments as follows, and place HB 1007 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1084 and 1085 of the House Journal and pages 846 and 847 of the Senate Journal and that House Bill No. 1007 be amended as follows:

Page 1, replace line 11 with:

"Salaries and wages	\$1,648,342	\$273,706	\$1,922,048"
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Page 1, replace line 14 with:

"Total all funds	\$1,964,636	\$320,715	\$2,285,351"
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Page 1, replace line 16 with:

"Total general fund	\$1,540,125	\$307,300	\$1,847,425"
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Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:****House Bill No. 1007 - Labor Commissioner - Conference Committee Action**

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$2,001,449	\$1,879,598	\$42,450	\$1,922,048	\$2,007,180	(\$85,132)
Operating expenses	323,694	323,694		323,694	323,694	
Accrued leave payments		39,609		39,609		39,609
Total all funds	\$2,325,143	\$2,242,901	\$42,450	\$2,285,351	\$2,330,874	(\$45,523)
Less estimated income	437,926	437,926	0	437,926	437,926	0
General fund	\$1,887,217	\$1,804,975	\$42,450	\$1,847,425	\$1,892,948	(\$45,523)
FTE	13.00	13.00	0.00	13.00	13.00	0.00

**Department No. 406 - Labor Commissioner - Detail of Conference Committee Changes**

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Total Conference Committee Changes
Salaries and wages	\$87,973	(\$45,523)	\$42,450
Operating expenses			
Accrued leave payments			
Total all funds	\$87,973	(\$45,523)	\$42,450
Less estimated income	0	0	0
General fund	\$87,973	(\$45,523)	\$42,450
FTE	0.00	0.00	0.00

<sup>1</sup> Changes made by the House to the executive compensation package are removed.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.

- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

Engrossed HB 1007 was placed on the Seventh order of business on the calendar.

#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**REP. KEMPENICH MOVED** that the conference committee report on Engrossed HB 1007 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1007, as amended, was placed on the Eleventh order of business.

#### SECOND READING OF HOUSE BILL

**HB 1007:** A BILL for an Act to provide an appropriation for defraying the expenses of the labor commissioner.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 92 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Becker; Bellew; Belter; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Drovda; Fehr; Frantsov; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemm; Koppelman, B.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigasaa; Wall; Weisz; Wieland; Williams; Zaiser

**ABSENT AND NOT VOTING:** Koppelman, K.; Speaker Devlin

Reengrossed HB 1007 passed.

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#### REPORT OF CONFERENCE COMMITTEE

**HB 1452, as engrossed:** Your conference committee (Sens. Dever, Krebsbach, Nelson and Reps. Boehning, Louser, Amerman) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1302-1309, adopt amendments as follows, and place HB 1452 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1302-1309 of the House Journal and pages 1185-1192 of the Senate Journal and that Engrossed House Bill No. 1452 be amended as follows:

Page 1, line 1, after "to" insert "create a new section to chapter 39-03.1 and a new section to chapter 54-52 of the North Dakota Century Code, relating to expiration of the increase in highway patrolmen's retirement plan and public employees retirement system member and employer contributions; to"

Page 1, line 1, after "reenact" insert "sections 39-03.1-09 and 39-03.1-10,"

Page 1, line 1, replace the second "and" with a comma

Page 1, line 1, after "sections" insert "54-52-02.9, 54-52-05, 54-52-06, 54-52-06.1, 54-52-06.2, 54-52-06.3, and"

Page 1, line 2, after the first comma insert "subsection 6 of section 54-52.6-02, and sections"

Page 1, line 2, remove the second comma

Page 1, line 2, replace "54-52.6-15" with "54-52.6-09"



Page 1, line 2, after "to" insert "increased employer and employee contributions under the highway patrolmen's retirement plan and public employees retirement system and"

Page 1, line 3, remove "and to repeal section 54-52.6-03 of the"

Page 1, remove line 4

Page 1, line 5, replace "public employees retirement system" with "to provide for a legislative management study; to provide an appropriation; to provide an effective date; and to provide an expiration date"

Page 1, after line 6, insert:

**"SECTION 1. AMENDMENT.** Section 39-03.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-09. Payments by contributors - Employer payment of employee contribution.**

1. Every member, except as provided in section 39-03.1-07, shall contribute into the fund ten and thirty-hundredths percent of the member's monthly salary, which sum must be deducted from the member's salary and credited to the member's account in the fund. Member contributions increase by one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, ~~and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.~~
2. The state of North Dakota, at its option, may pay the member contributions required by subsection 1 for all compensation earned after June 30, 1983, and may pay the member contributions required to purchase service credit on a pretax basis pursuant to subsection 8 of section 39-03.1-08.2. The amount paid must be paid by the state in lieu of contributions by the member. A member may not receive the contributed amounts directly once the employer has elected to pay the member contributions. If the state decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the state, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the state, they must not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. If member contributions are paid by the state, they must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made prior to the date the contributions were assumed by the state. The option given employers by this subsection must be exercised in accordance with rules adopted by the board.
3. For compensation earned after August 1, 2009, all employee contributions required under subsection 1, and not otherwise paid under subsection 2, must be paid by the state in lieu of contributions by the member. All contributions paid by the state under this subsection must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the state under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available.

Contributions paid by the state in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the state. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The state shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by law.

**SECTION 2. AMENDMENT.** Section 39-03.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-10. Contributions by the state.**

The state shall contribute to the fund a sum equal to sixteen and seventy-hundredths percent of the monthly salary or wage of a participating member. State contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the member's contribution is paid by the state under subsection 2 of section 39-03.1-09, the state shall contribute, in addition, an amount equal to the required member's contribution. The state shall pay the associated employer contribution for those members who elect to exercise their rights under subsection 3 of section 39-03.1-10.1.

**SECTION 3.** A new section to chapter 39-03.1 of the North Dakota Century Code is created and enacted as follows:

**Reduction in member and employer contributions.**

The required increase in the amount of member and employer contributions under sections 1 and 2 of this Act must be reduced to the rate in effect on the effective date of this Act effective on the July first that follows the first valuation of the highway patrolmen's retirement plan showing a ratio of the actuarial value of assets to the actuarial accrued liability of the highway patrolmen's retirement plan that is equal to or greater than one hundred percent."

Page 1, after line 21, insert:

**"SECTION 5. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.9. Participation by temporary employees.**

A temporary employee may elect, within one hundred eighty days of beginning employment, to participate in the public employees retirement system and receive credit for service after enrollment. The temporary employee shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional two percent increase, beginning with the reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee in the public employees retirement system until termination of employment or reclassification of the temporary employee as a permanent employee. A temporary employee may not purchase any additional credit, including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

**SECTION 6. AMENDMENT.** Section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-05. Membership and assessments - Employer payment of employee contributions.**

1. Every eligible governmental unit employee concurring in the plan must so state in writing and all future eligible employees are participating members. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service. An employee who is eligible for normal retirement who accepts a retirement benefit under this chapter and who subsequently becomes employed with a participating employer other than the employer with which the employee was employed at the time the employee retired under this chapter may, before reenrolling in the retirement plan, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.
2. Each member must be assessed and required to pay monthly four percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment. Member contributions increase by one percent of the monthly salary or wage paid to the member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.
3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board in writing.

4. For compensation earned after August 1, 2009, all employee contributions required under section 54-52-06.1 and the job service North Dakota retirement plan, and not otherwise paid under subsection 3, must be paid by the employer in lieu of contributions by the member. All contributions paid by the employer under this subsection must be treated as employer contributions in determining tax treatment under this code and the Internal Revenue Code. Contributions paid by the employer under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the employer in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the employer. The employer shall pay these member contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The employer shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by amendment to law.

**SECTION 7. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06. Employer's contribution to retirement plan.**

Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. For those members who elect to exercise their rights under section 54-52-17.14, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund from its funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date they became due, penalty and interest to be paid on delinquent contributions may be waived. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05. The board shall report to each session of the legislative assembly the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

**SECTION 8. AMENDMENT.** Section 54-52-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.1. Contribution by supreme and district court judges - Employer contribution.**

Each judge of the supreme or district court who is a member of the public employees retirement system must be assessed and required to pay monthly five percent of the judge's monthly salary. Member contributions increase by one percent of the judge's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the judge's salary in equal monthly installments. The state shall contribute an amount equal to fourteen and fifty-two one-hundredths percent of the monthly salary of a supreme or district court judge who is a participating member of the system, which matching contribution must be paid from its funds appropriated for salary, or from any other funds available for such purposes. State contributions increase by one percent of the monthly salary of a supreme or district court judge who is a participating member of the system beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the judge's contribution is paid by the state under subsection 3 of section 54-52-05, the state shall contribute, in addition, an amount equal to the required judge's contribution.

**SECTION 9. AMENDMENT.** Section 54-52-06.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.2. Contribution by national guard security officers or firefighters - Employer contribution.**

Each national guard security officer or firefighter who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Member contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The national guard security officer's or firefighter's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the security officer's or firefighter's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required national guard security officer's or firefighter's assessment.

**SECTION 10. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.3. Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution.**

Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the retirement board on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer or correctional officer contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the

employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

**SECTION 11.** A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

**Reduction in member and employer contributions.**

The required increase in the amount of member and employer contributions under sections 5, 6, 7, 8, 9, 10, 13, and 15 of this Act must be reduced to the rate in effect on the effective date of this Act effective on the July first that follows the first valuation of the public employees retirement system main system showing a ratio of the actuarial value of assets to the actuarial accrued liability of the public employees retirement system main system that is equal to or greater than one hundred percent.

Page 2, line 12, replace "is hired after July 30, 2013" with "elects to participate in the retirement plan under this chapter"

Page 3, after line 2, insert:

**"SECTION 13. AMENDMENT.** Subsection 6 of section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

6. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the board within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee."

Page 6, line 3, remove "At the time of hire the"

Page 6, replace lines 4 through 10 with "The board shall provide an opportunity for eligible employees who are new members of the public employees retirement system under chapter 54-52 to transfer to the defined contribution plan under this chapter pursuant to the rules and policies adopted by the board."

Page 6, line 11, replace "an eligible employee to participate in" with "a member of the public employees retirement system under chapter 54-52 to transfer to"

Page 6, line 12, remove "In the case of an eligible employee"

Page 6, remove line 13

Page 6, line 14, replace "eligible employee transferring" with "For an individual who elects to transfer"

Page 6, line 16, remove "and"

Page 6, line 22, remove "The board shall calculate the actuarial present value of the individual's"

Page 6, remove lines 23 and 24

Page 6, line 25, remove "retirement age."

Page 7, remove lines 27 through 31

Page 8, replace lines 1 through 8 with:

**"SECTION 15. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-09. Contributions - Penalty.**

1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.
2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.
3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions

were assumed by the employer. An employer shall exercise its option under this subsection by reporting its choice to the board in writing.

**SECTION 16. LEGISLATIVE MANAGEMENT STUDY - NORTH DAKOTA RETIREMENT PLANS.** During the 2013-14 interim, the legislative management shall consider studying the feasibility and desirability of existing and possible state retirement plans. The study must include an analysis of both a defined benefit plan and a defined contribution plan with considerations and possible consequences for transitioning to a state defined contribution plan. The study may not be conducted by the employee benefits programs committee. The legislative management shall report its findings and recommendations, together with any legislation needed to implement the recommendations, to the sixty-fourth legislative assembly.

**SECTION 17. APPROPRIATION.** There is appropriated from special funds derived from public employees retirement system income not otherwise appropriated, the sum of \$22,000, or so much of the sum as may be necessary, to the public employees retirement system board for the purpose of implementing this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015.

**SECTION 18. EFFECTIVE DATE.** Sections 4, 12, and 14 of this Act become effective on October 1, 2013.

**SECTION 19. EXPIRATION DATE - SUSPENSION.** Sections 4, 12, and 14 of this Act are effective through July 31, 2017, and after that date are ineffective. Section 54-52.6-03 is suspended from October 1, 2013, through July 31, 2017. Section 54-52.6-03, as it existed on September 30, 2013, becomes effective on August 1, 2017."

Renumber accordingly

Engrossed HB 1452 was placed on the Seventh order of business on the calendar.

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

**REP. BOEHNING MOVED** that the conference committee report on Engrossed HB 1452 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1452, as amended, was placed on the Eleventh order of business.

#### **SECOND READING OF HOUSE BILL**

**HB 1452:** A BILL for an Act to create a new section to chapter 39-03.1 and a new section to chapter 54-52 of the North Dakota Century Code, relating to expiration of the increase in highway patrolmen's retirement plan and public employees retirement system member and employer contributions; to amend and reenact sections 39-03.1-09 and 39-03.1-10, subsection 4 of section 54-52-01, sections 54-52-02.9, 54-52-05, 54-52-06, 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52.6-01, subsection 6 of section 54-52.6-02, and sections 54-52.6-02 and 54-52.6-09 of the North Dakota Century Code, relating to increased employer and employee contributions under the highway patrolmen's retirement plan and public employees retirement system and eligibility to participate in the defined contribution retirement plan; to provide for a legislative management study; to provide an appropriation; to provide an effective date; and to provide an expiration date.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 77 YEAS, 15 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Beadle; Becker; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Drovdal; Fehr; Frantsvog; Froseth; Grande; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looyson; Louser; Maragos; Martinson; Meier; Monson; Nathe; Nelson, J.; Onstad; Owens; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Sukut; Thoreson; Toman; Trottier;



Vigesaa; Wall; Weisz; Wieland; Williams

**NAYS:** Amerman; Boschee; Glassheim; Gruchalla; Guggisberg; Holman; Kelsh, J.; Kelsh, S.; Mock; Mooney; Muscha; Nelson, M.; Oversen; Strinden; Zaiser

**ABSENT AND NOT VOTING:** Koppelman, K.; Speaker Devlin

Reengrossed HB 1452 passed.

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#### MOTION

**REP. WIELAND MOVED** that the House reconsider its action whereby Engrossed SB 2024, as amended, failed to pass, which motion failed on a verification vote.

#### REPORT OF CONFERENCE COMMITTEE

**SB 2094, as engrossed:** Your conference committee (Sens. Schaible, Poolman, Marcellais and Reps. Heilman, Meier, Mock) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 918-1007, adopt amendments as follows, and place SB 2094 on the Seventh order:

That the House recede from its amendments as printed on page 918 of the Senate Journal and page 1007 of the House Journal and that Engrossed Senate Bill No. 2094 be amended as follows:

Page 1, after line 8 insert:

"1."

Page 1, line 14, overstrike the colon

Page 1, line 15, overstrike "1. Documented extraordinary circumstances;"

Page 1, line 15, remove "and"

Page 1, line 16, overstrike "2. Student" and insert immediately thereafter "student"

Page 1, line 16, remove the overstrike over "~~or formal action by~~"

Page 1, line 17, remove the overstrike over "~~an institution's student governing board or committee~~"

Page 1, after line 17, insert:

"2. a. Before mandatory fees on students may be increased to support the construction or renovation of a campus building valued at more than one million dollars, the use must be approved by a majority of the students voting on the question at a campuswide election.

b. This subsection does not apply to any construction or renovation for which the use of mandatory fees was authorized before July 1, 2013."

Renumber accordingly

Engrossed SB 2094 was placed on the Seventh order of business on the calendar.

#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**REP. HEILMAN MOVED** that the conference committee report on Engrossed SB 2094 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2094, as amended, was placed on the Fourteenth order of business.

#### SECOND READING OF SENATE BILL

**SB 2094:** A BILL for an Act to amend and reenact section 15-10.3-03 of the North Dakota Century Code, relating to mandatory fees assessed by institutions of higher

education; 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 93 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Becker; Bellew; Belter; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Dockter; Dosch; Drovdal; Fehr; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Kreun; Laning; Larson; Looysen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Wall; Weisz; Wieland; Williams; Zaiser

**ABSENT AND NOT VOTING:** Speaker Devlin

Engrossed SB 2094, as amended, passed and the emergency clause was declared carried.

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#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**REP. HOFSTAD MOVED** that the conference committee report on SB 2354 as printed on HJ page 1866 be adopted, which motion prevailed on a voice vote.

#### SECOND READING OF SENATE BILL

**SB 2354:** A BILL for an Act to provide an appropriation to the state department of health for a loan repayment program for dentists in public health and nonpublic dental clinics.

#### ROLL CALL

The question being on the final passage of the bill, which has been read, the roll was called and there were 74 YEAS, 19 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Belter; Boe; Boschee; Brandenburg; Damschen; Delmore; Dockter; Drovdal; Fehr; Frantsvog; Froseth; Glassheim; Gruchalla; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Heilman; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsh, J.; Kelsh, S.; Kempenich; Kiefert; Klein; Klemin; Koppelman, K.; Kretschmar; Kreun; Larson; Looysen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Porter; Rohr; Rust; Sanford; Schmidt; Silbernagel; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Wall; Weisz; Williams; Zaiser

**NAYS:** Becker; Bellew; Boehning; Brabandt; Carlson; Delzer; Dosch; Grande; Heller; Koppelman, B.; Kreidt; Laning; Pollert; Ruby; Schatz; Skarphol; Steiner; Streyle; Wieland

**ABSENT AND NOT VOTING:** Speaker Devlin

SB 2354 passed.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1007, HB 1452.

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

**MR. PRESIDENT:** The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2094.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2354.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1004, HB 1025, HB 1041.

**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: HB 1005.

**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 2233.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently failed to pass: SCR 4010.

**MOTION**

**REP. VIGESAA MOVED** that the absent members be excused, which motion prevailed.

**MOTION**

**REP. VIGESAA MOVED** that the House be on the Fourth, Fifth, Seventh, and Sixteenth orders of business and at the conclusion of those orders, the House stand adjourned until 8:00 a.m., Friday, April 26, 2013, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2233:** Your conference committee (Sens. Hogue, Burckhard, Triplett and Reps. Hofstad, Keiser, Hunskor) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1482-1491, adopt amendments as follows, and place SB 2233 on the Seventh order:

That the House recede from its amendments as printed on pages 1482-1491 of the Senate Journal and pages 1572-1581 of the House Journal and that Senate Bill No. 2233 be amended as follows:

Page 1, line 2, after the second comma insert "the lower Heart River Morton County enhanced flood control project,"

Page 1, line 2, replace "Southwest" with "southwest"

Page 1, line 4, replace "new section to chapter 6-09.4" with "new subdivision to subsection 2 of section 28-32-01, a new subdivision to subsection 1 of section 54-10-14, a new section to chapter 61-02, and four new sections to chapter 61-40"

Page 1, line 4, after the second "to" insert "exempting certain activities of the industrial commission from the Administrative Agencies Practice Act, western area water supply authority industrial water sales audits,"

Page 1, line 5, after "fund" insert ", and franchise protection rights of the western area water supply authority"

Page 1, line 5, replace "57-51.1-07" with "54-35-02.7"

Page 1, line 6, replace "and 61-40-06" with "61-40-01, 61-40-02, 61-40-03, 61-40-04, 61-40-05, and 61-40-09"

Page 1, line 6, remove "allocation of moneys in the oil"

Page 1, line 7, replace "extraction tax development fund" with "relating to jurisdiction of the water-related topics overview committee"

Page 1, line 7, after "River" insert "valley"

Page 1, line 7, after the second comma insert "the location of industrial water depots,"

Page 1, line 7, remove "oversight of"

Page 1, line 8, remove "and"

Page 1, line 8, after "61-24.7-04" insert ", and 61-40-06"

Page 1, line 9, after "project" insert "and oversight of western area water supply authority projects"

Page 1, line 10, remove "and"

Page 1, line 10, after "appropriation" insert "; to provide a statement of legislative intent; and to provide for reports to the legislative management"

Page 1, remove lines 12 through 24

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 31

Page 4, replace lines 1 through 17 with:

**"SECTION 1.** A new subdivision to subsection 2 of section 28-32-01 of the North Dakota Century Code is created and enacted as follows:

The industrial commission with respect to approving or setting water rates under chapter 61-40.

**SECTION 2.** A new subdivision to subsection 1 of section 54-10-14 of the North Dakota Century Code is created and enacted as follows:

Western area water supply authority industrial water sales on an annual basis.

**SECTION 3. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.7. (~~Effective through November 30, 2013~~) Water-related topics overview committee - Duties.**

The legislative management, during each interim, shall appoint a water-related topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water-related topics. ~~During the 2011-12 interim, the committee shall review the state's irrigation laws and rules and evaluate the process of the prioritization of water projects. The committee shall work collaboratively with the state water commission to develop policies to further define the state role in major flood control projects and in the prioritization of water projects. During the 2013-14 interim, the committee shall review water supply routes and alternatives for the Red River valley water supply project.~~ The committee consists of thirteen members and the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees.

~~(Effective after November 30, 2013) Garrison diversion overview. The legislative management is responsible for legislative overview of the Garrison diversion project and related matters and for any necessary discussions with adjacent states on water-related topics."~~

Page 5, line 13, replace "long term" with "long-term"

Page 5, line 15, replace "long term" with "long-term"

Page 5, line 17, remove "diversion and"

Page 5, line 24, after the second underscored semicolon insert "mill levies:"

Page 6, line 16, replace "non-federal" with "nonfederal"

Page 6, after line 23, insert:

**"SECTION 7.**

**Lower Heart River, Morton County, enhanced flood control project.**

The legislative assembly declares its intent to provide state funding for a share of the nonfederal or local cost for construction of the lower Heart River, Morton County, flood control project."

Page 7, line 5, remove the underscored comma

Page 7, remove line 6

Page 7, line 7, remove "facilities"

Page 7, line 12, after "The" insert "sixty-third"

Page 7, line 12, after "funding" insert "not to exceed four hundred fifty million dollars"

Page 7, line 12, replace "a share" with "one-half"

Page 7, line 13, replace "the" with "a federally authorized"

Page 7, after line 18, insert:

**"SECTION 11.** A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

**Infrastructure revolving loan fund - Continuing appropriation - Rules.**

1. An infrastructure revolving loan fund is established on January 1, 2015, within the resources trust fund to provide loans for water supply, flood protection, or other water development and water management projects. Ten percent of oil extraction moneys deposited in the resources trust fund are made available on a continuing basis for making loans in accordance with this section. Accounts may be established in the resources trust fund as necessary for its management and administration.
2. The commission shall consider the following information when evaluating projects:
  - a. A description of the nature and purposes of the proposed infrastructure project, including an explanation of the need for the project, the reasons why it is in the public interest, and the overall economic impact of the project.
  - b. The estimated cost of the project and the amount of the loan sought and other proposed sources of funding.
  - c. The extent to which completion of the project will provide a benefit to the state or regions within the state.
3. The commission shall approve projects and loans from the infrastructure loan fund, and the Bank of North Dakota shall manage and administer loans from the infrastructure loan fund and individual accounts in the fund. The commission may adopt policies for the review and approval of

loans under this section. Loans made under this section must be made at an interest rate of one and one-half percent.

4. Annually the Bank of North Dakota may deduct a service fee of one-half of one percent for administering the infrastructure loan fund.
5. Projects not eligible for the state revolving fund will be given priority for these funds."

Page 8, remove lines 20 through 31

Page 9, replace lines 1 through 3 with:

**"SECTION 14. AMENDMENT.** Section 61-40-01 of the North Dakota Century Code is amended and reenacted as follows:

**61-40-01. Legislative declarations - Authority of western area water supply authority.**

The legislative assembly declares that many areas and localities in western North Dakota do not enjoy adequate quantities of high-quality drinking water; that other areas and localities in western North Dakota do not have sufficient quantities of water to ensure a dependable, long-term domestic or industrial water supply; that greater economic security and the protection of health and property benefits the land, natural resources, and water resources of this state; and that the promotion of the prosperity and general welfare of all of the people of this state depend on the effective development and utilization of the land and water resources of this state and necessitates and requires the exercise of the sovereign powers of this state and concern a public purpose. To accomplish this public purpose, it is declared necessary that a water authority to treat, store, and distribute water to western North Dakota be established to provide for the supply and distribution of water to the people of western North Dakota for purposes, including domestic, rural water, municipal, livestock, industrial, oil and gas development, and other uses, and provide for the future economic welfare and prosperity of the people of this state, and particularly the people of western North Dakota, by the creation and development of a western area water supply project for beneficial and public uses. The western area water supply authority may acquire, construct, improve, develop, and own water supply infrastructure and may enter water supply contracts with member cities, water districts, and private users, such as oil and gas producers, for the sale of water for use within or outside the authority boundaries or the state. The western area water supply authority shall consider in the process of locating industrial water depots the location of private water sellers so as to minimize the impact on private water sellers. The independent water providers shall consider in the process of locating industrial water depots the location of private water sellers so as to minimize the impact on private water sellers.

**SECTION 15. AMENDMENT.** Section 61-40-02 of the North Dakota Century Code is amended and reenacted as follows:

**61-40-02. Western area water supply authority.**

The western area water supply authority consists of participating political subdivisions located within McKenzie, Williams, Burke, Divide, and Mountrail Counties which enter a water supply contract with the authority. Other cities and water systems, within or outside the authority counties' boundaries, including cities or water systems in Montana, may contract with the authority for a bulk water supply. The authority is a political subdivision of the state, a governmental agency, body politic and corporate, with the authority to exercise the powers specified in this chapter, or which may be reasonably implied. Participating member entities may be required to pay dues or water sale income to the authority, as determined by the bylaws and future resolutions of the authority. Participating member entities may not withdraw from the authority or fail or refuse to pay any water sale income to the authority if the twenty-five million dollar zero interest loan from the state water commission has not been repaid until the state-guaranteed loans have been repaid.

The provisions of subsections 1 through 5 of section 61-35-02.1 apply if the authority's board of directors unanimously votes to convert to a water district.

**SECTION 16. AMENDMENT.** Section 61-40-03 of the North Dakota Century Code is amended and reenacted as follows:

**61-40-03. Western area water supply authority - Board of directors.**

1. The initial board of directors of the western area water supply authority consists of two representatives from each of the following entities: Williams rural water district, McKenzie County water resource district, the city of Williston, BDW water system association, and R&T water supply association. The governing body of each member entity shall select two representatives to the authority board who are water users of the member entity. If a vacancy arises for a member entity, the governing body of the member entity shall select a new representative to act on its behalf on the authority board. ~~In addition, the state engineer or designee is a voting member on the authority's board of directors.~~ Directors have a term of one year and may be reappointed.
2. Additional political subdivisions or water systems may be given membership on the board upon two-thirds majority vote of the existing board. To be eligible for membership on the board, the member entity must first contract with the authority for financial participation in the project.
3. A member entity may designate an alternate representative to attend meetings and to act on the member's behalf. The board may designate associate members who are nonvoting members of the board. ~~Notwithstanding this section, except for the state engineer or designee,~~ initial board members must be removed if they have not entered a contract with the authority, before August 1, 2013, for financial participation in the project.

**SECTION 17. AMENDMENT.** Section 61-40-04 of the North Dakota Century Code is amended and reenacted as follows:

**61-40-04. Board of directors - Officers - Meetings.**

1. The board of directors shall adopt such rules and bylaws for the conduct of the business affairs of the authority as it determines necessary, including the time and place of regular meetings of the board, financial participation structure for membership in the authority, and membership appointment and changes. Bylaws need to be approved by member entity boards.
2. The board shall elect from its members a chairman and a vice chairman. The board shall elect a secretary and a treasurer, which offices may be held by the same individual, and either or both offices may be held by an individual who is not a member of the board. Special meetings of the board may be called by the secretary on order of the chairman or upon written request of a majority of the qualified members of the board. Notice of a special meeting must be mailed to each member of the board at least six days before the meeting, provided that a special meeting may be held at any time when all members of the board are present or consent in writing.
3. Board members are entitled to receive as compensation an amount determined by the board not to exceed the amount per day provided members of the legislative management under section 54-35-10 and must be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09.
4. ~~The initial board bylaws must direct board voting protocol. A weighted voting structure for board members is acceptable if the voting is based~~

~~upon the volume of water purchased, the financial contributions of the stakeholder entities, or any other formula agreed by a majority of the board.~~

- ~~5. Before the bylaws become effective, the bylaws must be reviewed and approved by the attorney general.~~

**SECTION 18. AMENDMENT.** Section 61-40-05 of the North Dakota Century Code is amended and reenacted as follows:

**61-40-05. Authority of the western area water supply authority.**

In addition to authority declared under section 61-40-01, the board of directors of the western area water supply authority may:

1. Sue and be sued in the name of the authority.
2. Exercise the power of eminent domain in the manner provided by title 32 or as described in this chapter for the purpose of acquiring and securing any right, title, interest, estate, or easement necessary or proper to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the construction of an entire part of any pipeline, reservoir, connection, valve, pumping installation, or other facility for the storage, transportation, or utilization of water and all other appurtenant facilities used in connection with the authority. However, if the interest sought to be acquired is a right of way for any project authorized in this chapter, the authority, after making a written offer to purchase the right of way and depositing the amount of the offer with the clerk of the district court of the county in which the right of way is located, may take immediate possession of the right of way, as authorized by section 16 of article I of the Constitution of North Dakota. Within thirty days after notice has been given in writing to the landowner by the clerk of the district court that a deposit has been made for the taking of a right of way as authorized in this subsection, the owner of the property taken may appeal to the district court by serving a notice of appeal upon the acquiring agency, and the matter must be tried at the next regular or special term of court with a jury unless a jury be waived, in the manner prescribed for trials under chapter 32-15.
3. Accept funds, property, services, pledges of security, or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the construction, maintenance, and operation of the authority. The authority may cooperate and contract with the state or federal government, or any department or agency of state or federal government, or any city, water district, or water system within the authority, in furnishing assurances and meeting local cooperation requirements of any project involving treatment, control, conservation, distribution, and use of water.
4. Cooperate and contract with the agencies or political subdivisions of this state or other states, in research and investigation or other activities promoting the establishment, construction, development, or operation of the authority.
5. Appoint and fix the compensation and reimbursement of expenses of employees as the board determines necessary to conduct the business and affairs of the authority and to procure the services of engineers and other technical experts, and to retain attorneys to assist, advise, and act for the authority in its proceedings.
6. Operate and manage the authority to distribute water to authority members and others within or outside the territorial boundaries of the authority and this state.



7. Hold, own, sell, or exchange any and all property purchased or acquired by the authority. All money received from any sale or exchange of property must be deposited to the credit of the authority and may be used to pay expenses of the authority.
8. Enter contracts to obtain a supply of bulk water through the purchase of infrastructure, bulk water sale or lease, which contracts may provide for payments to fund some or all of the authority's costs of acquiring, constructing, or reconstructing one or more water supply or infrastructure.
9. Acquire, construct, improve, and own water supply infrastructure, office and maintenance space in phases, in any location, and at any time.
10. Enter contracts to provide for a bulk sale, lease, or other supply of water for beneficial use to persons within or outside the authority. The contracts may provide for payments to fund some or all of the authority's costs of acquiring, constructing, or reconstructing one or more water system projects, as well as the authority's costs of operating and maintaining one or more projects, whether the acquisition, construction, or reconstruction of any water supply project actually is completed and whether water actually is delivered pursuant to the contracts. The contracts the cities, water districts, and other entities that are members of the western area water supply authority are authorized to execute are without limitation on the term of years.
11. Borrow money as provided in this chapter.
12. Make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of its powers or in the performance of its covenants or duties or in order to secure the payment of its obligations, but an encumbrance, mortgage, or other pledge of property of the authority may not be created by any contract or instrument.
13. Accept from any authorized state or federal agency loans or grants for the planning, construction, acquisition, lease, or other provision of a project, and enter agreements with the agency respecting the loans or grants. Other than state-guaranteed loans, additional debt that may form the basis of a claim for territorial or franchise protection for industrial water sales for oil and gas exploration and production may be acquired by the authority or member entities only upon approval by the industrial commission and the emergency commission.
14. Contract debts and borrow money, pledge property of the authority for repayment of indebtedness, and provide for payment of debts and expenses of the authority.
15. Operate and manage the authority to distribute water to any out-of-state cities or water systems that contract with the authority.
16. Accept, apply for, and hold water allocation permits.
17. Adopt rules concerning the planning, management, operation, maintenance, sale, and ratesetting regarding water sold by the authority. The authority may adopt a rate structure with elevated rates set for project industrial water depot and lateral supplies in recognition that a large component of the project expense is being incurred to meet the demands of industrial users. The industrial water depot and lateral rate structure must be approved in accordance with section 20 of this Act.
18. Develop water supply systems; store and transport water; and provide, contract for, and furnish water service for domestic, municipal, and rural water purposes; milling, manufacturing, mining, industrial, metallurgical, and any and all other beneficial uses; and fix the terms and rates therefore. The authority may acquire, construct, operate, and maintain

dams, reservoirs, ground water storage areas, canals, conduits, pipelines, tunnels, and any and all treatment plants, works, facilities, improvements, and property necessary the same without any required public vote before taking action.

19. Contract to purchase or improve water supply infrastructure or to obtain bulk water supplies without requiring any vote of the public on the projects or contracts. In relation to the initial construction of the system and for the purposes of entering a contract with the authority, municipalities are exempt from the public voting requirements or water contract duration limitations otherwise imposed by section 40-33-16.
20. Accept assignment by member entities of contracts that obligate member entities to provide a water supply, contracts that relate to construction of water system infrastructure, or other member entity contracts that relate to authorities transferred to the authority under this chapter.

**SECTION 19.** A new section to chapter 61-40 of the North Dakota Century Code is created and enacted as follows:

**Industrial water depot and lateral sales.**

1. An accounting of industrial water depot and lateral sales collected and distributed by the authority must be reported to the industrial commission on a monthly basis. Participating member entities shall transfer industrial water depot and lateral sales to the authority within thirty days of receipt of the revenues. The boards of the authority and participating member entities must be notified of the sweep of revenues; however, board approval is not required. Upon the receipt of industrial water depot and lateral revenues by the authority, the authority shall apply immediately all revenues each month in the following order:
  - a. One hundred fifty thousand dollars per biennium to the industrial commission for one additional full-time equivalent position to implement this Act.
  - b. Reimburse the authority for industrial water depot capital improvements and the cost for delivery of potable or nonpotable water sold at industrial water depots and lateral lines, at a cost no greater than the participating member, or submember, if applicable, entity rate at the location of the depot or lateral line.
  - c. Regular payments on the participating member entity debt as described in the agreements with the authority as of March 31, 2013, and baseline 2010 industrial water sales included in and subject to the terms of the authority and participating member agreements as of March 31, 2013. Baseline 2010 industrial water sales for the city of Tioga in the year 2013 are limited to the lesser of legally permitted industrial water sales or the amount in the member agreement.
  - d. Required monthly payments on state-guaranteed loans. The required transfer must occur no later than the twentieth day of the following month.
  - e. Additional principal payment on state-guaranteed loans.
  - f. Payment to the resources trust fund.
2. If the state-guaranteed loans have not been repaid, without the written consent of the industrial commission the authority may not sell, lease, abandon, encumber, or otherwise dispose of any part of the property used in a water system of the authority if the property is used to provide revenue. Any requirements on the state-guaranteed loans for establishment of reserve funds for operation and maintenance or debt service are waived.

3. The state water commission shall approve the planning, location, and water supply contracts of any authority depots, laterals, taps, turnouts, and risers for industrial sales for oil and gas exploration and production after the effective date of this Act.

**SECTION 20.** A new section to chapter 61-40 of the North Dakota Century Code is created and enacted as follows:

**Water rates.**

The authority shall develop an industrial water depot and lateral retail rate and present the rate to the industrial commission for approval. Any industrial water depot and lateral rate adjustment must have approval of the industrial commission before going into effect. The authority shall develop domestic water rates that must include all costs for operation, maintenance, and operating and capital reserves, and debt repayment of all infrastructure managed or constructed by the authority, with the exception of the costs identified in section 19 of this Act which are paid for by industrial water depot and lateral sales.

**SECTION 21.** A new section to chapter 61-40 of the North Dakota Century Code is created and enacted as follows:

**Construction funding.**

The authority shall follow the state water commission requirements for funding through the resources trust fund or Bank of North Dakota state-guaranteed loans and shall present the overall plan and project components to the state water commission for funding approval. Priority on project funding first is reserved for state-guaranteed loan payments if not met by industrial water depot and lateral sales, second is for full repayment of existing federal debt if 7 U.S.C. 1926(b) protection for oil and gas exploration and production industrial water sales is asserted, and third for expanding domestic water supply to areas currently not served. In accepting construction funding, the authority and participating member entities agree to not hinder or prevent depot and lateral industrial water sales for oil and gas exploration and production.

**SECTION 22. AMENDMENT.** Section 61-40-09 of the North Dakota Century Code is amended and reenacted as follows:

**61-40-09. Default.**

If the authority is in default in the payment of the principal of or interest on any of the obligations of the authority under this chapter and if the budget section determines that the authority is unable to reimburse the state in the time period required by the budget section, the budget section may give written notice to the governing board of the authority that the state has taken possession and ownership of the water system of the authority and the liabilities of the authority. In addition, the state assumes the powers of the authority. The industrial commission may review the ability of water depot and lateral sales to meet expenses in subdivisions a through d of subsection 1 of section 19 of this Act, and if the industrial commission is uncertain of that ability, the industrial commission shall provide written notification to the state water commission and direct the Bank of North Dakota to consider revision of the terms of the loan repayments. If the authority is in default in the payment of the principal of or interest on the obligation to the Bank of North Dakota for a loan for which the Bank of North Dakota is the source of funds for the loan, the state water commission shall request funding from the legislative assembly to repay the principal and interest due. Upon written notice, the members of the governing board of the authority are immediately removed, and the state water commission is the governing board from the date of notice. If the state water commission determines that governance, possession, and ownership of the water system is not necessary for the authority to be able to reimburse the state in the necessary time period, the state water commission may develop a plan to return governance, possession, and ownership to the authority, subject to approval of the plan by the budget section.

**SECTION 23.** A new section to chapter 61-40 of the North Dakota Century Code is created and enacted as follows:

**Franchise protection.**

Notwithstanding any other provision of law, neither the authority nor its participating member entities may be required to waive the right to assert franchise protection under state or federal law with regard to water used for purposes other than industrial sales for oil and gas exploration and production."

Page 9, line 4, remove "and"

Page 9, line 4, after "61-24.7-04" insert ", and 61-40-06"

Page 9, after line 5, insert:

**"SECTION 25. LEGISLATIVE INTENT.** It is the intent of the sixty-third legislative assembly that after all loans to the state of North Dakota and contractual responsibilities to participating members are fulfilled, that any revenues generated by industrial water-related sales for oil and gas exploration and production be prioritized for use for infrastructure development in oil and gas-impacted areas of the state.

**SECTION 26. REPORTS TO THE LEGISLATIVE MANAGEMENT.** The independent water providers and the western area water supply authority shall report to the water-related topics overview committee on a regular basis and collaborate with the committee and the state water commission to monitor water usage, rates, and market share. The water-related topics overview committee shall report to the legislative management with recommendations to assure the state's ability to maintain its payment schedule. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

SB 2233 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2242, as engrossed:** Your conference committee (Sens. Laffen, Hogue, Murphy and Reps. Silbernagel, Damschen, S. Kelsh) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1423-1424, adopt amendments as follows, and place SB 2242 on the Seventh order:

That the House recede from its amendments as printed on pages 1423 and 1424 of the Senate Journal and page 1497 of the House Journal and that Engrossed Senate Bill No. 2242 be amended as follows:

Page 1, line 3, remove "; and to amend and reenact subsection 6 of section 20.1-03-12 of the"

Page 1, line 4, remove "North Dakota Century Code, relating to fishing fees for disabled veterans"

Page 1, remove lines 13 through 17

Renumber accordingly

Engrossed SB 2242 was placed on the Seventh order of business on the calendar.

The House stood adjourned pursuant to Representative Vigesaa's motion.

**Buell J. Reich, Chief Clerk**