

JOURNAL OF THE SENATE

Fifty-seventh Legislative Assembly

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Bismarck, April 20, 2001

The Senate convened at 8:30 a.m., with President Pro Tem Krebsbach presiding.

The prayer was offered by Senator Dever.

The roll was called and all members were present.

A quorum was declared by the President Pro Tem.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on April 19, 2001, I have signed the following: SB 2033, SB 2095, SB 2098, SB 2191, SB 2204, SB 2222, SB 2314, SB 2315, SB 2337, SB 2342, SB 2345, SB 2352, SB 2373, SB 2379, SB 2384, SB 2389, SB 2403, SB 2413, SB 2415, and SB 2454.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. NETHING MOVED that the Senate do concur in the House amendments to Engrossed SB 2009 as printed on SJ page 1165, which motion prevailed on a voice vote.

Engrossed SB 2009, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2009: A BILL for an Act to provide an appropriation for defraying the expenses of the state fair association.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepelin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

Reengrossed SB 2009 passed and the title was agreed to.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. FREBORG MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on Reengrossed HB 1344, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on Reengrossed HB 1344: Sens. Freborg, Wanzek, O'Connell.

MOTION

SEN. CHRISTMANN MOVED that the Senate Conference Committee on Engrossed SB 2354 be dissolved and that a new conference committee be appointed, which motion prevailed.

THE PRESIDENT APPOINTED as a new Conference Committee on Engrossed SB 2354: Sens. Lee, Fischer, Polovitz.

MOTION

SEN. CHRISTMANN MOVED that HB 1009 be moved to the bottom of the Seventh order, which motion prevailed.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. GRINDBERG MOVED that the conference committee report on Engrossed HB 1460 as printed on SJ pages 1430-1431 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1460, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1460: A BILL for an Act to amend and reenact section 40-63-07 of the North Dakota Century Code, relating to the limitation on the total amount of tax credits for investments in renaissance fund corporations; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 3 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Dever; Erbele; Espgaard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

NAYS: Cook; Nichols; Tomac

Engrossed HB 1460, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. NETHING MOVED that the conference committee report on Engrossed HB 1003 as printed on SJ pages 1425-1429 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1003, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1003: A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general; to require the state fire marshal to inspect buildings as requested by a political subdivision; to provide for a legislative council study; to provide statements of legislative intent; to amend and reenact section 53-06.1-12, subsections 1 and 3 of section 53-06.2-02, subsection 3 of section 53-06.2-11, sections 54-12-11 and 54-12-18 of the North Dakota Century Code, relating to gaming and excise tax collections, racing commission supervision and compensation, racing commission expenses, the salary of the attorney general, and the attorney general refund fund; to provide for retroactive application; 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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

Engrossed HB 1003, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. ESPEGARD MOVED that the conference committee report on Reengrossed HB 1407 as printed on SJ pages 1429-1430 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1407, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1407: A BILL for an Act to provide for a cost-benefit analysis of mandated health insurance coverage of services; to provide for a legislative council study; and to provide an appropriation.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 34 YEAS, 15 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee; Lyson; Mutch; Nelson, G.; Nething; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

NAYS: Bercier; Christenson; Every; Heitkamp; Kelsh; Krauter; Kroepelin; Lindaas; Mathern, D.; Mathern, T.; Nelson, C.; Nichols; O'Connell; Polovitz; Tomac

Reengrossed HB 1407, as amended, passed and the title was agreed to.

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

MR. SPEAKER: The Senate has concurred in the House amendments and subsequently passed: SB 2009.

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 1003.

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 1460, HB 1407.

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

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

SB 2354: Sens. Lee; Fischer; Polovitz

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

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

HB 1344: Sens. Freborg; Wanzek; O'Connell

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: SB 2347.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has not adopted the conference committee report on SB 2088 and the Speaker has appointed as a new conference committee to act with a like committee from the Senate on:

SB 2088: Reps. Weisz; Price; Mahoney

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

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2023, SB 2041, SB 2042, SB 2086, SB 2124, SB 2217, SB 2239, SB 2285.

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

MR. SPEAKER: The President has signed: HB 1024, HB 1025, HB 1099, HB 1141, HB 1220, HB 1283, HB 1385, HB 1451.

MOTION

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

THE SENATE RECONVENED pursuant to recess taken, with President Pro Tem Krebsbach presiding.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. STENEHJEM MOVED that the President appoint a committee of three to act with a like committee from the House as a new Conference Committee on SB 2088, which motion prevailed.

THE PRESIDENT APPOINTED as a new Conference Committee on SB 2088: Sens. Stenehjem, Trenbeath, O'Connell.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. FISCHER MOVED that the conference committee report on Reengrossed SB 2380 as printed on SJ pages 1422-1425 be adopted.

REQUEST

SEN. HOLMBERG REQUESTED a recorded roll call vote on the motion to adopt the conference committee report on Reengrossed SB 2380, which request was granted.

ROLL CALL

The question being on the motion to adopt the conference committee report on Reengrossed SB 2380, the roll was called and there were 28 YEAS, 21 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Christmann; Cook; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Kilzer; Klein; Krebsbach; Kringstad; Lee; Lyson; Mutch; Nelson, G.; Nething; Polovitz; Solberg; Stenehjem; Thane; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

NAYS: Bercier; Bowman; Christenson; Dever; Every; Heitkamp; Holmberg; Kelsh; Krauter; Kroepflin; Lindaas; Mathern, D.; Mathern, T.; Nelson, C.; Nichols; O'Connell; Robinson; Schobinger; Tallackson; Tollefson; Tomac

The conference committee report on Reengrossed SB 2380 was adopted.

Reengrossed SB 2380, as amended, was placed on the Eleventh order.

SECOND READING OF HOUSE RESOLUTION

SB 2380: A BILL for an Act to provide for a community health grant program; to provide an appropriation; to provide a continuing appropriation; and to provide for a legislative council study.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 4 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lyson; Mathern, D.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; Polovitz; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

NAYS: Lindaas; Mathern, T.; O'Connell; Robinson

Reengrossed SB 2380 passed and the title was agreed to.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2380.

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

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

SB 2088: Sens. Stenehjem; Trenbeath; O'Connell

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HCR 3072.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1413.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1001, HB 1004, HB 1005, HB 1007, HB 1338, HB 1441, HB 1444.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: SB 2041, SB 2042, SB 2086, SB 2124, SB 2217, SB 2239, SB 2285.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on April 20, 2001: SB 2041, SB 2042, SB 2086, SB 2124, SB 2217, SB 2239, SB 2285.

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, and Seventh orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Monday, April 23, 2001, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SB 2012, as engrossed: Your conference committee (Sens. Nething, Kringstad, Tallackson and Reps. Koppelman, Carlisle, Glassheim) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1157-1160, adopt amendments as follows, and place SB 2012 on the Seventh order:

That the House recede from its amendments as printed on pages 1157-1160 of the Senate Journal and pages 1260-1263 of the House Journal and that Engrossed Senate Bill No. 2012 be amended as follows:

Page 1, line 2, remove "and"

Page 1, line 3, after "study" insert "; to provide a contingent appropriation; to amend and reenact section 39-06-19, subsection 1 of section 39-06.2-09, and section 39-09-02 of the North Dakota Century Code, relating to highways and operators' licenses; and to declare an emergency"

Page 1, line 11, replace "121,531,562" with "118,331,562"

Page 1, line 15, replace "739,566,343" with "736,366,343"

Page 1, after line 18, insert:

"SECTION 3. CONTINGENT APPROPRIATION - GENERAL LICENSE PLATE ISSUE. If the fifty-seventh legislative assembly approves additional revenues specifically identified for the purpose of providing funding for the additional cost of a general license plate issue, there is appropriated out of any moneys in the highway fund in the state treasury, not otherwise appropriated, the sum of \$3,200,000, to the department of transportation for the purpose of defraying the expenses of a general license plate issue, for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 4. APPROPRIATION - 1999-2001 BIENNIUM. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from federal funds and other income, to the department of transportation for the purpose of defraying the expenses of its various divisions, for the period beginning with the effective date of this Act and ending June 30, 2001, as follows:

Motor vehicle	\$508,083
Highways	49,186,400
Total special funds	\$49,694,483

SECTION 5. AMENDMENT. Section 39-06-19 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-06-19. Expiration of license - Renewal.

1. Every operator's license issued under this chapter expires and is renewed according to this section. The expiration date of an operator's license for ~~every~~ a person whose birth occurred in a year ending in an odd numeral is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an odd numeral. The expiration date of an operator's license for ~~every~~ a person whose birth occurred in a year ending

in an even numeral is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an even numeral.

2. If the licensee has reached the age of eighteen, and desires reissuance of a license with the distinctive background for licensees at least the age of eighteen and under the age of twenty-one, the applicant may apply at any time for a replacement license. If the licensee has reached the age of twenty-one and desires reissuance of a license without the distinctive color background required by section 39-06-14, the applicant may apply at any time for a replacement license. ~~In all other cases,~~
3. ~~An applicant for renewal must present the application with fee for renewal of license must be presented to the director not prior to before~~ ten months before the expiration date of the operator's license. The director may require an examination of an applicant as upon an original application. After the initial application for a license in this state, the director may not require an applicant for renewal, replacement, or a substitute to provide a social security card unless the applicant is changing the distinguishing number on the license to the applicant's social security number. The director may not renew an operator's license if the license has been suspended under section 14-08.1-07. Upon the recommendation of the court, the director may issue a temporary permit to the licensee under section 39-06.1-11 if the temporary permit is necessary for the licensee to work and the court has determined the licensee is making a good-faith effort to comply with the child support order.
4. Every application for renewal of a license by an applicant must be accompanied by a certificate of examination from either the driver licensing or examining authorities or a physician or an optometrist, licensed in this or another state, containing a statement as to the corrected and uncorrected vision of the applicant. The director shall provide visual examination equipment at each location where a license may be renewed. The initial application for a motor vehicle operator's license may be accompanied by a statement of examination from a licensed physician or an optometrist, stating the corrected and uncorrected vision of the applicant, in lieu of the department examination. ~~Such~~ This examination must be within six months of the driver license application.
5. Every person submitting an application and fee for renewal of license one year or more after the expiration of a license, except an applicant whose military service has terminated less than thirty days prior to such application, must be treated as a new driver.
6. The fee for renewal or replacement of an operator's license is ten dollars.

SECTION 6. AMENDMENT. Subsection 1 of section 39-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

1. Content of license. The commercial driver's license must be marked "commercial driver's license", and must be, to the maximum extent practicable, tamper proof. It must include the following information:
 - a. The name and residential address of the person;
 - b. The person's color photograph;
 - c. A physical description of the person, including sex, height, weight, and eye and hair color;
 - d. Date of birth;
 - e. ~~The~~ A distinguishing number assigned to the person which upon request may be a number different from the person's social security number;
 - f. The person's signature;
 - g. The class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;

- h. The name of this state; and
- i. The dates between which the license is valid.

SECTION 7. AMENDMENT. Section 39-09-02 of the North Dakota Century Code is amended and reenacted as follows:

39-09-02. Speed limitations.

1. Subject to the provisions of section 39-09-01 and except in those instances where a lower speed is specified in this chapter, it presumably is lawful for the driver of a vehicle to drive the same at a speed not exceeding:
 - a. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24 meters] of a grade crossing of any steam, electric, or street railway when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last two hundred feet [60.96 meters] of the driver's approach to such crossing, the driver does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred feet [121.92 meters] in each direction from such crossing.
 - b. Twenty miles [32.19 kilometers] an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours.
 - c. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24 meters] and in traversing an intersection of highways when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last fifty feet [15.24 meters] of the driver's approach to such intersection, the driver does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred feet [60.96 meters] from such intersection.
 - d. Twenty miles [32.19 kilometers] an hour when the driver's view of the highway ahead is obstructed within a distance of one hundred feet [30.48 meters].
 - e. Twenty-five miles [40.23 kilometers] an hour on any highway in a business district or in a residence district or in a public park, unless a different speed is designated and posted by local authorities.
 - f. Fifty-five miles [88.51 kilometers] an hour on gravel, dirt, or loose surface highways, and on paved two-lane highways if there is no speed limit posted or if within the time period of one-half hour after sunset to one-half hour before sunrise, unless otherwise permitted, restricted, or required by conditions.
 - g. Sixty-five miles [104.61 kilometers] an hour on paved two-lane highways if within the time period of one-half hour before sunrise to one-half hour after sunset and if posted for that speed, and on paved and divided multilane highways, unless otherwise permitted, restricted, or required by conditions.
 - h. ~~Seventy~~ Seventy-five miles [~~112.65~~ 120.70 kilometers] an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted, or required by conditions.
2. The director may designate and post special areas of state highways where lower speed limits apply. If there is a violation of a highway construction zone speed limit, where within that zone individuals engaged in construction were present at the time of the violation, then the fees required for a noncriminal disposition are forty dollars for one through ten miles per hour over the posted speed; and forty dollars, plus one dollar for each additional mile per hour over ten miles per hour over the limit. However, if a greater fee would be applicable under section 39-06.1-06,

then that fee is required for the noncriminal disposition. The highway construction zone speed limit posted sign must state "Minimum Fee \$40".

3. Except as provided by law, it is unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law.
4. In charging a violation of the provisions of this section, the complaint must specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes is prima facie lawful at the time and place of the alleged offense.
5. ~~Repealed by S.L. 1975, ch. 346, § 3.~~

SECTION 8. EMERGENCY. Section 4 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2012 - Department of Transportation - Conference Committee Action

This amendment removes the \$3.2 million for the general license plate issue from the operating expenses line item and adds a contingent appropriation section appropriating the \$3.2 million only if the 2001 Legislative Assembly specifically identifies additional revenues to provide for the cost of the general license plate issue, the same as the House version.

Sections are added that:

- Increase the speed limit on the interstate to 75 miles per hour, the same as the House version.
- Allow individuals to request a unique identifying number other than their Social Security number for their commercial driver's license number, the same as the House version.
- Provide that after the initial application for a driver's license, an individual does not need to provide the individual's Social Security number when renewing the individual's driver's license unless the individual is changing from a distinguishing number to the individual's Social Security number, the same as the House version.
- Appropriate \$508,083 of collections from UNISYS, Inc., for the 1999-2001 biennium for costs incurred by the Motor Vehicle Division due to the delay in the completion of the vehicle registration and titling system.
- Appropriate \$17,414,616 of federal funds for the 1999-2201 biennium for flood-related work in the Devils Lake area (\$1,731,581) and for other highway projects (\$15,683,035).
- Appropriate \$31,771,784, of which \$27,439,028 is federal emergency relief funds and \$4,332,756 is from proceeds of a Bank of North Dakota loan, for the 1999-2001 biennium for flood-related projects in the Devils Lake area and in other parts of the state.

The conference committee did not include provisions increasing nighttime speed limits as included in the House version.

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

REPORT OF CONFERENCE COMMITTEE

SB 2017, as engrossed: Your conference committee (Sens. Holmberg, Grindberg, Lindaas and Reps. Wald, Monson, Gulleason) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1126-1127, adopt amendments as follows, and place SB 2017 on the Seventh order:

That the House recede from its amendments as printed on pages 1126 and 1127 of the Senate Journal and pages 1232-1234 of the House Journal and that Engrossed Senate Bill No. 2017 be amended as follows:

Page 1, line 3, after "reenact" insert "subdivision a of subsection 3 of section 52-04-05 and"

Page 1, line 4, after "to" insert "unemployment compensation employer rates,"

Page 1, line 5, after the first "fund" insert a comma

Page 1, line 6, remove "and" and after "appropriation" insert "; to provide for retroactive application; and to declare an emergency"

Page 1, line 18, replace "2,250,356" with "2,100,356"

Page 1, line 19, replace "58,560,160" with "58,410,160"

Page 1, line 21, replace "2,250,356" with "2,100,356"

Page 2, line 2, replace "\$2,250,356" with "\$2,100,356"

Page 2, after line 5, insert:

"SECTION 4. AMENDMENT. Subdivision a of subsection 3 of section 52-04-05 of the North Dakota Century Code as amended in section 1 of House Bill No. 1471, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

3. a. Except as otherwise provided in this subsection, an employer's rate may not be less than the negative employer minimum rate for a calendar year unless the employer's account has been chargeable with benefits throughout the thirty-six-consecutive-calendar-month period ending on September thirtieth of the preceding calendar year. If an employer in construction services has not been subject to the law as required, that employer qualifies for a reduced rate if the account has been chargeable with benefits throughout the twenty-four-consecutive-calendar-month period ending September thirtieth of the preceding calendar year. If an employer in nonconstruction services has not been subject to the law as required, the employer in nonconstruction services qualifies for a reduced rate if the account has been chargeable with benefits throughout the twelve-consecutive-calendar-month period ending September thirtieth of the preceding calendar year. During the building of the trust fund reserve, the rate assigned to an employer may not exceed one hundred thirty percent of the previous year's rate for that employer and an employer may not receive more than a ten percent decrease in that employer's rate from the previous year's rate, for the calendar years 2000, 2001, and 2002. However, this rate limitation provision for calendar years 2000, 2001, and 2002 does not apply to an experience-rated employer that was a new employer the previous year, a negative employer that was a positive employer the previous year, a positive employer that was a negative employer the previous year, an employer that has failed to file a report, a new employer, and an employer that chose to make payments in lieu of contributions. ~~During the building of the trust fund reserve for calendar years 2000, 2001, and 2002, a negative employer that was a negative employer the previous year may not make excess contributions under subsection 4 of section 52-04-06 to become a positive employer.~~ The executive director may provide any negative employer whose contributions paid into the trust fund are greater than the benefit charges against that employer's account, for a minimum of three consecutive years immediately preceding the computation date or subject to the law as required, with up to a thirty percent reduction to that employer's rate for any year if that employer has in place a plan approved by the bureau which addresses substantive changes to that employer's business operation and ensures that any rate reduction provided will not put the employer account back into a negative status."

Page 3, line 19, after "appropriated" insert "on a continuing basis"

Page 4, after line 2, insert:

"SECTION 8. RETROACTIVE APPLICATION. Section 4 of this Act is retroactive in application to January 1, 2000.

SECTION 9. EMERGENCY. Section 4 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2017 - Job Service North Dakota - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Salaries and wages	\$33,830,614	\$33,830,614		\$33,830,614	\$33,830,614	
Operating expenses	13,420,143	13,420,143		13,420,143	13,420,143	
Equipment	786,830	786,830		786,830	786,830	
Capital improvements	453,545	453,545		453,545	453,545	
Grants	7,818,672	7,818,672		7,818,672	7,818,672	
Work Force 2000	<u>2,000,356</u>	<u>2,250,356</u>	(\$150,000)	<u>2,100,356</u>	<u>2,000,356</u>	\$100,000
Total all funds	\$58,310,160	\$58,560,160	(\$150,000)	\$58,410,160	\$58,310,160	\$100,000
Less estimated income	<u>56,309,804</u>	<u>56,309,804</u>		<u>56,309,804</u>	<u>56,309,804</u>	
General fund	\$2,000,356	\$2,250,356	(\$150,000)	\$2,100,356	\$2,000,356	\$100,000
FTE	389.78	389.78	0.00	389.78	389.78	0.00

Dept. 380 - Job Service North Dakota - Detail of Conference Committee Changes

	DECREASE FUNDING FOR WORK FORCE 2000 ¹	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages		
Operating expenses		
Equipment		
Capital improvements		
Grants		
Work Force 2000	(\$150,000)	(\$150,000)
Total all funds	(\$150,000)	(\$150,000)
Less estimated income		
General fund	(\$150,000)	(\$150,000)
FTE	0.00	0.00

¹ This amendment decreases funding for Work Force 2000 by \$150,000, from \$2,250,356 which is the level of funding provided by the Senate and recommended in the Hoeven executive budget, to \$2,100,356 which is \$100,000 more than funding provided by the House. The proposed level of funding for Work Force 2000 for the 2001-03 biennium of \$2,100,356 represents an increase in funding from the general fund of \$850,356 from the 1999-2001 biennium.

This amendment also amends subdivision a of subsection 3 of Section 52-04-05 of the North Dakota Century Code as amended in Section 1 of House Bill No. 1471 to remove language relating to employer contributions.

Engrossed SB 2017 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2166, as engrossed: Your conference committee (Sens. Cook, Flakoll, O'Connell and Reps. L. Thoreson, Meier, Grumbo) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1030-1031, adopt amendments as follows, and place SB 2166 on the Seventh order:

That the House recede from its amendments as printed on pages 1030 and 1031 of the Senate Journal and pages 1105 and 1106 of the House Journal and that Engrossed Senate Bill No. 2166 be amended as follows:

Page 1, line 1, after "A BILL" replace remainder of the bill with "for an Act to create and enact section 15.1-06-08.1 of the North Dakota Century Code, relating to the waiver of statutes; and to amend and reenact sections 15.1-06-05 and 15.1-06-08 of the North Dakota Century Code, relating to the reconfiguration of instructional days and the waiver of accreditation rules.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-06-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15.1-06-05. ~~School calendar~~ ~~Modification~~ Instructional days - Reconfiguration - Application. ~~A school district may apply to the superintendent of public instruction for approval of a pilot program in which the district's school calendar is reduced below one hundred eighty days.~~

1. ~~The superintendent may approve an application for a pilot program if:~~
 - a. ~~It allows the district to evaluate the modifications in the traditional school calendar from the perspective of increased school facility use; and~~
 - b. ~~In the opinion of the superintendent, the program offers educational opportunities equivalent to those available in a one hundred eighty day school calendar.~~
2. ~~A district submitting an application under this section shall specify:~~
 - a. ~~The minimum number of days students will attend school; and~~
 - b. ~~The comparable instructional time.~~
3. ~~A school district may apply to the superintendent of public instruction for permission to reconfigure the number of instructional days required by section 15.1-06-04.~~
2. The superintendent of public instruction may approve an application under subsection 1 only if the reconfiguration of the required number of instructional days:
 - a. (1) Makes available to each of the school district's elementary students at least nine hundred fifty-one and one-half hours of instructional time and makes available to each of the district's high school students at least one thousand thirty-eight hours of instructional time; and
 - (2) Does not reduce the hours of instructional time below the level made available to elementary students and high school students, respectively, by the school district during the last school year completed prior to the date of the application; and
 - b. (1) Encourages innovation;
 - (2) Provides improved educational opportunities or enhanced academic opportunities for the students;
 - (3) Provides for greater flexibility in the use of a school by current students;
 - (4) Provides for greater flexibility in the use of a school by individuals or groups other than current students; or
 - (5) Results in significant cost-savings to the district.
3. A reconfiguration of instructional days approved by the superintendent of public instruction under this section is valid for one school year. A school district may apply to the superintendent for permission to extend the reconfiguration of instructional days for one additional year.
4. If the superintendent of public instruction approves a district's application for reconfiguration of instructional time under this section, the district is eligible to receive the per student payments provided under chapter 45.1-2815.1-27.

4. ~~A district that operates an approved pilot program under this section for a period of three years may apply to the superintendent for permanent approval of the program.~~
5. ~~The superintendent of public instruction shall adopt rules governing the submission and evaluation of applications, the evaluation of proposals, and any other matters necessary for the administration of pilot programs and the monitoring of any school or school district that receives a waiver under this section.~~
6. ~~A pilot program reconfiguration of instructional days approved by the superintendent of public instruction under this section satisfies the requirements for school operation and instructional time required by law.~~
7. ~~A pilot program reconfiguration of instructional days approved by the superintendent of public instruction under this section does not affect the accrual of teachers' benefits provided by law.~~

SECTION 2. AMENDMENT. Section 15.1-06-08 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15.1-06-08. ~~Conditions~~ Rules for school accreditation and approval - Waiver. ~~The~~

1. ~~A school or school district may apply to the superintendent of public instruction may waive any condition for a waiver of any rule governing the accreditation and approval for a reasonable period of time of schools, provided the waiver encourages:~~
 - a. ~~Encourages innovation, permits experimentation, and has~~
 - b. ~~Has the potential to result in an improved program. The superintendent may waive the conditions only with the concurrence of a majority of a waiver committee composed of one member appointed by the North Dakota education association, one member appointed by the North Dakota council of educational leaders, and one member appointed by the North Dakota school boards association educational opportunities or enhanced academic opportunities for the students.~~
2. ~~The initial waiver must be for a specific period of time, but may not exceed one year. A school or a school district for which a waiver has been approved under this section, may apply for one extension of the waiver. The extension may not exceed one year.~~
3. ~~If the superintendent of public instruction, after receipt and consideration of an application for a waiver of a rule governing the accreditation of schools under this section approves the waiver, the superintendent shall file a report with a committee designated by the legislative council. The report must cite the accreditation rule that was waived, provide a detailed account of the reasons for which the rule was waived, and state the time period for which the rule was waived. If the superintendent of public instruction denies an application for a waiver under this section, the superintendent shall file a notice of denial with the committee designated by the legislative council. If requested by the chairman of the committee, the superintendent shall appear before the committee and respond to questions regarding the approval or denial of any application for a waiver.~~
4. ~~Any waiver granted by the superintendent of public instruction prior to the effective date of this Act is void as of the effective date of this Act. Any school or school district operating under a waiver granted by the superintendent prior to the effective date of this Act may apply for a new waiver under this Act.~~

SECTION 3. Section 15.1-06-08.1 of the North Dakota Century Code is created and enacted as follows:

15.1-06-08.1. Statutes - Waiver.

1. The superintendent of public instruction may not waive any statute, in whole or in part, except as provided for in this section.

2. A school or school district may apply to the superintendent of public instruction for a waiver of section 15.1-21-03, provided the waiver:
 - a. Encourages innovation; and
 - b. Has the potential to result in improved educational opportunities or enhanced academic opportunities for the students.
3. The initial waiver must be for a specific period of time but may not exceed one year. The school district may apply for extensions of the waiver. The first extension may not exceed a period of one year. Additional extensions may not exceed periods of two years.
4. If the superintendent of public instruction, after receipt and consideration of an application for a waiver under this section, approves the waiver, the superintendent shall file a report with a committee designated by the legislative council. The report must provide a detailed account of the reasons for which the waiver was granted and the specific time period for the waiver. If the superintendent of public instruction denies an application for a waiver under this section, the superintendent shall file a notice of denial with the committee designated by the legislative council. If requested by the chairman of the committee, the superintendent shall appear before the committee and respond to questions regarding the approval or denial of any application for a waiver under this section.
5. The superintendent of public instruction shall adopt rules governing the submission and evaluation of applications and the monitoring of any school or school district that receives a waiver under this section."

Renumber accordingly

Engrossed SB 2166 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2167, as engrossed: Your conference committee (Sens. Wanzek, Urlacher, Nichols and Reps. Lloyd, Wrangham, Onstad) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 938-944, adopt amendments as follows, and place SB 2167 on the Seventh order:

That the House recede from its amendments as printed on pages 938-944 of the Senate Journal and pages 1003-1009 of the House Journal and that Engrossed Senate Bill No. 2167 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 4-35-05, 4-35-06, 4-35-08, 4-35-09, 4-35-13, 4-35-15, 4-35-19, and subsection 4 of section 4-35.1-01 of the North Dakota Century Code, relating to pesticide applicators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-35-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-35-05. Definitions. As used in this chapter:

1. "Animal" means all vertebrate and invertebrate species, including, ~~but not limited to, man~~ humans and other mammals, birds, fish, and shellfish.
2. "Antidote" means a practical treatment in case of poisoning and includes first aid treatment.
- ~~2-4.~~ 3. "Applicator" means any person who applies a pesticide to land.
- ~~3.~~ 4. "Beneficial insects" means those insects ~~which~~ that, during their life cycle, are effective pollinators of plants, are parasites, or predators of pests.

- ~~4. a.~~ 5. "Certified applicator" means any individual who is certified under this chapter ~~as authorized to use any restricted use pesticide covered by the applicator's certification.~~ The term includes a commercial applicator and a private applicator.
- b. ~~"Private applicator" means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by the applicator or the applicator's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.~~
- e.
6. "Commercial applicator" means a certified applicator, ~~whether or not the applicator is a private applicator with respect to some uses,~~ who uses any pesticide ~~which is classified for restricted use,~~ for any purpose or on any property, ~~other than as provided for by~~ subdivision b ~~a private applicator.~~
- ~~5.~~ 7. "Dealer" means any person who sells a pesticide to an end user.
- ~~6.~~ 8. "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.
- ~~7.~~ 9. "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissue.
- ~~8.~~ 10. "Device" means any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than ~~man~~ human and other than bacteria, virus, or other micro-organism on or in living ~~man~~ humans or other living animals, but not including equipment used for the application of pesticides when sold separately therefrom.
- ~~9.~~ 11. "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.
- ~~10.~~ 12. "Environment" includes water, air, land, and all plants and ~~man~~ humans and other animals living therein, and the interrelationships which exist among these.
- ~~11.~~ 13. "Equipment" means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in such land, ~~but shall.~~ The term does not include any pressurized hand-sized household apparatus used to apply any pesticide, or any equipment or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.
- ~~12.~~ 14. "Fungus" means any non-chlorophyll-bearing thallophytes, i.e., any non-chlorophyll-bearing plant of a lower order than mosses and liverworts as, for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living ~~man~~ humans or other living animals, and except those on or in processed food, beverages, or pharmaceuticals.
- ~~13.~~ 15. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class of insecta, comprising six-legged, usually winged forms, and to other allied classes of arthropods whose members are wingless and usually have more than six legs.
- ~~14.~~ 16. "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
- ~~15.~~ 17. "Labeling" means the label and all other written, printed, or graphic matter:
- a. Accompanying the pesticide or device; and

- b. To which reference is made on the label or in literature accompanying or referring to the pesticide, except when accurate nonmisleading references are made to current official publications of the board; the United States environmental protection agency; the United States departments of agriculture and interior; the United States department of health and human services; state agricultural colleges; and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.
- ~~16.~~ 18. "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.
- ~~17.~~ 19. "Mixture" means a diluted pesticide combination.
- ~~18.~~ 20. "Nematode" means invertebrate animals of the phylum nemathelminthes, and class nematoda, i.e., unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts, may also be called nemas or eelworms.
- ~~19.~~ 21. "Person" means any individual, partnership, association, fiduciary, corporation, limited liability company, or any organized group of persons, whether or not incorporated.
- ~~20.~~ 22. "Pest" means:
- Any insect, snail, slug, rodent, nematode, fungus, weed; or
 - Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism, except viruses, bacteria, or other micro-organisms on or in living ~~man~~ humans or other living animals which are annoying or otherwise injurious or harmful to agriculture, health, and the environment.
- ~~21.~~ 23. "Pesticide" means:
- Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and
 - Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- ~~22.~~ 24. "Pesticide dealer" means any person who distributes restricted use pesticides.
- ~~23.~~ 25. "Plant regulator" means any substance or mixture of substances intended, through physiological action, to accelerate or retard the rate of growth or rate of maturation, or to otherwise alter the behavior of plants or the produce thereof, but does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.
26. "Private applicator" means a certified applicator who uses or supervises the use of any pesticide that is classified for restricted use, to produce any agricultural commodity on property owned or rented by the applicator or the applicator's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.
- ~~24.~~ 27. "Protect health and the environment" means protection against any unreasonable adverse effects on public health and the environment.
- ~~25.~~ 28. "Public operator" means a certified applicator who applies restricted use pesticides as an employee of a state agency, municipal corporation, public utility, or other governmental agency.
- ~~26.~~ 29. "Restricted use pesticide" means any pesticide formulation which is classified for restricted use by the board.

- ~~27.~~ 30. "Rinsate" means a diluted mixture of pesticide obtained from triple rinsing pesticide containers or from rinsing the inside and outside of spray equipment.
- ~~28.~~ 31. ~~"Snails or slugs" include all~~ "Snail" or "slug" includes every harmful mollusk ~~mollusk~~.
- ~~29.~~ 32. "Tank mix" means any pesticidal formulation used alone or in combination with another pesticide and mixed with a liquid carrier prior to application.
- ~~30.~~ 33. "Unreasonable adverse effects on the environment" means any unreasonable risk to ~~man~~ humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.
- ~~31.~~ 34. "Weed" means any plant which grows where not wanted.
- ~~32.~~ 35. "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this chapter, pests, including, ~~but not limited to,~~ mammals, birds, and aquatic life.

SECTION 2. AMENDMENT. Section 4-35-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-35-06. Pesticide control board to administer chapter and adopt regulations.

1. ~~a.~~ a. The pesticide control board shall administer ~~the provisions of this chapter and has authority to issue regulations in conformance with provisions of~~ may adopt rules in accordance with chapter 28-32 to ~~carry out the provisions of~~ implement this chapter. ~~Such regulations~~ The rules may prescribe methods to be used in the application of pesticides. ~~Where the board finds that such regulations are necessary to carry out the purpose and intent of this chapter, such regulations~~ The rules may relate to the time, place, manner, methods, materials, and amounts and concentrations, in connection with the application of the pesticide, and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the board deems necessary to prevent damage or injury by drift or misapplication to:
 - ~~a.~~ (1) Plants, including forage plants, on adjacent or nearby lands.
 - ~~b.~~ (2) Wildlife in the adjoining or nearby areas.
 - ~~c.~~ (3) Fish and other aquatic life in waters in proximity to the area to be treated.
 - ~~d.~~ (4) Persons, animals, or beneficial insects.
 - ~~b.~~ b. In ~~issuing such regulations~~ adopting rules, the board shall give consideration to pertinent research findings and recommendations of other agencies of this state, the federal government, or other reliable sources.
2. For the purpose of uniformity, the board may adopt, ~~pursuant to chapter 28-32,~~ restricted use classifications as determined by the federal environmental protection agency. The board may also by regulation ~~rule~~ determine state restricted use pesticides for the state or designated areas within the state.
 3. The board, in adopting rules under this chapter, shall prescribe standards and requirements for the certification of applicators of ~~restricted use~~ pesticides. ~~These standards and requirements~~ must relate to the use and handling of pesticides. In determining these standards and requirements, the board shall take into consideration standards and requirements prescribed by the environmental protection agency.

4. ~~Regulations~~ Rules adopted under this chapter may not permit any pesticide use which is prohibited by the Federal Insecticide, Fungicide, and Rodenticide Act or regulations or orders issued thereunder.
5. In order to comply with section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act, the board ~~is authorized to~~ may make such reports to the United States environmental protection agency in such form and containing such information as that agency may from time to time require.
6. ~~The board is authorized to make appropriate regulations, in accordance with chapter 28-32, for carrying out the provisions of this chapter, including, but not limited to, regulations providing~~ Rules to implement this chapter may provide for:
 - a. The collection, examination, and reporting of samples of pesticides.
 - b. The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers.
 7. ~~c. The board may by regulation identify "pests" under the guidelines of the definition of the term "pest" contained within~~ The identification of pests under this chapter when # the board finds particular organisms to be annoying or otherwise injurious or harmful to agriculture, health, and the environment.

SECTION 3. AMENDMENT. Section 4-35-08 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-35-08. Classification of certificates. The board may classify commercial certificates to be issued under this chapter. ~~Such~~ The classifications may include pest control operators, wood treaters, ornamental or agricultural pesticide applicators, or right-of-way pesticide applicators. Separate classifications may be specified as to ground, aerial, or manual methods used by any applicator to apply ~~restricted use~~ pesticides or to the use of ~~restricted use~~ pesticides to control insects and plant diseases, rodents, or weeds. Each classification of certification may be subject to separate testing procedures and training requirements; provided that a person may be required to pay an additional fee if ~~such~~ the person desires to be certified in one or more of the classifications provided for by the board under ~~the authority of~~ this section.

SECTION 4. AMENDMENT. Section 4-35-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-35-09. Commercial applicator's certification.

1. ~~No person who would be a~~ A commercial applicator ~~if certified~~ may not purchase or use a ~~restricted use~~ pesticide without first complying with the certification standards and requirements of this chapter, or other restrictions as may be determined by the board.
2. An individual may be certified as a commercial applicator within a classification if the individual successfully completes an examination for the classification as prescribed by the board and administered by the North Dakota state university extension service or the service's designee. An application for certification must be on a form prescribed by the board and accompanied by a reasonable examination fee set by the board.
3. If the North Dakota state university extension service, or its designee, finds the applicant qualified to apply pesticides in the classifications ~~he~~ for which the applicant has applied, after examination as the board requires, and the applicant meets all other requirements of this chapter, the North Dakota state university extension service shall issue a commercial applicator's certificate limited to the classifications in which the applicant is qualified ~~in~~.
4. If certification is not to be issued as applied for, the North Dakota state university extension service, or its designee, shall inform the applicant in writing of the reasons for not issuing the certification. Individuals certified pursuant to this section are deemed certified commercial applicators for the use of ~~restricted use~~ pesticides.

SECTION 5. AMENDMENT. Section 4-35-13 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-35-13. Application of act to governmental entities. All ~~federal agencies, state agencies, municipal corporations, and any other governmental agencies, or and public utilities;~~ are subject to this chapter and rules adopted ~~thereunder concerning the application of restricted use pesticides to implement this chapter.~~

SECTION 6. AMENDMENT. Section 4-35-15 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-35-15. Unlawful acts - Grounds for denial, suspension, or revocation of a certification. The commissioner ~~may~~, after providing an opportunity for a hearing, may deny, suspend, revoke, or modify any provision of any certification issued under this chapter, if the commissioner finds that the applicant or the holder of a the certification has committed any ~~of the acts enumerated act~~ listed in this section. Each of the following acts is a violation of this chapter, whether committed by an applicant, by the holder of the certification, or by any other person applying or using pesticides, if the person:

1. Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized, or advertised a pesticide without reference to its classification.
2. Made a pesticide recommendation, application, or use inconsistent with the labeling or other restrictions prescribed by the board.
3. Applied materials known by that person to be ineffective or improper.
4. Operated faulty or unsafe equipment.
5. Operated in a faulty, careless, or negligent manner.
6. Neglected, or, after notice, refused to comply with ~~the provisions of this chapter, the rules adopted hereunder to implement this chapter, or of any lawful order of the commissioner.~~
7. Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required.
8. Made false or fraudulent records, invoices, or reports.
9. Operated unlicensed equipment in violation of section 4-35-17.
10. Used fraud or misrepresentation in making an application for, or for renewal of, certification.
11. Refused or neglected to comply with any limitations or restrictions on or in a duly issued certification.
12. Aided or abetted a certified or an uncertified person to evade the provisions of this chapter, conspired with such a certified or an uncertified person to evade the provisions of this chapter, or allowed the person's certification to be used by another person.
13. Knowingly made false statements during or after an inspection or an investigation.
14. Impersonated ~~any~~ a federal, state, county, or city inspector or official.
15. Distributed any restricted use pesticide to any person who is required by law or rule to be certified to use or purchase ~~such~~ the restricted use pesticide unless ~~such~~ the person or ~~his~~ agent to whom distribution is made is certified to use or purchase that kind of restricted use pesticide.
16. Bought, used, or supervised the use of any ~~restricted use~~ pesticide without first complying with the certification requirements of this chapter, unless otherwise exempted ~~therefrom.~~

17. Applied any economic poison ~~which~~ that is not registered pursuant to ~~the provisions of~~ chapter 19-18.

SECTION 7. AMENDMENT. Section 4-35-19 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-35-19. Exemptions.

1. The certification requirements of this chapter do not apply to ~~any a competent person~~ any a competent person applying general use pesticides that are not classified for restricted use under the direct supervision of a commercial applicator, unless the pesticide label requires that a certified applicator personally apply the pesticide. A pesticide is deemed to be applied under the direct supervision of a commercial applicator if the pesticide is applied by a competent person acting under the instruction and control of a certified applicator who is physically available if needed. The certified applicator need not be present when the pesticide is applied. Direct supervision with respect to applications using aircraft requires that the pilot of the aircraft be appropriately certified.
- 2- The ~~provisions certification requirements~~ certification requirements of this chapter ~~relating to certification requirements~~ do not apply to a competent person applying restricted use pesticides under the direct supervision of a private applicator, unless the pesticide ~~labeling label~~ labeling label requires that a certified applicator personally ~~applies~~ apply the particular pesticide. A pesticide is ~~considered~~ deemed to be applied under the direct supervision of a private applicator if it is applied by a competent person acting under the ~~instructions~~ instruction and control of a private applicator who is available if and when needed, even though ~~such~~ the private applicator is not physically present at the time and place that the pesticide is applied.
- 3- 2. ~~Persons~~ The certification requirements of this chapter do not apply to any person conducting laboratory-type research using restricted use pesticides and doctors or to a doctor of medicine and doctors or a doctor of veterinary medicine applying pesticides as drugs a pesticide as a drug or as medication during the course of their normal practice.

SECTION 8. AMENDMENT. Subsection 4 of section 4-35.1-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. "Pesticide" means that term ~~as defined by subsection 21 of~~ in section 4-35-05."

Renumber accordingly

Engrossed SB 2167 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2276, as engrossed: Your conference committee (Sens. Andrist, Grindberg, Robinson and Reps. Devlin, Delzer, Cleary) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 0964-0965, adopt amendments as follows, and place SB 2276 on the Seventh order:

That the House recede from its amendments as printed on pages 964 and 965 of the Senate Journal and pages 828 and 829 of the House Journal and Engrossed Senate Bill No. 2276 be amended as follows:

Page 1, line 2, after "program" insert "; to provide a continuing appropriation"

Page 1, line 11, after the period insert "If the state health council accepts any gifts, grants, or donations under this chapter, the council may select additional dentists for participation in the loan repayment program under this chapter."

Page 1, line 16, remove "that have fewer than ten thousand residents and"

Page 2, line 21, replace "assignments" with "patients"

Page 3, line 1, after "One" insert "out" and replace "the" with "every three"

Page 3, line 3, after "thousand" insert "five hundred", replace "Each" with "One out", and replace "the remaining" with "every three"

Page 3, line 6, after the period insert "One out of every three dentists selected annually shall contract to provide full-time dental services for a minimum of four years in one or more selected communities having ten thousand or more residents."

Page 4, after line 25, insert:

"Gifts, grants, and donations - Continuing appropriation. The state health council may accept any conditional or unconditional gift, grant, or donation for the purpose of providing funds for the repayment of dentists' educational loans. If any entity desires to provide funds to the council to allow an expansion of the program beyond the three dentists contemplated by this Act, the entity shall commit to fund fully the expansion for a period of four years. The council may contract with any public or private entity and may expend any moneys available to the council to obtain matching funds for the purposes of section 1 of this Act. All money received as gifts, grants, or donations under this section is appropriated as a continuing appropriation to the state health council for the purpose of providing funds for the repayment of additional dentists' educational loans.

SECTION 2. LEGISLATIVE INTENT. It is the intent of the fifty-seventh legislative assembly that the fifty-eighth legislative assembly provide sufficient funds for the continuation of any obligations entered by the state health council under this Act."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Dept. 301 - State Department of Health - Conference Committee Action

The Conference Committee provides funding of \$180,000 from the community health trust fund for a dental loan repayment program and provides for a continuing appropriation from gifts, grants, and donations for loan repayment.

Engrossed SB 2276 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1413, as engrossed: Your conference committee (Sens. Wardner, Grindberg, Kroepin and Reps. Carlson, Wikenheiser, Winrich) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1418, adopt amendments as follows, and place HB 1413 on the Seventh order:

That the Senate recede from its amendments as printed on page 1418 of the House Journal and page 1266 of the Senate Journal and that Engrossed House Bill No. 1413 be amended as follows:

Page 1, line 4, after the semicolon insert "to provide for a report on seed capital investment tax credits;"

Page 4, line 12, overstrike "in any taxable" and insert immediately thereafter "through calendar"

Page 4, line 13, after "year" insert "2002 is limited to one million dollars and after calendar year 2002" and after "is" insert "limited to"

Page 4, after line 17, insert:

"SECTION 6. SEED CAPITAL INVESTMENT TAX CREDIT REPORT. The department or division of economic development and finance shall report on usage of the credit under chapter 57-38.5, to the finance and taxation committees of the house of representatives and the senate of the fifty-eighth legislative assembly. The report must be filed at a public hearing of each committee between the first and tenth legislative day of the fifty-eighth legislative assembly and must include information identifying each business that has been certified as a qualifying business under chapter 57-38.5. The aggregate amount of investments in each qualified business as shown by investment reporting forms filed with the director, and any available indicia of success of each qualified business including growth in employment and sales or revenues."

Renumber accordingly

Engrossed HB 1413 was placed on the Seventh order of business on the calendar.

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

WILLIAM R. HORTON, Secretary

