

JOURNAL OF THE SENATE

Sixty-first Legislative Assembly

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Bismarck, April 15, 2009

The Senate convened at 8:30 a.m., with President Dalrymple presiding.

The prayer was offered by Father Patrick A. Schumacher, Saint Joseph Church, Mandan.

The roll was called and all members were present.

A quorum was declared by the President.

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

MR. PRESIDENT: The House has amended and subsequently passed: SB 2227, SB 2244, SB 2277, SB 2353.

HOUSE AMENDMENTS TO SENATE BILL NO. 2227

Page 1, line 3, after "program" insert "; and to provide an appropriation"

Page 2, after line 6, insert:

"SECTION 3. APPROPRIATION - COMMUNITY HEALTH TRUST FUND.

There is appropriated out of any moneys in the community health trust fund in the state treasury, not otherwise appropriated, the sum of \$67,500, or so much of the sum as may be necessary, to the state department of health for the purpose of providing funding for the medical loan repayment program, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment appropriates \$67,500 from the community health trust fund for the medical loan repayment program. This amount is in addition to the funding for this program included in Senate Bill No. 2004.

HOUSE AMENDMENTS TO REENGROSSED SENATE BILL NO. 2244

Page 1, line 2, after "57-02-08" insert "and subsection 4 of section 57-02-27.2"

Page 1, line 3, after "farmer" insert "and the capitalization rate for valuation of agricultural property"

Page 2, after line 16, insert:

"SECTION 2. AMENDMENT. Subsection 4 of section 57-02-27.2 of the North Dakota Century Code is amended and reenacted as follows:

4. To find the "capitalized average annual gross return", the average annual gross return must be capitalized by a rate that is a ten-year average of the gross agribank mortgage rate of interest for North Dakota, but the rate used for capitalization under this section may not be less than eight ~~and nine-tenths percent for taxable year 2005 and eight and three-tenths percent for taxable years after 2005 year 2009, seven and seven-tenths percent for taxable year 2010, and seven and four-tenths percent for taxable year 2011.~~ The ten-year average must be computed from the twelve years ending with the most recent year used under subdivision a of subsection 3, discarding the highest and lowest years, and the gross agribank mortgage rate of interest for each year must be determined in the manner provided in section 20.2032A-4(e)(1) of the United States treasury department regulations for valuing farm real property for federal estate tax purposes, except that the interest rate may not be adjusted as provided in section 20.2032A-4(e)(2)."

Page 2, line 18, after "and" insert "section 1 of this Act"

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2277

Page 1, line 7, replace "January" with "July"

Page 1, line 8, replace "2009" with "2001"

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2353

Page 1, line 2, remove "; and"

Page 1, line 3, remove "to provide an effective date"

Page 1, line 8, remove "sixty" and overstrike "dollars" and insert immediately thereafter "an amount established by policy by the director of the office of management and budget. The director shall establish a policy to set the lodging reimbursement at an amount not to exceed ninety percent of the rate established by the United States general services administration for lodging reimbursement in this state"

Page 1, remove lines 12 through 24

Page 2, remove lines 1 through 4

Renumber accordingly

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

MR. PRESIDENT: The House has amended, subsequently passed, and the emergency clause carried: SB 2014.

HOUSE AMENDMENTS TO REENGROSSED SENATE BILL NO. 2014

Page 1, line 2, after the semicolon insert "to create and enact two new sections to chapter 54-18 of the North Dakota Century Code, relating to mill and elevator profits and gain sharing;"

Page 1, line 7, remove "and" and after "transfers" insert "; and to declare an emergency"

Page 1, line 19, replace "2,733,761" with "2,138,453" and replace "9,941,305" with "9,345,997"

Page 1, line 20, replace "609,886" with "459,886" and replace "2,865,576" with "2,715,576"

Page 1, line 24, replace the first "1,000,000" with "200,000" and replace the second "1,000,000" with "200,000"

Page 2, line 5, replace "(15,000,000)" with "(20,000,000)" and replace "5,000,000" with "0"

Page 2, line 6, replace "(\$14,399,304)" with "(\$20,944,612)" and replace "66,269,046" with "59,723,738"

Page 2, line 7, replace "(20,071,262)" with "(20,083,862)" and replace "49,321,084" with "49,308,484"

Page 2, line 8, replace "\$5,671,958" with "(\$860,750)" and replace "16,947,962" with "10,415,254"

Page 2, line 14, replace "6,698,389" with "6,490,407" and replace "41,970,256" with "41,762,274"

Page 2, line 17, replace "6,253,389" with "6,045,407" and replace "43,425,256" with "43,217,274"

Page 2, line 29, replace the first "1,400,000" with "700,000" and replace the second "1,400,000" with "700,000"

Page 3, line 2, replace "1,400,000" with "700,000" and replace "11,750,000" with "11,050,000"

Page 3, line 5, replace "1,400,000" with "700,000" and replace "10,800,000" with "10,100,000"

Page 3, line 20, replace "1,533,535" with "1,151,836" and replace "6,230,247" with "5,848,548"

Page 3, line 25, replace "\$297,102" with "\$678,801" and replace "41,232,188" with "40,850,489"

Page 3, line 27, replace "4.00" with "2.00" and replace "47.00" with "45.00"

Page 4, line 1, replace "\$7,071,958" with "\$160,750" and replace "27,747,962" with "20,515,254"

Page 4, line 2, replace "(10,823,342)" with "21,934,951" and replace "174,985,770" with "207,744,063"

Page 4, line 3, replace "(\$3,751,384)" with "\$21,774,201" and replace "202,733,732" with "228,259,317"

Page 4, line 12, replace "1,000,000" with "200,000"

Page 4, remove line 14

Page 4, line 16, replace "7,493,152" with "1,693,152"

Page 7, line 29, replace "\$1,000,000" with "\$200,000"

Page 7, line 31, after the period insert "The use of funds provided for in this section must be approved by the lignite research council."

SECTION 13. MILL AND ELEVATOR - EVALUATION. The industrial commission shall obtain the services of a consultant to evaluate the state mill and elevator association. The evaluation must include a comparison to industry standards of:

1. Financial data reflected on balance sheets and income statements;
2. Cashflow data;
3. Ratio analyses of working capital, operating efficiency, marketing, and other ratios;
4. Liquidity ratios to determine appropriate working capital needed for the mill;
5. Pretax income levels;
6. Capital investment levels; and
7. Officer and employee compensation guidelines, including gain sharing programs.

The industrial commission shall report to the budget section on the results of the evaluation during the 2009-10 interim.

SECTION 14. HOUSING FINANCE AGENCY FINANCING - PILOT PROJECT. The housing finance agency may establish a pilot project using funds available in subdivision 5 of section 1 of this Act to provide incentives for private sector investment in single-family residential dwelling units and multifamily housing facilities in difficult-to-develop areas of the state, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 15. LEGISLATIVE INTENT - LAND PURCHASE. It is the intent of the sixty-first legislative assembly that to the best of its ability the Bank of North Dakota ensure that properties adjacent to Bank of North Dakota property northwest of west street are developed for uses that are consistent with the mission and purpose of the Bank of North Dakota.

SECTION 16. LEGISLATIVE INTENT - COLLEGE SAVE PROGRAM INCENTIVE. It is the intent of the sixty-first legislative assembly that the Bank of North Dakota use administrative fee collections associated with the Bank's college SAVE program to provide incentives to establish 529 college savings plans under the Bank's college SAVE program.

SECTION 17. Two new sections to chapter 54-18 of the North Dakota Century Code are created and enacted as follows:

Transfer of North Dakota mill and elevator profits to general fund. The industrial commission shall transfer to the state general fund seventy percent of the annual earnings and undivided profits of the North Dakota mill and elevator association. The moneys must be transferred in the amounts and at the times requested by the director of the office of management and budget. A transfer must be made under this section if the total net assets balance of the mill and elevator is at least twenty-five percent of the mill and elevator's total annual operating budget for that same year.

Gain sharing program. The industrial commission may not approve a gain sharing program for mill and elevator employees from mill and elevator profits unless the total net assets balance of the mill and elevator is at least twenty-five percent of the mill and elevator's total annual operating budget for that same year. Any legislatively authorized transfers to the state general fund must be made before a gain sharing program is approved. The goals and participation criteria for the gain sharing program must be designated in policy established by the industrial commission. The industrial commission shall report to the budget section regarding any approved gain sharing program at the first meeting after August thirty-first of each year. For the purpose of this section, "gain sharing program" means a program approved annually by the industrial commission with provisions that promote profitability, productivity, and safety.

SECTION 18. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the industrial commission, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Renewable energy development	\$3,000,000
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The industrial commission may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

SECTION 19. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the housing finance agency, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

HOME tax credit assistance program	\$4,860,574
Housing tax credit exchange program	<u>25,500,000</u>
Total federal funds	\$30,360,574

The housing finance agency may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available."

Page 8, after line 2, insert:

"SECTION 21. EMERGENCY. Sections 18 and 19 of this Act are declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98033.0316 FN 6

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

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

MR. PRESIDENT: The House has amended, subsequently passed, and the emergency clause failed: SB 2064.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2064

Page 3, line 15, overstrike "which is payable every six months or" and insert immediately thereafter "paid" and overstrike ", at the"

Page 3, line 16, overstrike "member's option"

Page 3, line 31, overstrike "which is payable every six months or" and insert immediately thereafter "paid" and overstrike ", at the member's option"

ReNUMBER accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2064

In addition to the amendments adopted by the House as printed on page 921 of the House Journal, Engrossed Senate Bill No. 2064 is further amended as follows:

Page 1, line 10, remove "~~sixty~~" and overstrike "dollars" and insert immediately thereafter "an amount established by policy by the director of the office of management and budget. The director shall establish a policy to set the lodging reimbursement at an amount not to exceed ninety percent of the rate established by the United States general services administration for lodging reimbursement in this state"

Page 2, replace lines 6 through 10 with:

- "2. a. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed ~~a maximum of nine hundred dollars~~ per calendar month the amount established under this subdivision by the director of the office of management and budget for lodging in state, ~~at the rates and in the manner and which may not exceed the rate~~ provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session. On August first of each even-numbered year, the director of the office of management and budget shall set the maximum monthly reimbursement for the subsequent two-year period at an amount equal to the number of days in each month times fifty-five percent of the daily lodging reimbursement in effect on that date as provided under subdivision d of subsection 2 of section 44-08-04."

Page 2, replace lines 30 and 31 with:

- "b. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed ~~nine hundred dollars per month~~ the maximum monthly reimbursement allowed under subdivision a of subsection 2."

Page 3, remove lines 1 through 9

Page 4, line 22, replace "the" with "a" and replace "~~of seventy cents per mile [1.61 kilometers]~~" with "equal to one and one-half times the mileage reimbursement amount established under subdivision c for travel by motor vehicle"

Page 5, line 16, replace "~~the same~~" with "ninety percent of the"

Page 6, line 29, remove "1,"

Page 6, line 30, after the second comma insert "section 1 of this Act becomes effective on August 1, 2009,"

Renumber accordingly

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

MR. PRESIDENT: The Speaker has appointed as a conference committee to act with a like committee from the Senate on:

SB 2005: Reps. Nelson; Kreidt; Kerzman
SB 2044: Reps. Pietsch; Porter; Kilichowski
SB 2097: Reps. Uglem; Damschen; Potter
SB 2098: Reps. Hofstad; Frantsvog; Holman
SB 2114: Reps. Klemin; Hatlestad; Zaiser
SB 2116: Reps. Klemin; Hatlestad; Delmore
SB 2158: Reps. Uglem; Nathe; Conrad
SB 2171: Reps. Dahl; Kingsbury; Delmore
SB 2195: Reps. Porter; Weisz; Kilichowski
SB 2250: Reps. Koppelman; Kretschmar; Griffin
SB 2267: Reps. Dahl; Boehning; Wolf
SB 2293: Reps. Boehning; DeKrey; Zaiser
SB 2373: Reps. Belter; Brandenburg; Winrich
SB 2415: Reps. Klemin; Koppelman; Delmore
SB 2421: Reps. Dahl; Koppelman; Wolf

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

MR. PRESIDENT: The House has concurred in the Senate amendments and passed: HB 1204, HB 1237, HB 1238, and HB 1266.

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

MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1001, HB 1002, HB 1003, HB 1004, HB 1005, HB 1006, HB 1007, HB 1008, HB 1009, HB 1010, HB 1011, HB 1013, HB 1016, HB 1017, HB 1019, HB 1021, HB 1022, HB 1073, HB 1253, and HB 1305 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1001: Reps. Berg; Kempenich; Kaldor
HB 1002: Reps. Thoreson; Dosch; S. Meyer
HB 1003: Reps. Delzer; Thoreson; Kaldor
HB 1004: Reps. Thoreson; Kempenich; Glassheim
HB 1005: Reps. Dosch; Kempenich; S. Meyer
HB 1006: Reps. Dosch; Thoreson; Glassheim
HB 1007: Reps. Kempenich; Dosch; S. Meyer
HB 1008: Reps. Thoreson; Berg; Kaldor
HB 1009: Reps. Klein; Skarphol; Onstad
HB 1010: Reps. Thoreson; Delzer; Glassheim
HB 1011: Reps. Dosch; Berg; Kaldor
HB 1013: Reps. Skarphol; Wald; Kroeber
HB 1016: Reps. Kempenich; Thoreson; Glassheim
HB 1017: Reps. Wald; Klein; Kroeber
HB 1019: Reps. Martinson; Klein; Williams
HB 1021: Reps. Wald; Klein; Kroeber
HB 1022: Reps. Berg; Dosch; S. Meyer
HB 1073: Reps. Porter; Weisz; Conrad
HB 1253: Reps. Sukut; Clark; Schneider
HB 1305: Reps. Skarphol; Hawken; Onstad

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

MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1377, HB 1478, and HB 1481 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1377: Reps. Thoreson; Skarphol; Kaldor
HB 1478: Reps. Porter; Pietsch; Potter
HB 1481: Reps. Skarphol; Wald; Williams

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

MR. PRESIDENT: The Speaker has signed: SB 2047, SB 2081, SB 2082, SB 2096, SB 2100, SB 2101, SB 2128, SB 2131, SB 2155, SB 2157, SB 2168, SB 2192, SB 2218, SB 2221, SB 2243, SB 2279, SB 2318, SB 2355, SB 2372, SB 2393, SB 2405.

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

MR. PRESIDENT: The Speaker has signed: HB 1026, HB 1063, HB 1080, HB 1100, HB 1111, HB 1114, HB 1124, HB 1125, HB 1133, HB 1134, HB 1148, HB 1152, HB 1154, HB 1155, HB 1156, HB 1157, HB 1161, HB 1165, HB 1167, HB 1173, HB 1178, HB 1214, HB 1219, HB 1233, HB 1264, HB 1298, HB 1309, HB 1311, HB 1334, HB 1336, HB 1343.

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

MR. PRESIDENT: The Speaker has signed: HB 1023.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. CHRISTMANN MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1188, Engrossed HB 1327, Reengrossed HB 1368, Engrossed HB 1399, Engrossed HB 1425, HB 1437, and Engrossed HB 1449, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on:

HB 1188: Sens. Triplett, Hogue, Schneider
Engrossed HB 1327: Sens. J. Lee, Dever, Heckaman
Reengrossed HB 1368: Sens. Hogue, Miller, Anderson
Engrossed HB 1399: Sens. G. Lee, Flakoll, Taylor
Engrossed HB 1425: Sens. Erbele, Cook, Dever
HB 1437: Sens. Erbele, J. Lee, Marcellais
Engrossed HB 1449: Sens. Triplett, Erbele, Hogue

MOTION

SEN. CHRISTMANN MOVED that SB 2317, SB 2305, SB 2350, SB 2404, SCR 4020, and SCR 4021 be moved to the top of the Twelfth order, which motion prevailed.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. LYSON MOVED that the Senate do concur in the House amendments to SB 2317 as printed on SJ page 737, which motion prevailed on a voice vote.

SB 2317, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2317: A BILL for an Act to amend and reenact sections 61-24.7-01, 61-24.7-02, and 61-24.7-05 of the North Dakota Century Code, relating to the funding plan for the Red River valley water supply project.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner

NAYS: Potter; Warner

Engrossed SB 2317 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. LYSON MOVED that the Senate do concur in the House amendments to Engrossed SB 2305 as printed on SJ page 1030, which motion prevailed on a voice vote.

Engrossed SB 2305, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2305: A BILL for an Act to provide an appropriation to the state water commission for a Beaver Bay embankment feasibility 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, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Reengrossed SB 2305 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FLAKOLL MOVED that the Senate do concur in the House amendments to Engrossed SB 2350 as printed on SJ page 1170, which motion prevailed on a voice vote.

Engrossed SB 2350, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2350: A BILL for an Act to provide for the creation of an ethanol council; to amend and reenact sections 4-24-09 and 4-24-10 of the North Dakota Century Code, relating to the agricultural commodity assessments funds and a report to the legislative assembly; to provide a penalty; and to provide a continuing 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Reengrossed SB 2350 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. LYSON MOVED that the Senate do concur in the House amendments to Engrossed SB 2404 as printed on SJ pages 875-876, which motion prevailed on a voice vote.

Engrossed SB 2404, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2404: A BILL for an Act to provide a lien for oil and gas owners to secure payment for the sale of oil and gas.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Reengrossed SB 2404 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. LYSON MOVED that the Senate do concur in the House amendments to SCR 4020 as printed on SJ page 892, which motion prevailed on a voice vote.

SCR 4020, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4020: A concurrent resolution urging Congress to preserve the exemption of hydraulic fracturing from the provisions of the Safe Drinking Water Act and to not enact legislation that removes the exemption for hydraulic fracturing.

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

Engrossed SCR 4020 was declared adopted, and the title was agreed to on a voice vote.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 12:30 p.m., which motion prevailed.

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

CORRECTION AND REVISION OF THE JOURNAL

MR. PRESIDENT: Your **Committee on Correction and Revision of the Journal (Sen. Andrist, Chairman)** has carefully examined the Journal of the Sixty-second Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1262, line 12, remove "HB 1207,"

Page 1262, remove line 22

SEN. ANDRIST MOVED that the report be adopted, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that the Senate Conference Committee on Engrossed HB 1207 be dissolved, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1012, as engrossed: SEN. KILZER (Appropriations Committee) MOVED that the amendments on SJ pages 1317-1323 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1012: A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; to provide a contingent appropriation; to provide for legislative council studies; to provide statements of legislative intent; to create and enact a new subsection to section 50-25.1-05 of the North Dakota Century Code, relating to the adoption of rules regarding the recording of interviews in child abuse or neglect cases; to amend and reenact sections 25-04-05, 50-06-29, 50-24.1-02.6, 50-24.5-04, and 50-30-02 of the North Dakota Century Code, relating to developmental center admission screenings, the establishment of an aging and disability resource link, medical assistance eligibility, the personal needs allowance for individuals in basic care facilities, and use of the health care trust fund; and to repeal section 4 of chapter 422 of the 2007 Session Laws, relating to the effective date of the expansion of medical assistance benefits.

MOTION

SEN. MATHERN MOVED that Engrossed HB 1012 be amended as follows, which motion prevailed on a voice vote.

In addition to the amendments adopted by the Senate as printed on pages 1317-1323 of the Senate Journal, Engrossed House Bill No. 1012 is further amended as follows:

Page 3, after line 6, insert:

"SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$226,442, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$130,678, or so much of the sum as may be necessary, to the department of human services for the purpose of increasing the personal needs

allowance for individuals in basic care facilities and intermediate care facilities for the mentally retarded to \$95 per month, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Page 7, line 29, replace "seventy-five" with "ninety-five"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment appropriates \$226,442 from the general fund and \$130,678 of special funds to the Department of Human Services to increase the personal needs allowance to \$95 per month for individuals in the following facilities:

	General Fund	Special Funds	Total
Basic care facilities (currently at \$75 per month)	\$149,760	\$0	\$149,760
ICF/MR (currently at \$75 per month)	76,682	130,678	207,360
Total	\$226,442	\$130,678	\$357,120

MOTION

SEN. WARNER MOVED that Engrossed HB 1012 be amended as follows:

In addition to the amendments adopted by the Senate as printed on pages 1317-1323 and as printed above on pages 1331-1332 of the Senate Journal, Engrossed House Bill No. 1012 is further amended as follows:

Page 3, after line 6, insert:

"SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$6,277,888, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$9,930,864, or so much of the sum as may be necessary, to the department of human services for the purpose of providing inflationary increases of seven percent for the second year of the biennium for rebased services and seven percent annual increases for all other services, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment appropriates \$6,277,888 from the general fund and \$9,930,864 of special funds to the Department of Human Services for providing inflationary increases of 7 percent for the second year of the biennium for rebased services and 7 percent annual increases for all other services for the 2009-11 biennium.

REQUEST

SEN. WARNER REQUESTED a verification vote on the motion to adopt the proposed amendments to HB 1012, which request was granted.

The proposed amendments to HB 1012 were adopted on a verification vote.

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 45 YEAS, 2 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Bowman; Stenehjem

Engrossed HB 1012, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has amended, subsequently passed, and the emergency clause carried: HB 1012.

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

MR. PRESIDENT: The House has amended and subsequently passed: SB 2024, SB 2038, SB 2051, SB 2311, SB 2338.

HOUSE AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 2, after "commission" insert "; to create and enact two new sections to chapter 53-06.2 of the North Dakota Century Code, relating to the regulation of live racing and pari-mutuel wagering; to amend and reenact sections 53-06.2-01, 53-06.2-02, 53-06.2-03, 53-06.2-04, 53-06.2-04.1, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-10, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-13, 53-06.2-14, 53-06.2-15, and 53-06.2-16 of the North Dakota Century Code, relating to the regulation of live racing and pari-mutuel wagering; to provide for transition; and to provide an effective date"

Page 1, line 11, replace "\$35,286" with "(\$82,290)" and replace "442,576" with "325,000"

Page 1, line 13, replace "291,984" with "174,408" and replace "412,576" with "295,000"

Page 1, after line 14, insert:

"SECTION 2. AMENDMENT. Section 53-06.2-01 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-01. Definitions. As used in this chapter:

1. "Agriculture commissioner" means the agriculture commissioner or the agriculture commissioner's designee.
2. "Attorney general" means the attorney general or the attorney general's designee.
3. "Breeders' fund" means a fund, administered by the commission, established to financially reward breeders or owners of North Dakota-bred horses to be paid in accordance with rules as approved by the ~~commission~~ agriculture commissioner.
- ~~2.~~ 4. "Certificate system" means the system of betting described in section 53-06.2-10.
- ~~3.~~ 5. "Charitable organization" means a nonprofit organization operated for the relief of poverty, distress, or other conditions of public concern in this state and has been so engaged in this state for at least two years.
- ~~4.~~ 6. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or state organization that is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose in this state and has so existed in this state for at least two years. The term includes a similar local nonprofit organization, not affiliated with a state or national organization, which is so recognized by a resolution adopted by the governing body of the local jurisdiction in which the organization conducts its principal activities, and which has existed in this state for at least two years.
- ~~5.~~ 7. "Commission" means the North Dakota racing commission.
- ~~6.~~ 8. "Director" means the director of the commission.
- ~~7.~~ 9. "Fraternal organization" means a nonprofit organization in this state, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members,

and has so existed in this state for two years. The term does not include a college or high school fraternity.

- 8- 10. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city, and with respect to a site not inside the city limits of a city, the county in which the site is located.
- 9- 11. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of the appropriate local jurisdiction by resolution as public-spirited and eligible under this chapter.
- 40- 12. "Purse fund" means a fund, administered by the commission, established to supplement and improve purses offered at racetracks within the state.
- 44- 13. "Racing" means live ~~or simulcast~~ horse racing ~~under the certificate system or simulcast dog racing under the certificate system.~~
- 42- 14. "Racing promotion fund" means a fund administered by the commission established to assist in improving and upgrading racetracks in the state, promoting horse racing in the state, and developing new racetracks in the state as necessary and approved by the commission.
- 43- 15. "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances, and which has been so gathered or united in this state for at least two years.
- 44- 16. "Veterans' organization" means a congressionally chartered organization in this state, or a branch, lodge, or chapter of a nonprofit national or state organization in this state, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has so been in existence in this state for at least two years.

SECTION 3. AMENDMENT. Section 53-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-02. Racing commission - Members - Appointment - Term - Qualifications - Compensation.

1. A North Dakota racing commission is established ~~consisting in the office of the agriculture commissioner.~~ The commission consists of the chairman and four other members appointed by the ~~governor~~ agriculture commissioner. One of the members must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the state chapter or affiliate of the United States trotting association, one of whom is nominated by the state chapter or affiliate of the ~~international Arabian paint~~ horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association. The members serve five-year terms and until a successor is appointed and qualified. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves for the unexpired portion of the term and may be reappointed. The terms of the commissioners must be staggered so that one term expires each July first. At the expiration of the five-year term of each incumbent member of the commission, the ~~governor~~ agriculture commissioner shall appoint a new member to the commission.
2. ~~A person~~ An individual is ineligible for appointment to the commission if that ~~person~~ individual has not been a resident of this state for at least two years before the date of appointment. ~~A person~~ An individual is also ineligible if that ~~person~~ individual is not of such character and reputation as to promote public confidence in the administration of racing in this state. ~~A person~~ An individual who has a financial interest in racing cannot be a member of the commission ~~and cannot be employed by the commission without full disclosure of the financial interest to the agriculture commissioner, the attorney general, and the commission.~~ Failure to maintain compliance with this subsection is grounds for removal from the commission ~~or from employment with the commission.~~ For purposes of this section, ~~a person~~ an individual has a financial interest in racing if that ~~person~~ individual has an ownership interest in horses running at live or

simulcast meets conducted or shown in this state subject to this chapter or rules of the ~~commission~~ agriculture commissioner, is required to be licensed under this chapter or the rules of the ~~commission~~ agriculture commissioner or attorney general, or who derives any direct financial benefit from racing, individually or by or through an entity or other person, as regulated by this chapter or the rules of the ~~commission~~ agriculture commissioner or attorney general.

3. Commission members are entitled to ~~seventy five dollars per day for the same~~ compensation, and mileage and expense reimbursement as ~~allowed to other state employees~~ provided for members of committees of the legislative council under section 54-35-10.

SECTION 4. AMENDMENT. Section 53-06.2-03 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-03. Director of racing - Appointment - Qualifications - Salary - Duties - Other personnel.

1. The ~~commission shall~~ agriculture commissioner may appoint a director of racing. The ~~commission shall~~ agriculture commissioner may establish the director's qualifications and salary.
2. The director shall devote such time to the duties of the office as the ~~commission~~ agriculture commissioner may prescribe. The director ~~is the executive officer of the commission and shall enforce the rules and orders of the commission. The director shall perform other duties the~~ agriculture commissioner prescribes.
3. The director may employ other ~~persons~~ individuals as authorized by the ~~commission~~ agriculture commissioner.

SECTION 5. AMENDMENT. Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-04. Duties of commission and attorney general.

1. The commission shall:
 - 4- a. Provide for racing ~~under the certificate system.~~
 - 2- b. Set racing dates.
 - 3- c. Adopt rules for effectively preventing the use of any unauthorized substance, compound items, or combinations of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a racehorse, ~~unless specifically authorized by the commission.~~
 4. ~~Supervise and check the making of pari-mutuel pools, pari-mutuel machines, and equipment at all races held under the certificate system.~~
 - 5- d. Adopt rules governing, restricting, or regulating bids on licensees' concessions and leases on equipment.
 - 6- e. Consider all proposed extensions, additions, or improvements to the buildings, stables, or tracks on property owned or leased by a licensee.
 - 7- f. Exclude from racetracks ~~or simulcast pari-mutuel wagering facilities~~ any person who violates any rule ~~of the commission~~ adopted to implement this chapter or any law.
 - 8- g. Determine the cost of inspections performed under subsection 3 of section 53-06.2-05 and require the licensee to pay that cost.
 - 9- h. Report biennially to the legislative council regarding the operation of ~~the commission~~ racing under this chapter.

10. ~~Provide notice to the North Dakota horsemen's council of meetings held by the commission and permit the North Dakota horsemen's council to participate in the meetings through placement of items on the agenda.~~
11. ~~Complete, distribute, and post on the commission's web site the minutes of each commission meeting within thirty days of that meeting or before the next meeting of the commission, whichever occurs first.~~
2. The attorney general shall:
- a. Provide for pari-mutuel wagering on racing, simulcast, and account wagering.
 - b. Supervise and check the making of pari-mutuel pools, pari-mutuel machines, and equipment at all races held under the certificate system.
 - c. Exclude from simulcast or account wagering facilities any person who violates any rule adopted to implement this chapter or any law.

SECTION 6. AMENDMENT. Section 53-06.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-04.1. North Dakota-bred registry - Contract requirements. ~~The commission~~ agriculture commissioner shall provide for registration of a North Dakota-bred horse for qualification for breeders' fund awards or purse supplements. ~~The commission shall~~ agriculture commissioner may contract ~~with a private person~~ to maintain the registry. Through a competitive bidding process, ~~the commission shall~~ agriculture commissioner may award the contract to the lowest responsible bidder. The cost of the contract must be paid from the breeders' fund.

SECTION 7. A new section to chapter 53-06.2 of the North Dakota Century Code is created and enacted as follows:

Powers of agriculture commissioner. The agriculture commissioner may:

1. Compel the production of all documents showing the receipts and disbursements of any licensee and determine the manner in which the financial records are to be kept.
2. Investigate the operations of any licensee and enter any vehicle or place of business, residence, storage, or racing of any licensee on the grounds of a licensed association to determine whether there has been compliance with the provisions of this chapter and rules adopted under this chapter and to discover and seize any evidence of noncompliance.
3. License all participants in racing and require and obtain information the agriculture commissioner determines necessary from license applicants. The agriculture commissioner may obtain a statewide and nationwide criminal history record check from the bureau of criminal investigation for the purpose of determining suitability or fitness for a license. The nationwide check must be conducted in the manner provided in section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant for a license.
4. Receive moneys from the North Dakota horse racing foundation for deposit in the purse fund, the breeders' fund, or the racing promotion fund in accordance with subsection 6 of section 53-06.2-11.
5. Adopt rules to implement the laws concerning racing and the administration of racing.

SECTION 8. AMENDMENT. Section 53-06.2-05 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-05. Powers of ~~commission~~ attorney general. ~~The commission~~ attorney general may:

1. Compel the production of all documents showing the receipts and disbursements of any licensee and determine the manner in which such financial records are to be kept.
2. Investigate the operations of any licensee and enter any vehicle or place of business, residence, storage, or racing of any licensee on the grounds of a licensed association to determine whether there has been compliance with the provisions of this chapter and rules adopted under this chapter, and to discover and seize any evidence of noncompliance.
3. ~~Request appropriate state officials to perform inspections necessary for the health and safety of spectators, employees, participants, and horses that are lawfully on a racetrack.~~
4. License all participants in the ~~racing and simuleast~~ pari-mutuel wagering industry and require and obtain information the ~~commission deems~~ attorney general determines necessary from license applicants. ~~Licensure of service providers, totalizator companies, site operators, and organizations applying to conduct or conducting pari-mutuel wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. The commission may obtain a statewide and nationwide criminal history record check from the bureau of criminal investigation for the purpose of determining suitability or fitness for a license. The nationwide check must be conducted in the manner provided in section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant for a license.~~
5. ~~Receive moneys from the North Dakota horse racing foundation for deposit in the purse fund, breeders' fund, or racing promotion fund in accordance with subsection 6 of section 53-06.2-11.~~
6. 4. Adopt additional rules for the administration, implementation, and regulation of pari-mutuel wagering activities conducted pursuant to this chapter. The ~~commission~~ attorney general shall deposit any fees collected under authority of this subsection in the ~~racing commission~~ attorney general's operating fund. Subject to legislative appropriation, the ~~commission~~ attorney general may spend the fees for operating costs of the ~~commission~~ under this chapter.

SECTION 9. AMENDMENT. Section 53-06.2-06 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-06. Organizations eligible to conduct racing and ~~simuleast~~ pari-mutuel wagering. Civic and service clubs; charitable, fraternal, religious, and veterans' organizations; and other public-spirited organizations may be licensed to conduct racing and ~~simuleast~~ pari-mutuel wagering as authorized by this chapter.

SECTION 10. AMENDMENT. Section 53-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-07. Issuance of licenses - Applications.

1. On compliance by an applicant with this chapter ~~and the approval of, the attorney general, the commission~~ agriculture commissioner may issue a license to conduct races. ~~The attorney general may not grant a license denied by the commission.~~
2. An application for a license to conduct a racing meet must be signed under oath and filed with the ~~commission~~ agriculture commissioner. The application must contain at least the following:
 - a. The name and post-office address of the applicant.
 - b. The location of the racetrack and whether it is owned or leased. If the racetrack is leased, a copy of the lease must be included.
 - c. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.

- d. The time, place, and number of days the racing meet is proposed to be conducted.
 - e. The type of racing to be conducted.
 - f. Other information the ~~commission~~ agriculture commissioner requires.
3. At least thirty days before the ~~commission~~ agriculture commissioner issues or renews a license to conduct races, the applicant shall deliver a complete copy of the application to the local jurisdiction governing body. The application to the ~~commission~~ agriculture commissioner must include a certificate verified by a representative of the applicant, indicating delivery of the application copy to the governing body. If the governing body of the local jurisdiction adopts a resolution disapproving the application for license or renewal and so informs the ~~director~~ agriculture commissioner within thirty days of receiving a copy of the application, the license to conduct races may not be issued or renewed.

SECTION 11. AMENDMENT. Section 53-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-08. License authorization and fees.

1. Each license issued ~~under the certificate system to conduct racing~~ must describe the place, track, or racecourse at which the licensee may hold races. Every license must specify the number of days the licensed races may continue, the hours during which racing may be conducted, and the number of races that may be held each day. Races authorized under this chapter may be held during the hours approved by the ~~commission~~ agriculture commissioner and within the hours permitted by state law.
2. The ~~commission~~ agriculture commissioner may charge a license fee for racing commensurate with the size and attendance of the race meet.
3. ~~Each applicant for a license under this chapter shall give bond payable to this state with good security as approved by the commission. The bond must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.~~
4. The ~~commission~~ agriculture commissioner may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, ~~service providers,~~ employees of racing associations, and such other persons as determined by the ~~commission~~. ~~Licensure of service providers, totalizator companies, site operators, and organizations applying to conduct or conducting pari-mutuel wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission~~ agriculture commissioner. License fees are as established by the ~~commission~~ agriculture commissioner.
5. 4. The ~~commission~~ agriculture commissioner may establish the period of time for which licenses issued under this chapter are valid.
6. ~~The commission shall deposit all fees collected under this section in the racing commission operating fund.~~
5. Subject to legislative appropriation, the ~~commission~~ agriculture commissioner may spend the fees for operating costs ~~of the commission under this chapter~~.

SECTION 12. A new section to chapter 53-06.2 of the North Dakota Century Code is created and enacted as follows:

License and fees.

1. Each license issued to conduct pari-mutuel wagering must describe the place, track, or racecourse at which the pari-mutuel wagering is to be conducted. Pari-mutuel wagering authorized under this chapter may be

held during the hours approved by the attorney general and within the hours permitted by state law.

2. The attorney general may charge a license fee to conduct pari-mutuel wagering.
3. Each applicant for a license to conduct pari-mutuel wagering shall give bond payable to this state with good security as approved by the attorney general. The bond must be in the amount the attorney general determines will adequately protect the amount normally due and owing to this state.
4. The attorney general may grant licenses to service providers, totalizator companies, site operators, other organizations conducting pari-mutuel wagering, employees of service providers, totalizator companies, site operators, and other organizations conducting pari-mutuel wagering, and other persons as determined by the attorney general.
5. The attorney general may establish the period of time for which licenses issued under this chapter are valid.
6. Subject to legislative appropriation, the attorney general may spend the fees for operating costs of the attorney general.

SECTION 13. AMENDMENT. Section 53-06.2-10 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-10. Certificate system - Rules. The certificate system allows a licensee to receive money from any ~~person~~ individual present at a live horse race, simulcast horse race, ~~or simulcast dog race, or account wagering facility~~ who desires to bet on any entry in that race. ~~A person~~ An individual betting on an entry to win acquires an interest in the total money bet on all entries in the race, in proportion to the amount of money bet by that ~~person~~ individual, under rules adopted by the ~~commission~~ attorney general. The licensee shall receive the bets and for each bet shall issue a certificate to the bettor on which is at least shown the number of the race, the amount bet, and the number or name of the entry selected by the bettor. The ~~commission~~ attorney general may adopt rules for place, show, quinella, combination, or other types of betting usually connected with racing.

SECTION 14. AMENDMENT. Section 53-06.2-10.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-10.1. Simulcast wagering. In addition to racing under the certificate system, as authorized by this chapter, and conducted upon the premises of a racetrack, simulcast pari-mutuel wagering may be conducted in accordance with this chapter or rules adopted by the ~~commission~~ attorney general to implement this chapter ~~in accordance with chapter 28-32~~. Any organization qualified under section 53-06.2-06 ~~to conduct racing~~ may make written application to the ~~commission~~ attorney general for the conduct of simulcast pari-mutuel wagering on races held at licensed racetracks inside the state or racetracks outside the state, or both. ~~Licensure of service~~ Service providers, totalizator companies, site operators, or organizations applying to conduct or conducting simulcast or account wagering must ~~be approved~~ obtain a license approved by the attorney general. ~~The attorney general may not grant a license denied by the commission.~~ Notwithstanding any other provision of this chapter, the ~~commission~~ attorney general may authorize any licensee to participate in interstate or international combined wagering pools with one or more other racing jurisdictions. Anytime that a licensee participates in an interstate or international combined pool, the licensee, as prescribed by the ~~commission~~ attorney general, may adopt the take-out of the host jurisdiction or facility. The ~~commission~~ attorney general may permit a licensee to use one or more of its races or simulcast programs for an interstate or international combined wagering pool at locations outside its jurisdiction and may allow pari-mutuel pools in other states to be combined with pari-mutuel pools in its jurisdiction for the purpose of establishing an interstate or international combined wagering pool. The participation by a licensee in a combined interstate or international wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located. Pari-mutuel taxes or commissions may not be imposed on any amounts wagered in an interstate or international combined wagering pool other than amounts wagered within this jurisdiction. The certificate system also permits pari-mutuel wagering to be conducted through account wagering. As used in this section, "account wagering" means a form of pari-mutuel wagering in which an individual deposits money in an account and uses the

account balance to pay for pari-mutuel wagers. An account wager made on an account established in this state may only be made through the licensed simulcast service provider approved by the attorney general ~~and authorized by the commission~~ to operate the simulcast pari-mutuel wagering system under the certificate system. ~~The attorney general may not grant a license denied by the commission.~~ A charitable organization may not be responsible for the receipt and disbursement of moneys handled through account wagering. An account wager may be made in person, by direct telephone communication, or through other electronic communication in accordance with rules adopted by the ~~commission~~ attorney general. Breakage for interstate or international combined wagering pools must be calculated in accordance with the statutes or rules of the host jurisdiction and must be distributed among the participating jurisdictions in a manner agreed to among the jurisdictions.

SECTION 15. AMENDMENT. Section 53-06.2-11 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-11. Bet payoff formulas - Uses by licensee of funds in excess of expenses - Payment to general fund.

1. For wagering on live horse racing and simulcast wagering:
 - a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered. Of the amount wagered, the licensee shall pay:
 - (1) Two percent to the state treasurer to be deposited in the general fund.
 - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
 - (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
 - (4) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
 - b. In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee may deduct no more than twenty-five percent of the amount wagered. Of the amount wagered, the licensee shall pay:
 - (1) Two and one-half percent to the state treasurer to be deposited in the general fund.
 - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
 - (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
 - (4) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
2. For account wagering:
 - a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered.
 - (1) Before eleven million dollars is wagered in all pari-mutuel wagering in each biennium, of the amount wagered by account wagering in win, place, and show pari-mutuel pools, the licensee shall pay:
 - (a) Two percent to the state treasurer to be deposited in the general fund.
 - (b) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.

- (c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
 - (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
- (2) After eleven million dollars is wagered in all pari-mutuel wagering in each biennium, of the amount wagered by account wagering in win, place, and show pari-mutuel pools, the licensee shall pay:
- (a) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
 - (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
 - (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
 - (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
- b. In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee may deduct no more than twenty-five percent of the amount wagered.
- (1) Before eleven million dollars is wagered in each biennium, of the amount wagered by account wagering in daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee shall pay:
- (a) Two and one-half percent to the state treasurer to be deposited in the general fund.
 - (b) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
 - (c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
 - (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
- (2) After eleven million dollars is wagered in all pari-mutuel wagering in each biennium, of the amount wagered by account wagering in daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee shall pay:
- (a) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
 - (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
 - (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
 - (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.

3. For all pari-mutuel wagering the licensee shall pay to the ~~commission~~ attorney general the amount due for all unclaimed tickets and all breakage to be deposited in the racing promotion fund.
4. The licensee conducting wagering on live racing, simulcast wagering, or account wagering shall retain all other money in the pari-mutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the ~~commission~~ attorney general.
5. A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting pari-mutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under section 53-06.1-11.1.
6. The ~~commission~~ agriculture commissioner shall deposit the moneys received pursuant to subsections 1, 2, and 3 and from the North Dakota horse racing foundation pursuant to subsection 5 of section 53-06.2-05 in the breeders' fund, the purse fund, and the racing promotion fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and racing promotion fund are appropriated to the commission on a continuing basis to carry out the purposes of those funds under this chapter and must be administered and disbursed in accordance with rules adopted by the ~~commission~~ agriculture commissioner. The commission may not transfer money among the funds. The commission shall distribute awards and payment supplements from the breeders' fund in the same calendar year the money was earned by the recipient. The commission shall distribute payments awarded to qualified owners and breeders from the breeders' fund without requiring owners and breeders to apply for the payments. The commission, upon approval of the emergency commission, may receive no more than twenty-five percent of the racing promotion fund for the payment of the commission's operating expenses.

SECTION 16. AMENDMENT. Section 53-06.2-12 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-12. Audits and investigations by state auditor. On request of the ~~commission~~ agriculture commissioner or attorney general, the state auditor shall conduct audits and investigate the operations of any licensee. The ~~commission~~ agriculture commissioner or attorney general shall reimburse the state auditor for all services rendered.

SECTION 17. AMENDMENT. Section 53-06.2-13 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-13. Duty of attorney general to participate in certain hearings and to conduct investigations –~~Employment of private counsel by commission.~~

1. The attorney general shall represent the state in all hearings ~~before the~~ ~~commission~~ and shall prosecute all criminal proceedings arising from violations of this chapter. The attorney general may require payment for any services rendered to the ~~racing commission~~ agriculture commissioner. Payment for the services must be deposited in the attorney general's operating fund. ~~The commission may employ private counsel for adoption of rules and to ensure that its hearings are conducted fairly. All hearings under this chapter must be conducted by the office of administrative hearings under chapter 28-32.~~
2. a. The attorney general may audit and investigate service providers, totalizator companies, site operators, or organizations applying to conduct or conducting pari-mutuel wagering. The attorney general may:
 - (+) a. Inspect all sites in which pari-mutuel wagering is conducted.
 - (-) b. Inspect all pari-mutuel wagering equipment and supplies.
 - (-) c. Seize, remove, or impound any pari-mutuel equipment, supplies, or books and records for the purpose of examination and inspection.

- (4) d. Inspect, examine, photocopy, and audit all books and records.
- b. ~~The commission shall reimburse the attorney general for auditing and investigation. Payment for auditing and investigation must be deposited in the attorney general's operating fund.~~

SECTION 18. AMENDMENT. Section 53-06.2-14 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-14. Denial, suspension, and revocation of licenses - Reasons. ~~The commission~~ agriculture commissioner or attorney general may deny, suspend, or revoke licenses ~~under the certificate system and privileges granted by it, and it may terminate racing privileges issued by each respective official~~ for just cause. Actions constituting just cause include:

1. Any action or attempted action by a person contrary to any law.
2. Corrupt practices, which include:
 - a. Prearranging or attempting to prearrange the order of finish of a race.
 - b. Failing to properly pay winnings to a bettor or to properly return change to a bettor purchasing a ticket.
 - c. Falsifying or manipulating the odds on any entrant in a race.
3. Any violation of the rules of racing adopted by the ~~commission~~ agriculture commissioner or attorney general under this chapter.
4. Willful falsification or misstatement of fact in an application for racing or pari-mutuel privileges.
5. Material false statement to a racing official, the agriculture commissioner, or to the ~~commission~~ attorney general.
6. Willful disobedience of ~~a commission~~ an order of the agriculture commissioner or attorney general or of a lawful order of a racing official ~~other than a commission member~~.
7. Continued failure or inability to meet financial obligations ~~connected with racing meets~~.
8. Failure or inability to properly maintain a racetrack.

SECTION 19. AMENDMENT. Section 53-06.2-15 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-15. Revocation, suspension, fine - Procedure. ~~The commission~~ agriculture commissioner or attorney general, on proof of violation by a licensee, its agents or employees, of this chapter or any rule adopted by the ~~commission~~ agriculture commissioner or attorney general to implement this chapter, on reasonable notice to the licensee and after giving the licensee an opportunity to be heard, ~~may~~ fine the licensee or revoke or suspend the license. If the license is revoked, the licensee is not eligible to receive another license within twelve months from the date of revocation. Every decision or order of the ~~commission~~ agriculture commissioner or attorney general must be made in writing and filed ~~with the director~~ for preservation as a permanent record of the ~~commission~~. ~~The decision must be signed by the chairman, attested by the director, and dated~~ agriculture commissioner or attorney general.

SECTION 20. AMENDMENT. Section 53-06.2-16 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-16. Prohibited acts - Penalties.

1. No person may conduct a pari-mutuel ~~horse race wagering or racing~~ unless that person is licensed by the ~~commission~~ agriculture commissioner or attorney general. Violation of this subsection is a class A misdemeanor.

2. No person may prearrange or attempt to prearrange the order of finish of a race. Violation of this subsection is a class C felony.

SECTION 21. TRANSITION. Any member of the North Dakota racing commission who is a member of the commission as of June 30, 2011, and whose term expires after July 1, 2011, may serve the remainder of that member's unexpired term.

SECTION 22. EFFECTIVE DATE. Sections 2, 3, 4, 6, 7, 10, 11, 15, 16, 17, 18, 19, and 20 of this Act become effective on July 1, 2011."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98043.0108 FN 2

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2038

Page 1, line 5, remove "to the legislative council" and remove the second "a"

Page 1, line 6, replace "study" with "studies"

Page 11, remove lines 15 through 30

Page 12, remove lines 1 through 7

Page 12, line 14, remove "If the legislative council appoints a committee to"

Page 12, remove lines 15 through 20

Page 15, after line 15, insert:

"SECTION 7. STATE BOARD OF HIGHER EDUCATION - REPORTS TO SIXTY-SECOND LEGISLATIVE ASSEMBLY. Each institution under the control of the state board of higher education shall report to the appropriations committees of the sixty-second legislative assembly regarding:

1. A comparison of the budgeted amounts to actual expenditures by major expenditure type for the fiscal year ending June 30, 2010.
2. A comparison of the budgeted amounts to actual expenditures by major expenditure type through the most recent month available at the time the report is presented to the appropriations committees.

SECTION 8. LEGISLATIVE COUNCIL STUDY - HIGHER EDUCATION.

During the 2009-10 interim, the legislative council chairman shall appoint an interim higher education committee to study issues affecting higher education. The interim committee shall hold at least six education summit meetings to discuss topics that may include:

1. Alternative uses of institutions and changes to institutional missions.
2. Issues affecting two-year campuses.
3. Tuition affordability, including a review of tuition reciprocity agreements.
4. The accessibility of higher education.
5. Workforce needs.
6. Contribution to economic development.
7. Utilization and capacity of higher education institution facilities.
8. Quality of education being delivered.

The chairman of the interim higher education committee may invite summit topic experts, representatives of the North Dakota university system, the private sector, and students to participate in the summit meetings to provide information to the committee as determined necessary to assist the committee in conducting its study. The legislative council shall report its findings and recommendations, together with any

legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment:

- Removes a section requiring certain reports to be provided by the State Board of Higher Education.
- Removes the requirements for committee membership if a Legislative Council committee is appointed to study higher education issues during the 2009-10 interim.
- Provides for a report to the 62nd Legislative Assembly by each higher education institution.
- Provides for an interim higher education study that includes the use of education summit meetings.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2051

Page 1, line 2, after "deposits" insert "; and to provide for a legislative council study"

Page 1, line 9, replace "six" with "four"

Page 1, after line 14, insert:

"SECTION 2. LEGISLATIVE COUNCIL STUDY. During the 2009-10 interim, the legislative council shall consider studying impact and taxation issues relating to production of mineral resources in North Dakota, specifically including:

1. Development of relatively new industries for extraction and production of minerals such as uranium, potash, and other minerals not previously produced on a significant economic scale;
2. Environmental, economic, and governmental impact of mineral production;
3. Infrastructure maintenance and development relating to mineral production;
4. Employment opportunities and issues relating to mineral production;
5. Comparison of mineral tax structures in North Dakota and other states; and
6. Water supplies and demands relating to mineral production.

The legislative council shall reports it findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2311

Page 1, line 2, replace "and state employee equity adjustments; and to provide for transfers" with "; to create and enact a new section to chapter 54-27 of the North Dakota Century Code, relating to vacant state employee positions; and to provide authorization for additional full-time equivalent positions"

Page 1, replace lines 22 through 24 with:

"SECTION 2. A new section to chapter 54-27 of the North Dakota Century Code is created and enacted as follows:

Vacant state employee positions salary savings - Emergency commission and budget section review and approval. The head of each executive branch agency, department, and institution shall report each month to the office of management and budget the number of vacant full-time equivalent employee positions and related salary and fringe benefit savings. The office of management and budget shall report at each budget section meeting on the cumulative savings resulting from the vacant positions. Agencies, departments, and institutions reporting vacant positions

under this section may not spend the related savings without prior approval of the emergency commission and the budget section.

SECTION 3. ADDITIONAL FULL-TIME EQUIVALENT POSITION AUTHORIZATION - BUDGET SECTION APPROVAL. The office of management and budget, subject to emergency commission and budget section approval, may authorize up to a total of forty-four additional full-time equivalent positions for executive branch agencies in addition to those authorized by the legislative assembly for the biennium beginning July 1, 2009, and ending June 30, 2011. Only positions that are determined to be critical to the mission of the agency may be authorized under this section."

Page 2, remove lines 1 through 13

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment:

- Creates a new section to North Dakota Century Code Chapter 54-27 relating to vacant state employee position salary savings.
- Authorizes the Office of Management and Budget to authorize additional mission-critical FTE positions for state agencies.
- Removes Sections 2 and 3 relating to salary equity funding.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2338

Page 1, line 10, after "57-43.2-03" insert "of up to one million six hundred thousand dollars per biennium"

Page 1, line 16, replace "\$6,400,000" with "\$1,600,000" and after the third comma insert "and from federal highway traffic safety funds, the sum of \$900,000, or so much of the sum as may be necessary,"

Page 2, line 14, replace "\$100,000" with "\$75,000"

Page 2, line 15, replace "\$500,000" with "\$225,000"

Renumber accordingly

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has concurred in the House amendments and passed: SB 2305, SB 2317, SB 2350, SB 2404, and SCR 4020.

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

MR. PRESIDENT: The Speaker has appointed as a conference committee to act with a like committee from the Senate on:

SB 2007: Reps. Kreidt; Nelson; Metcalf

SB 2010: Reps. Bellew; Kreidt; Ekstrom

SB 2208: Reps. Brandenburg; Rust; Holman

SB 2391: Reps. Nelson; Bellew; Kerzman

SCR4018: Reps. Brandenburg; Uglem; Boe

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

MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1551 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1551: Reps. Boehning; Klemin; Delmore

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

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

HB 1188: Sens. Triplett; Hogue; Schneider

HB 1327: Sens. J. Lee; Dever; Heckaman

HB 1368: Sens. Hogue; Miller; Anderson

HB 1399: Sens. G. Lee; Flakoll; Taylor

HB 1425: Sens. Erbele; Cook; Dever

HB 1437: Sens. Erbele; J. Lee; Marcellais

HB 1449: Sens. Triplett; Erbele; Hogue

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

MR. PRESIDENT: The Speaker has appointed Rep. Skarphol to replace Rep. Martinson on the Conference Committee on HB 1009.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has dissolved the Senate Conference Committee on HB 1207.

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

MR. PRESIDENT: Your signature is respectfully requested on: HB 1074, HB 1082, HB 1166, HB 1204, HB 1237, HB 1238, HB 1266, HB 1342, HB 1361, HB 1391, HB 1392, HB 1401, HB 1433, HB 1438, HB 1448, HB 1458, HB 1461, HB 1472, HB 1514, HB 1534, HB 1561, HB 1573, HB 1577, HCR 3021, HCR 3030, HCR 3039, HCR 3045, HCR 3065.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has signed: HB 1195, HB 1249, HB 1263, HB 1278, HB 1284, HB 1307, HB 1317.

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Thursday, April 16, 2009, which motion prevailed.

REPORT OF STANDING COMMITTEE

HCR 3063: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HCR 3063 was placed on the Sixth order on the calendar.

Page 1, line 14, replace "powers assumed by the federal government and federal mandates" with "federal laws"

Page 2, line 15, after the first comma insert "each justice of the Supreme Court of the United States, each judge in the United States Court of Appeals for the Eighth Circuit,"

Page 2, line 16, after the comma insert "the presiding officer of each state legislative body in the United States of America,"

Renumber accordingly

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

Fran A. Gronberg, Secretary

