

JOURNAL OF THE HOUSE

Fifty-third Legislative Assembly

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Bismarck, April 9, 1993

The House convened at 9:00 a.m., with Speaker R. Berg presiding.

The prayer was offered by Representative William E. Gorder.

The roll was called and all members were present except Representatives Goffe, Johnson, Kunkel, and Payne.

A quorum was declared by the Speaker.

MOTION

REP. MARTINSON MOVED that HB 1219, on which the conference committee report was just received by the House desk and has not yet been entered in the Journal, be returned to the conference committee, which motion prevailed.

MOTION

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

MOTION

REP. FREIER MOVED that the House be on the Fourth, Fifth, Seventh, Twelfth, and Thirteenth orders of business and at the conclusion of those orders, the House stand adjourned until 9:00 a.m., Monday, April 12, 1993, which motion prevailed.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

April 9, 1993

This is to inform you that on April 8, 1993, I signed the following: HB 1075, HB 1397, HB 1406, HB 1408, HB 1410, HB 1444, HB 1453, HB 1472, HB 1489, HB 1506, HB 1507, HB 1508, HB 1509, HB 1510, HB 1484, HB 1485, HB 1488, HB 1491, HB 1495, HB 1497.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

April 9, 1993

This is to inform you that on April 9, 1993, I signed the following: HB 1438.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

April 9, 1993

This is to inform you that on April 9, 1993, I signed the following: HB 1032, HB 1091, HB 1097, HB 1103, HB 1134, HB 1138, HB 1139, HB 1142, HB 1163, HB 1165, HB 1184, HB 1203, HB 1211, HB 1234, HB 1247, HB 1306, HB 1313, HB 1335, HB 1337, HB 1347, HB 1357, HB 1376, HB 1394, HB 1400, HB 1405, HB 1417, HB 1426, HB 1429, HB 1436, HB 1474, HB 1475.

ANNOUNCEMENT

THE CHIEF CLERK ANNOUNCED that the Governor's office delivered to the Speaker vetoed HB 1023, with the Governor's objections to same, at the hour of 1:50 p.m. on Friday, April 9, 1993.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

April 9, 1993

I am returning House Bill 1023, and respectfully veto the same.

The bill is designed to level out state oil revenues by "hedging" against a decline in the oil market. The bill also has some built-in protections, in that OMB initiates the process, subject to the approval of the Industrial Commission, and implementation by the State Investment Board.

However, in effect, the bill introduces North Dakota government to sophisticated, high-finance techniques that also involve high risk. The nature of an option is such that 100 percent of the investment can be lost as a result of market conditions.

I believe this type of financing for state government is dangerous in itself and sets a dangerous precedent for the future. I believe it is better for North Dakota to carefully plan its budget and allow for historical trends and variances with respect to oil production and prices, which affect oil revenue.

For these reasons, I veto House Bill 1203, and return the same to your chambers.

ANNOUNCEMENT

THE CHIEF CLERK ANNOUNCED that the Governor's office delivered to the Speaker vetoed HB 1286, with the Governor's objections to same, at the hour of 1:50 p.m. on Friday, April 9, 1993.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

April 9, 1993

I am returning House Bill 1286, and respectfully veto the same.

The bill removes a litigants' ability to seek a different judge in a divorce proceeding, once a judge has made a decision in the case. Essentially, the effect of House Bill 1286 is to bind both litigants to the same judge, potentially for years to come. After a period of time, even the most well-intentioned and conscientious judge may become cynical about a particular litigant, his attorney, or his cause. That litigant should be able to seek a different judge in subsequent proceedings. Likewise, even the most well-intentioned and conscientious judge may bring a bias or prejudice that unconsciously affects the court's decision. Again, the litigant should be free to seek a different judge as current law presently allows. Presently, the law is not biased towards either litigant, and each has an equal right to remove a judge in their case.

The courts deal with issues as sensitive as child custody, visitation, changes of residency of minor children, grandparent visitation and significant economic issues pertaining to the family unit. Given those issues, I believe we should assure flexibility and objectivity in our judicial system to promote the ends of justice and fair play. The flexibility and sense of fair play that the litigants now enjoy will ultimately enhance respect for the court and its decision.

For these reasons, I respectfully veto House Bill 1286 and return it to your chambers.

REPORT OF STANDING COMMITTEE

SCR 4075, as engrossed: Natural Resources Committee (Rep. A. Olson, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SCR 4075 was placed on the Tenth order on the calendar.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1001, HB 1002, HB 1003.

SENATE FLOOR AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1001

In addition to the amendments to Engrossed House Bill No. 1001 adopted by the Senate as printed on pages 1470-1488 of the Senate Journal, Engrossed House Bill No. 1001 is amended as follows:

Page 1, line 3, after "reenact" insert "subsection 7 of section 49-02-02," and after "53-06.1-12.1" insert a comma

Page 1, line 4, after "to" insert "regulation of public utilities by the public service commission,"

Page 9, after line 24, insert:

"SECTION 36. AMENDMENT. Subsection 7 of section 49-02-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

7. Employ, and fix the compensation of, rate experts, engineers, auditors, attorneys, and all other expert help and assistance for rate increase application hearings, ~~or investigations, and proceedings~~ relating to gas, ~~or electric, or telecommunications~~ public utilities. The expense of any hearings, ~~or investigations, and proceedings,~~ and the compensation ~~and~~ actual expenses of any employees of the commission while engaged upon any ~~such hearing, or investigation, or proceeding,~~ shall ~~must~~ upon the order of the commission be paid by the public utility ~~being investigated or involved in such hearing or proceeding.~~ The commission shall ascertain ~~such~~ the costs and expenditures. After giving the public utility notice and opportunity to demand a hearing, and after a hearing, if any, is held, the commission shall render a bill and make an order for payment by certified mail or by personal delivery to one of the managing officers of the public utility. The billing and order may be made from time to time during the hearing, ~~or investigation, or proceeding,~~ or at the conclusion thereof, as the commission ~~shall determine~~ determines. Upon receipt of the bill and order for payment, as evidenced by return receipt or other proof, the public utility, within ~~ten~~ thirty days after receipt, shall pay to the commission the amount billed. All amounts not paid within thirty days after receipt of the order for payment shall draw interest at the rate of six percent per annum from the date of receipt of the order. All costs and expenses collected by the commission under this subsection shall ~~must~~ be paid ~~into~~ deposited in the general fund ~~of in~~ the state treasury."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

SENATE - Subsection 7 of Section 49-02-02 is amended to remove references to telecommunications and proceedings to correspond with the provisions of Senate Bill No. 2440.

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1001

Page 1, replace lines 2 through 4 with "various elected officials, the legislative council, and the insurance tax payments to fire departments; to create and enact a new section to chapter 54-12 of the North Dakota Century Code, relating to the authority of the attorney general to borrow funds to obtain evidence for law enforcement; to amend and reenact section 4-01-21, subsection 1 of section 10-04-02, subsections 1 and 4 of section 10-04-03, sections 15-21-02, 26.1-01-02, subsections 1 and 3 of section 26.1-01-07.1, sections 26.1-01-09, 27-02-02, 27-05-03, 34-05-01.2, 49-01-05, subdivision a of subsection 2 of section 51-19-17, sections 53-06.1-12.1, 54-07-04, 54-08-03, 54-09-05, 54-10-10, 54-11-13, 54-12-11, 54-12-17, 54-12-18, 57-01-04, and 60-06-06.1 of the North Dakota Century Code, relating to the salaries of elected officials, the responsibility of the commissioner of insurance with respect to securities, the operation of the insurance

regulatory trust fund, deposit of the games of chance tax, operation of the attorney general refund fund, and the name of the consumer fraud and antitrust division; to repeal sections 49-06-18, 49-06-19, 49-06-20, 49-06-21, 49-06-22, and 49-06-23 of the North Dakota Century Code, relating to costs of hearings for purposes of valuing public utility property and the public utility valuation fund; and to provide contingent appropriations to the attorney general and the workers compensation bureau."

Page 1, line 10, remove "and the securities"

Page 1, line 11, remove "commissioner"

Page 1, line 12, remove "and the securities commissioner"

Page 1, line 16, replace "1,297,585" with "1,592,026"

Page 1, line 17, replace "38,250" with "42,821"

Page 1, line 18, replace "316,021" with "323,153"

Page 1, line 19, replace "7,845" with "9,145"

Page 1, line 20, replace "7,000" with "13,893"

Page 2, line 1, replace "3,239" with "5,239"

Page 2, line 3, replace "1,674,340" with "1,990,677"

Page 2, remove lines 4 through 11

Page 2, line 12, replace "3" with "2"

Page 2, line 14, replace "1,431,069" with "1,463,441"

Page 2, line 15, replace "1,128,850" with "1,207,481"

Page 2, replace line 18 with:

"Limited liability administration

5,000"

Page 2, line 21, replace "4,150,908" with "3,666,911"

Page 2, line 22, replace "4" with "3"

Page 2, line 24, replace "10,871,514" with "11,621,462"

Page 2, line 25, replace "527,184" with "570,507"

Page 2, line 26, replace "2,765,693" with "2,734,586"

Page 2, line 28, replace "1,383,564" with "2,363,504"

Page 2, line 29, replace "2,087,595" with "1,650,118"

Page 3, line 5, replace "400,000" with "250,000"

Page 3, after line 6, insert:

"Racing commission

284,921"

Page 3, line 8, replace "20,123,020" with "21,562,568"

Page 3, line 9, replace "8,406,738" with "9,060,192"

Page 3, line 10, replace "11,716,282" with "12,502,376"

Page 3, line 11, replace "5" with "4"

Page 3, line 13, replace "4,531,194" with "4,635,272"

Page 3, line 14, replace "108,900" with "117,539"

Page 3, line 17, replace "5,094,596" with "5,207,313"

Page 3, line 18, replace "1,899,298" with "1,937,108"

Page 3, line 19, replace "3,195,298" with "3,270,205"

Page 3, line 20, replace "6" with "5"

Page 3, line 22, replace "546,745" with "558,039"

Page 3, line 23, replace "24,385" with "32,438"

Page 3, line 26, replace "740,000" with "745,670"

Page 3, line 27, replace "1,375,301" with "1,400,318"

Page 3, line 29, replace "1,370,301" with "1,395,318"

Page 4, line 1, replace "7" with "6"

Page 4, line 3, replace "10,257,712" with "10,573,926"

Page 4, line 4, replace "1,365,653" with "1,475,852"

Page 4, line 7, replace "Expert" with "Attorney and expert" and replace "160,000" with "200,000"

Page 4, line 10, replace "14,667,693" with "15,134,106"

Page 4, line 12, replace "14,517,693" with "14,984,106"

Page 4, line 13, replace "8" with "7"

Page 4, line 15, replace "548,715" with "589,868"

Page 4, line 16, replace "22,500" with "24,785"

Page 4, line 17, replace "146,151" with "110,313"

Page 4, line 19, replace "721,566" with "729,166"

Page 4, line 20, replace "85,905" with "82,113"

Page 4, line 21, replace "635,661" with "647,053"

Page 4, line 22, replace "9" with "8"

Page 4, line 24, replace "4,321,823" with "4,424,765"

Page 4, line 25, replace "104,872" with "114,451"

Page 4, line 26, replace "5,380,283" with "5,199,461"

Page 4, line 29, replace "9,899,078" with "9,830,777"

Page 5, line 1, replace "6,296,381" with "6,256,330"

Page 5, line 2, replace "3,602,697" with "3,574,447"

Page 5, line 3, replace "10" with "9"

Page 5, line 5, replace "2,316,014" with "2,449,315"

Page 5, line 6, replace "78,974" with "87,134"

Page 5, line 7, replace "1,657,859" with "1,450,875"

Page 5, line 12, replace "108,000" with "214,000"

Page 5, after line 12, insert:

"Rangeland grasshopper control

115,000"

Page 5, line 15, replace "1,032,856" with "932,856"

Page 5, line 17, replace "8,284,195" with "8,339,672"

Page 5, line 18, replace "3,925,642" with "3,849,214"

Page 5, line 19, replace "4,358,553" with "4,490,458"

Page 5, line 20, replace "11" with "10"

Page 5, line 22, replace "3,008,499" with "3,219,883"

Page 5, line 23, replace "74,469" with "84,070"

Page 5, line 24, replace "641,445" with "770,478"

Page 5, line 25, replace "11,609" with "19,609"

Page 5, line 26, replace "288,387" with "341,552"

Page 5, replace line 27 with:

"Securities commission

643,512"

Page 5, line 28, replace "all funds" with "special funds appropriation" and replace "9,224,409" with "5,079,104"

Page 5, remove line 29

Page 6, remove lines 1 through 8

Page 6, line 9, replace "54,320,325" with "46,694,551"

Page 6, line 10, replace "21,772,505" with "32,281,761"

Page 6, line 11, replace "76,092,830" with "78,976,312"

Page 6, after line 11, insert:

"SECTION 2. APPROPRIATION - INSURANCE TAX PAYMENTS TO FIRE DEPARTMENTS. There is hereby appropriated out of any moneys in the insurance tax distribution fund in the state treasury, not otherwise appropriated, the sum of \$5,262,700, or so much of the sum as may be necessary, to the commissioner of insurance for the purpose of making payments of insurance premiums to fire departments for the biennium beginning July 1, 1993, and ending June 30, 1995.

SECTION 3. APPROPRIATION - LEGISLATIVE COUNCIL. Notwithstanding section 49-21-22, there is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,000, or so much of the sum as may be necessary, to the legislative council for the purpose of paying per diem for the 1991-93 biennium for legislative members of the regulatory reform review

commission for the biennium beginning July 1, 1993, and ending June 30, 1995.

SECTION 4. REGULATORY REFORM REVIEW COMMISSION EXPENSES - CHARGES TO UTILITY COMPANIES. The public service commission shall charge public utility companies actual costs incurred pursuant to section 3 of this Act plus actual costs associated with the regulatory reform review commission, including expenses of legislative members of the commission for the period ending June 30, 1995, and deposit the moneys collected pursuant to this section in the general fund.

SECTION 5. CONTINGENT APPROPRIATION - ATTORNEY GENERAL AND WORKERS COMPENSATION BUREAU. If the federal government does not approve the rate reduction given by the attorney general to the workers compensation bureau for legal services, there is hereby appropriated, subject to emergency commission approval, the sum of \$300,000 from the workers' compensation fund, or so much of the sum as may be necessary, to the workers compensation bureau for the purpose of paying for legal services provided by the attorney general and the sum of \$300,000 from special funds derived from income, or so much of the sum as may be necessary, subject to emergency commission approval, to the attorney general for the purpose of providing legal services to the workers compensation bureau for the biennium beginning July 1, 1993, and ending June 30, 1995. To the extent special fund appropriation authority for the attorney general is approved by the emergency commission pursuant to this section, the attorney general's general fund appropriation provided in subdivision 3 of section 1 of this Act must be reduced.

SECTION 6. TRANSFER. On July 1, 1993, the state treasurer shall transfer the unobligated balance of the public utility valuation fund to the general fund in the state treasury. After payment of all obligations of the public utility valuation fund, the state treasurer shall transfer the balance to the general fund in the state treasury.

SECTION 7. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$125,000, or so much of the sum as may be necessary, to the public service commission for the purpose of defraying the expenses of public utility regulation for the biennium beginning July 1, 1993, and ending June 30, 1995.

SECTION 8. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$45,000, or so much of the sum as may be necessary, to the legislative council for the purpose of defraying the expenses of the legislative members of the regulatory reform review commission for the biennium beginning July 1, 1993, and ending June 30, 1995.

SECTION 9. LEGISLATIVE INTENT - SECRETARY OF STATE. It is the intent of the legislative assembly that the secretary of state pay no more than seventy-one percent of central indexing system fee collections to counties for the biennium beginning July 1, 1993, and ending June 30, 1995."

Page 6, line 18, replace "4" with "3" and replace "\$615,022" with "\$617,522"

Page 6, line 25, replace "4" with "3"

Page 6, line 29, after the period insert "The attorney general may make a payment to a city or county pursuant to this section only if the amount owed to a city or county for that quarter is ten dollars or more."

Page 7, line 11, replace "4" with "3"

Page 7, line 12, replace "11" with "10"

Page 7, line 13, replace "\$97,110" with "\$112,969"

Page 7, line 18, replace "11" with "10" and replace "\$259,025" with "\$646,996"

Page 7, line 20, after "expenses" insert "and boiler inspection program expenses"

Page 7, line 23, replace "11" with "10" and replace "\$111,089" with "\$129,540"

Page 7, line 28, replace "\$179,593" with "\$182,571"

Page 7, line 29, replace "11" with "10"

Page 8, line 5, replace "4" with "3" and replace "\$400,000" with "\$250,000"

Page 8, line 11, replace "4" with "3"

Page 8, line 22, replace "9" with "8"

Page 8, line 24, replace "4" with "3"

Page 9, line 2, replace "5" with "4" and replace "\$1,289,530" with "\$1,316,425"

Page 9, line 3, replace "\$1,289,530" with "\$1,316,425"

Page 9, line 7, replace "6" with "5"

Page 9, line 12, replace "10" with "9"

Page 9, line 13, replace "\$1,335,000" with "\$1,135,000"

Page 9, line 16, replace "\$735,000" with "\$535,000"

Page 9, replace lines 18 through 24 with:

"SECTION 25. AMENDMENT. Section 4-01-21 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-01-21. Salary of commissioner of agriculture. The annual salary of the commissioner of agriculture is ~~fifty-one~~ fifty-two thousand ~~two~~ six hundred ~~seventy-two~~ fifty-two dollars through June 30, 1992, and ~~fifty-one thousand seven hundred fifty-two~~ fifty-two dollars thereafter.

SECTION 26. AMENDMENT. Subsection 1 of section 10-04-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. "Commissioner" means the securities commissioner of insurance of this state. In this code the term "commissioner of insurance" must be substituted for the term "securities commissioner" or any derivative of that term which, when used in context that indicates an intention to refer to that person.

SECTION 27. AMENDMENT. Subsections 1 and 4 of section 10-04-03 of the 1991 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. ~~The securities commissioner must be appointed by the governor and confirmed by the senate and shall hold office for a term of four years, beginning on the first day of July following a national presidential election and continuing until a successor has been appointed, confirmed by the senate, and has qualified, unless removed as herein provided. If the senate is not in session, the governor may make an interim appointment, and the interim appointee shall hold office until the senate confirms or rejects the appointment. The commissioner must be skilled in securities and may not be an incumbent of any other public office in the state. The commissioner may not own or control any security required to be registered under this chapter and may not be an officer, director, or employee of any dealer, salesman, investment adviser, or investment adviser representative required to be registered under this chapter. The governor may remove from office any commissioner who fails to discharge faithfully the duties of office or who becomes disqualified under the provisions of this section.~~

~~It is the prime duty of the The commissioner to shall administer the provisions of this chapter. The commissioner shall receive a salary within the amount appropriated for salaries by the legislative assembly. The commissioner shall use a seal with the words "securities commissioner, North Dakota" and such design as the commissioner may prescribe engraved thereon by which seal the commissioner may authenticate documents used in the administration of this chapter. The commissioner may employ such employees as are necessary for the administration of this chapter. In the absence or disability of the commissioner, the deputy shall administer the provisions of this chapter as acting commissioner. Neither the commissioner nor any employee of the commissioner may use for personal gain or benefit information filed with or obtained by the commissioner which is not public information, or conduct securities dealings based upon information filed with or obtained by the commissioner, even though public, if there has not been sufficient time for the securities markets to assimilate the information.~~

4. ~~All fees collected under this chapter shall be turned in to the general fund of the state treasury deposited in the insurance regulatory trust fund.~~

SECTION 28. AMENDMENT. Section 15-21-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-21-02. Salary and traveling expenses. ~~The annual salary of the superintendent of public instruction is fifty-two fifty-three thousand three six hundred twelve ninety-two dollars through June 30, 1992, and fifty-two thousand seven hundred ninety-two dollars thereafter. The superintendent is also entitled to reimbursement for expenses incurred in the discharge of official duties, such expenses to be paid monthly on a warrant prepared by the office of management and budget and signed by the state auditor, upon the filing of an itemized and verified statement of expenses.~~

SECTION 29. AMENDMENT. Section 26.1-01-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-01-02. Commissioner - Seal - Employment of deputy and assistants. The commissioner shall have an official seal and shall keep an impression of the seal on file in the office of the secretary of state. The commissioner shall employ a deputy and other competent

officials and clerks to discharge the duties assigned by the commissioner. The commissioner may delegate any or all of the functions assigned to the commissioner under chapters 10-04, 43-40.1, 51-19, and 51-23. When the commissioner is absent temporarily from the office, the deputy commissioner may sign the commissioner's name and perform any other statutory duties pertaining to the office.

SECTION 30. AMENDMENT. Subsections 1 and 3 of section 26.1-01-07.1 of the North Dakota Century Code are amended and reenacted as follows:

1. There is hereby created a trust fund designated "insurance regulatory trust fund". The following amounts must be deposited in the insurance regulatory trust fund:
 - a. All sums received under section 26.1-01-07.
 - b. All sums received under section 26.1-01-07.2 from the insurance regulatory trust fund investments.
 - c. All retaliatory fees imposed upon persons by the insurance department as authorized by law.
 - d. All administrative penalties, fines, and fees collected by the commissioner from any person subject to this title.
 - e. All sums received under chapters 10-04, 43-10.1, 51-19, and 51-23.
 - f. Any other amounts provided by legislative appropriation.
3. Any cash balance in the insurance regulatory trust fund after all current biennium fiscal year expenditures are met must be carried forward in the insurance regulatory trust fund for the next succeeding biennium fiscal year, except when the balance at the end of the biennium fiscal year exceeds ~~two~~ one million five hundred thousand dollars, any excess will be transferred to the general fund in the state treasury.

SECTION 31. AMENDMENT. Section 26.1-01-09 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

26.1-01-09. Salary of commissioner. The annual salary of the commissioner is ~~fifty-one~~ fifty-two thousand ~~two~~ six hundred ~~seventy-two~~ fifty-two dollars ~~through June 30, 1992, and fifty-one thousand seven hundred fifty-two dollars thereafter.~~

SECTION 32. AMENDMENT. Section 27-02-02 of the North Dakota Century Code is amended and reenacted as follows:

27-02-02. Salaries of judges of supreme court. Each judge of the supreme court is entitled to receive an annual salary of seventy-one thousand ~~seventy-five~~ five hundred fifty-five dollars through June 30, ~~1992~~ 1993, and ~~seventy-one~~ seventy-two thousand ~~five~~ four hundred fifty-five dollars thereafter. The chief justice of the supreme court is entitled to receive an additional two thousand ~~forty~~ dollars per annum ~~through June 30, 1992, and two thousand forty dollars per annum thereafter.~~

SECTION 33. AMENDMENT. Section 27-05-03 of the North Dakota Century Code is amended and reenacted as follows:

27-05-03. Salaries and expenses of district judges. Each district judge of this state is entitled to receive an annual salary of sixty-five thousand ~~four hundred ninety nine hundred seventy~~ dollars through June 30, 1992 1993, and ~~sixty-five~~ sixty-six thousand ~~nine~~ eight hundred seventy dollars thereafter. Each district judge is entitled to actual travel expenses including mileage and subsistence while engaged in the discharge of official duties outside the county in which the judge's chambers are located. ~~Such~~ The salary and expenses ~~shall be~~ are payable monthly in the manner provided by law. Each district judge who has been appointed by the supreme court to act as a presiding judge of a judicial district is entitled to receive an additional one thousand five hundred ~~fifty~~ eighty-one dollars per annum, through June 30, 1992, and one thousand five hundred ~~eighty-one~~ dollars thereafter.

SECTION 34. AMENDMENT. Section 34-05-01.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

34-05-01.2. Department of labor to be administered by commissioner of labor. The department of labor must be administered by a commissioner of labor who must be elected for a four-year term on a no-party ballot in the year 1966 and every four years thereafter in the same manner as provided for no-party candidates pursuant to title 16.1. Following ~~his~~ the commissioner's election, the term of the commissioner ~~of labor~~ commences on the same day as the terms for other elected state officials. The commissioner of labor shall possess the same qualifications for office as the commissioner of agriculture. The annual salary of the commissioner of labor is ~~forty-nine~~ fifty-two thousand ~~nine~~ six hundred ~~fifty-two~~ dollars through June 30, 1992, and ~~fifty-one thousand two hundred seventy-two~~ dollars thereafter.

SECTION 35. AMENDMENT. Section 49-01-05 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-01-05. Salary of commissioners. The annual salary of a commissioner is ~~fifty-one~~ fifty-two thousand ~~two~~ six hundred ~~seventy-two~~ fifty-two dollars through June 30, 1992, and ~~fifty-one thousand seven hundred fifty-two~~ dollars thereafter. All fees received or charged by any ~~such~~ commissioner for any act or service rendered in any official capacity, ~~shall~~ must be accounted for and paid over by ~~him~~ the commissioner monthly to the state treasurer and ~~shall be~~ credited for credit to the general fund of the state.

SECTION 36. AMENDMENT. Subdivision a of subsection 2 of section 51-19-17 of the North Dakota Century Code is amended and reenacted as follows:

- a. The commissioner shall charge and collect the fees fixed by this section. All fees and charges collected under this section must be transmitted to the state treasurer and must be credited to the ~~general fund~~ insurance regulatory trust fund."

Page 10, after line 10, insert:

"SECTION 38. AMENDMENT. Section 54-07-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-07-04. Salary of governor. The annual salary of the governor is ~~sixty-seven~~ sixty-nine thousand ~~eight~~ one hundred ~~four~~ eighty-four dollars through June 30, 1992, and ~~sixty-eight thousand two hundred~~ eighty-four dollars thereafter.

SECTION 39. AMENDMENT. Section 54-08-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-08-03. Salary of lieutenant governor. The annual salary of the lieutenant governor is ~~fifty-five~~ fifty-seven thousand ~~six hundred thirty-six~~ sixteen dollars through June 30, 1992, and ~~fifty-six thousand one hundred sixteen~~ dollars thereafter.

SECTION 40. AMENDMENT. Section 54-09-05 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-09-05. Salary of secretary of state. The annual salary of the secretary of state is ~~fifty-one~~ fifty-two thousand ~~two~~ six hundred ~~seventy-two~~ fifty-two dollars through June 30, 1992, and ~~fifty-one thousand seven hundred fifty-two~~ dollars thereafter.

SECTION 41. AMENDMENT. Section 54-10-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-10-10. Salary of state auditor. The annual salary of the state auditor is ~~fifty-one~~ fifty-two thousand ~~two~~ six hundred ~~seventy-two~~ fifty-two dollars through June 30, 1992, and ~~fifty-one thousand seven hundred fifty-two~~ dollars thereafter.

SECTION 42. AMENDMENT. Section 54-11-13 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-11-13. Salary of state treasurer. The annual salary of the state treasurer is ~~fifty-one~~ fifty-two thousand ~~two~~ six hundred ~~seventy-two~~ fifty-two dollars through June 30, 1992, and ~~fifty-one thousand seven hundred fifty-two~~ dollars thereafter.

SECTION 43. AMENDMENT. Section 54-12-11 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-12-11. Salary of attorney general. The annual salary of the attorney general is ~~fifty-seven~~ fifty-nine thousand ~~nine~~ three hundred ~~twenty-eight~~ eight dollars through June 30, 1992, and ~~fifty-eight thousand four hundred eight~~ dollars thereafter.

SECTION 44. AMENDMENT. Section 54-12-17 of the North Dakota Century Code is amended and reenacted as follows:

54-12-17. Consumer fraud protection and antitrust division. A consumer ~~fraud~~ protection and antitrust division is created under the attorney general. This division consists of a director and such other personnel as may be appointed by the attorney general. ~~It~~ The division shall act to enforce the consumer fraud laws and act with regard to the use or employment by any person of any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation with the intent that others rely thereon in connection with the sale or advertisement of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, and shall make full investigation of such activities and maintain adequate facilities for filing reports, examining persons and merchandise in regard thereto, and storing impounded books, records, accounts, papers, and samples of merchandise relating to same. The division shall ~~further~~ cooperate with other governmental agencies, national, state, or local, and with all peace officers of the state in regard thereto. The division ~~shall~~ also shall investigate antitrust violations and enforce antitrust laws."

Page 10, line 19, overstrike "fraud" and insert immediately thereafter "protection" and overstrike "and"

Page 10, line 21, after "bond" insert ", and all funds and fees collected by the gaming section for licensing tribal gaming and for the investigation of gaming employees, applicants, organizations, manufacturers, distributors, or tribes involved in state or tribal gaming"

Page 10, line 23, overstrike "fraud" and insert immediately thereafter "protection"

Page 11, line 2, overstrike "fraud" and insert immediately thereafter "protection"

Page 11, after line 12, insert:

"SECTION 46. A new section to chapter 54-12 of the North Dakota Century Code is created and enacted as follows:

Loans for law enforcement activities. The attorney general may obtain unsecured loans from any financial institution in this state for the purpose of conducting the activities listed in subsection 1 of section 54-12-14. Any funds obtained under this section must be repaid at the end of each biennium and are not subject to appropriation limitations.

SECTION 47. AMENDMENT. Section 57-01-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-01-04. Salary. The annual salary of the state tax commissioner is ~~fifty-one~~ fifty-two thousand ~~two~~ six hundred ~~seventy-two~~ fifty-two dollars ~~through June 30, 1992, and fifty-one thousand seven hundred fifty-two dollars thereafter.~~

SECTION 48. AMENDMENT. Section 60-06-06.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

60-06-06.1. Determination - Appropriation. Any party may petition the public service commission to determine rights governed under this chapter. The commission shall determine the matter in accordance with chapter 28-32 and the parties' rights of appeal are as limited by chapter 28-32. The commission shall conduct each hearing required under this section in the county where the right of way at issue is located. The parties to the determination proceeding shall pay the expense of the proceeding, the compensation of any experts, and actual expenses of any employees of the commission while engaged in the proceeding. The commission shall ascertain those costs and expenditures and, after giving the parties notice and opportunity to be heard, and after a hearing to determine the amount of cost and expenditures if a hearing is demanded by either of the parties, shall render a bill and make and transmit to the parties an order for payment by registered mail. Within ten days after receipt of the order, the parties shall pay to the commission the amount of the costs and expenses. The commission shall deposit all costs and expenses collected under this section in the public utility valuation revolving general fund in the state treasury. All moneys transferred or deposited in the public utility valuation revolving fund for the payment of costs and expenses incurred under this section are hereby appropriated. These moneys are not subject to section 54-44.1-11.

SECTION 49. REPEAL. Sections 49-06-18, 49-06-19, 49-06-20, 49-06-21, and 49-06-22 of the North Dakota Century Code and section

49-06-23 of the 1991 Supplement to the North Dakota Century Code are repealed."

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 035 - INSURANCE TAX TO FIRE DEPARTMENTS

SENATE - This amendment provides a separate appropriation for insurance tax payments to fire departments of \$5,262,700 from the insurance tax distribution fund rather than appropriating the payments in the Insurance Commissioner's appropriation from the general fund. This amount is in compliance with the provisions of House Bill No. 1036 as passed by the Legislative Assembly.

DEPARTMENT 101 - GOVERNOR'S OFFICE

SENATE - This amendment makes the following changes:

The Lieutenant Governor's office is combined into the Governor's office as follows:

Salaries and wages (3 FTE)	\$258,908
Information services	781
Operating expenses	7,132
Equipment	1,300
Contingency	<u>6,893</u>
Total general fund	\$275,014

The salaries and wages line item is increased by \$35,533 from the general fund to reflect Governor Sinner's salary increase recommendation for state employees, excluding elected officials. Statutory changes are included providing a \$75 per month salary increase for elected officials.

The information services line item is increased by \$3,790 from the general fund to restore a portion of the information services funding reduced by the House. The funding level provided reflects a \$547 reduction from the executive budget recommendation relating to information services rate reductions.

Funding for the Yellowstone-Missouri-Fort Union Commission is increased by \$2,000 from the general fund, from \$3,239 to \$5,239.

In total, funding for the Governor's office is increased by \$316,337 from the general fund.

DEPARTMENT 106 - LIEUTENANT GOVERNOR'S OFFICE

SENATE - This amendment combines funding for the Lieutenant Governor's office with the Governor's office. Funding of \$275,014 from the general fund is transferred to the Governor's office budget.

DEPARTMENT 108 - SECRETARY OF STATE

SENATE - This amendment makes the following changes:

The salaries and wages line item is increased by \$32,372 from the general fund to reflect Governor Sinner's salary increase recommendation for state employees, excluding elected officials. Statutory changes are included providing a \$75 per month salary increase for elected officials.

The information services line item is increased by \$78,631 from the general fund to restore a portion of the funding reduced by the House. The funding

level provided reflects a \$46,797 reduction from the executive budget recommendation relating to information services rate reductions.

A limited liability administration line item of \$5,000 from the general fund is added for costs relating to the approval of Senate Bill No. 2222 (limited liability company bill).

The grants line item of \$600,000 from the general fund is removed. The payments to counties for their share of central indexing system fee collections will be paid through the Office of Management and Budget's miscellaneous refund account; therefore, no specific appropriation is made for these payments, and the amounts projected to be spent are not reflected in total state appropriations.

A section of legislative intent is added providing that the Secretary of State pay no more than 71 percent of central indexing system fee collections to the counties.

In total, this amendment reduces funding for the Secretary of State's office by \$483,997 from the general fund.

DEPARTMENT 117 - STATE AUDITOR

SENATE - This amendment makes the following changes:

The salaries and wages line item is increased by \$104,078, \$67,650 of which is from the general fund, to reflect Governor Sinner's salary increase recommendation for state employees, excluding elected officials. Statutory changes are included providing a \$75 per month salary increase for elected officials.

The information services line item is increased by \$8,639, \$7,257 of which is from the general fund, to restore a portion of the funding reduced by the House. The funding level provided reflects a \$3,461 reduction from the executive budget recommendation relating to information services rate reductions.

In total, this amendment increases funding for the State Auditor's office by \$112,717, \$74,907 of which is from the general fund and \$37,810 of other funds.

DEPARTMENT 120 - STATE TREASURER

SENATE - This amendment makes the following changes:

The salaries and wages line item is increased by \$11,294 from the general fund to reflect Governor Sinner's salary increase recommendation for state employees, excluding elected officials. Statutory changes are included providing a \$75 per month salary increase for elected officials.

The information services line item is increased by \$8,053 from the general fund to restore a portion of the funding reduced by the House and to provide an additional \$6,000 for information services costs.

The veterans' postwar trust fund line item is increased by \$5,670 from the general fund to restore funding reduced during the 1991-93 biennium as a result of the general fund allotment ordered by the Governor.

In total, funding for the State Treasurer's office is increased by \$25,017 from the general fund.

DEPARTMENT 125 - ATTORNEY GENERAL

SENATE - This amendment makes the following changes:

The salaries and wages line item is changed as follows:

	GENERAL FUND	SPECIAL FUNDS	TOTAL
Funding to reflect Governor Sinner's salary increase recommendation for state employees, excluding elected officials	\$190,268	\$ 64,580	\$254,848
Five FTE assistant Attorney's General relating to Workers Compensation Bureau		463,782	463,782
Restore funding for vacant positions reduced by the House	<u>123,407</u>	<u> </u>	<u>123,407</u>
Total	\$313,675	\$528,362	\$842,037

Statutory changes are included providing a \$75 per month salary increase for elected officials.

The information services line item is increased by \$54,823, \$24,694 of which is from the general fund, to restore a portion of the funding reduced by the House. The funding level provided reflects a \$3,753 reduction from the executive budget recommendation relating to information services rate reductions.

Funding for the Racing Commission is provided in a special line item and additional operating funding is provided as follows:

	GENERAL FUND	
Salaries and wages	\$(92,089)	
Information services	(11,500)	
Operating expenses	(56,332)	
Racing Commission	<u>159,921</u>	\$159,921
Additional general fund support including 1 FTE	\$ 0	<u>125,000</u>
Total Racing Commission line item		\$284,921

The operating expenses line item is increased by \$25,225, \$22,725 of which is from the general fund, for prosecution witness fees relating to Senate Bill No. 2081 and \$2,500 from the fire and tornado fund for additional percent of green program operating costs.

The grants line item is increased by \$979,940 of federal funds for additional drug abuse grants.

The grants to state agencies line item is decreased by \$437,477 of federal funds relating to drug abuse grants.

The state employee defense line item is reduced by \$150,000 from the bonding fund to provide less funding for state employee defense.

The estimated income line item is reduced by \$300,000 and the general fund appropriation is increased by \$300,000 relating to rate reductions for Workers Compensation Bureau legal services. A separate contingent appropriation of \$300,000 from special funds is added, subject to Emergency Commission approval, in case the federal government does not approve the rate reduction for Workers Compensation Bureau legal services. The section provides that the Attorney General's general fund appropriation be reduced by the amount of special funds appropriation approved by the Emergency Commission.

North Dakota Century Code Section 54-12-18 is amended to allow the Attorney General to collect and spend funds relating to Indian gaming pursuant to a continuing appropriation.

North Dakota Century Code Sections 54-12-17 and 54-12-18 are amended to change the name of the Consumer Fraud and Antitrust Division to the Consumer Protection and Antitrust Division.

A new section to North Dakota Century Code Chapter 54-12 is added allowing the Attorney General to obtain unsecured loans for law enforcement purposes.

The section regarding local gaming enforcement grants is changed to provide that the Attorney General may make a payment to a city or county only if the amount to be paid for that quarter is \$10 or more.

In total, funding for the Attorney General's office is increased by \$1,739,548, \$786,094 of which is from the general fund and \$953,454 is from other funds.

DEPARTMENT 127 - TAX COMMISSIONER

SENATE - This amendment makes the following changes:

The salaries and wages line item is changed as follows:

	GENERAL FUND
Funding to reflect Governor Sinner's salary increase recommendation for state employees, excluding elected officials	\$223,260
One FTE clerk	32,954
Restore \$60,000 of the \$110,000 reduced by the House for vacant positions	<u>60,000</u>
Total increase	\$316,214

Statutory changes are included providing a \$75 per month salary increase for elected officials.

The information services line item is increased by \$110,199 from the general fund to restore a portion of the funding reduced by the House. The funding level provided reflects a \$41,540 reduction from the executive budget recommendation relating to information services rate reductions.

The expert witness contingency line item is changed to an attorney and expert witness contingency line item and funding is increased by \$40,000 from the general fund, from \$160,000 to \$200,000. This change allows the Tax Commissioner to obtain additional legal assistance if needed.

In total, this amendment increases funding for the Tax Department by \$466,413 from the general fund.

DEPARTMENT 160 - LEGISLATIVE COUNCIL

SENATE - This amendment provides a \$3,000 general fund appropriation to the Legislative Council for paying per diem of legislative members of the Regulatory Reform Review Commission for the 1991-93 biennium during the 1993-95 biennium and a \$45,000 general fund appropriation to the Legislative Council to pay the expenses of the legislative members of the Regulatory Reform Review Commission for the 1993-95 biennium.

DEPARTMENT 401 - INSURANCE COMMISSIONER

SENATE - This amendment makes the following changes:

Funding of \$5,200,000 from the general fund for insurance tax payments to fire departments is removed and funding of \$5,262,700 from the insurance tax distribution fund is provided in a separate section.

The office of Securities Commissioner is combined with the Insurance Department, including \$602,710 from the insurance regulatory trust fund and seven FTE positions. Fees relating to securities collected by the department will be deposited in the insurance regulatory trust fund rather than the general fund. Funding for the Securities Commission is increased as follows:

Funding to reflect Governor Sinner's salary increase recommendation for state employees	\$ 10,121
Revised information services rates	1,681
Rent	26,000
State Auditor payments	<u>3,000</u>
Total increase	\$ 40,802
Total Securities Commission line item	\$643,512

Funding for the Insurance Department is changed from the general fund to the insurance regulatory trust fund.

The salaries and wages line item is increased for the following:

Funding to reflect Governor Sinner's salary increase recommendation for state employees, excluding elected officials	\$ 87,557
Senior outreach (federal funds)	31,667
Senior outreach (state match)	30,000
Pay equity increases	<u>62,160</u>
Total special funds	\$211,384

Statutory changes are included providing a \$75 per month salary increase for elected officials.

The information services line item is increased for the following:

Senior outreach (federal funds)	\$ 2,250
Revised information services rates	<u>7,351</u>
Total special funds	\$ 9,601

The operating expenses line item is increased for the following:

Senior outreach (federal funds)	\$ 30,000
Legal fees	17,000
Other increases to provide funding at the 1991-93 biennium level	<u>82,033</u>
Total special funds	\$129,033

The equipment line item is increased by \$8,000 of special funds to provide funding at the 1991-93 biennium level

The boiler inspection line item is increased for the following:

Salaries for upgrading 1 FTE position to inspector	\$ 40,165
Additional moving and operating costs	<u>13,000</u>
Increase from the fire and tornado fund	\$ 53,165

Administrative cost allocations to special funds are adjusted as follows:

Bonding fund	\$ 15,859
Fire and tornado fund	334,806
Unsatisfied judgment fund	18,451
Petroleum tank release compensation fund	2,978
Insurance regulatory trust fund	(372,094)
Total	\$ 0

In total, this amendment reduces funding for the Insurance Commissioner by \$4,145,305. Funding of \$8,220,868 from the general fund is deleted and funding from special funds is increased by \$4,075,563, from \$1,003,541 to \$5,079,104. Authorized FTE positions are increased by seven, from 42.5 to 49.5 FTE positions.

DEPARTMENT 406 - LABOR COMMISSIONER

SENATE - The salaries and wages line item is increased by \$28,000 from the general fund, including one FTE undesignated position, which was removed by the House.

The salaries and wages line item is increased by \$13,153 from the general fund to reflect Governor Sinner's salary increase recommendation for state employees, excluding elected officials. Statutory changes are included providing a \$75 per month salary increase for elected officials.

The information services line item is increased by \$2,285, \$1,981 of which is from the general fund, to restore a portion of the funding reduced by the House. The funding level provided reflects a \$215 reduction from the executive budget recommendation relating to information services rate reductions.

The operating expenses line item is reduced by \$35,838, \$31,742 of which is from the general fund, to remove funding for indirect cost allocation payments to the Office of Management and Budget because the Labor Commissioner will not be charged for these costs.

In total, this amendment increases funding for the office of Labor Commissioner by \$7,600. General fund support is increased by \$11,392 and other funds are reduced by \$3,792.

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

SENATE - This amendment makes the following changes:

The salaries and wages line item is increased by \$102,942, \$51,472 of which is from the general fund, to reflect Governor Sinner's salary increase recommendation for state employees, excluding elected officials. Statutory changes are included providing a \$75 per month salary increase for elected officials.

The information services line item is increased by \$9,579, \$6,294 of which is from the general fund, to restore a portion of the funding reduced by the House. The funding level provided reflects a \$2,074 reduction from the executive budget recommendation relating to information services rate reductions.

The operating expenses line item is reduced as follows relating to funding for indirect cost allocation payments to the Office of Management and Budget:

	HOUSE VERSION	CHANGE	SENATE VERSION
General fund	\$ 86,016	\$ (86,016)	\$ 0
Special funds	<u>149,806</u>	<u>(94,806)</u>	<u>55,000</u>

Total	\$235,822	\$(180,822)	\$55,000
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A section is added authorizing the Public Service Commission to charge public utility companies for costs associated with the Regulatory Reform Review Commission.

A section is added appropriating \$125,000 from the general fund for employing experts and for other assistance in regulating public utilities during the 1993-95 biennium.

Section 60-06-01.1 is amended to provide that funds collected under this section be deposited in the general fund rather than the public utility valuation revolving fund.

Section 49-06-18 is repealed because the commission has similar authority under subsection 7 of Section 49-02-02. Other section also repealed are Sections 49-06-19, 49-06-20, 49-06-21, 49-06-22, and 49-06-23 relating to provisions of section 49-06-18 and the public utility valuation revolving fund because funds previously deposited in this fund will now be deposited in the general fund.

In total, this amendment increases funding for the Public Service Commission by \$56,699. General fund support is increased by \$96,750 and other funds are decreased by \$40,051.

DEPARTMENT 414 - SECURITIES COMMISSIONER

SENATE - This amendment combines the office of the Securities Commissioner with the Insurance Department and provides funding for it from the insurance regulatory trust fund. This reduces funding from the general fund by \$602,710.

DEPARTMENT 485 - WORKERS COMPENSATION BUREAU

SENATE - This amendment provides a contingent appropriation of up to \$300,000 from the workers compensation fund, subject to Emergency Commission approval, to pay additional costs of legal services provided by the Attorney General if the federal government does not approve the Attorney General's rate reductions for legal services provided to the Workers Compensation Bureau for the 1993-95 biennium.

DEPARTMENT 602 - AGRICULTURE COMMISSIONER

SENATE - This amendment makes the following changes:

The salaries and wages line item is increased by \$68,455, \$54,764 of which is from the general fund, to reflect Governor Sinner's salary increase recommendation for state employees, excluding elected officials. Statutory changes are included providing a \$75 per month salary increase for elected officials.

The information services line item is increased by \$8,160, \$7,413 of which is from the general fund, to restore a portion of the funding reduced by the House. The funding level provided reflects a \$615 reduction from the executive budget recommendation relating to information services rate reductions.

The operating expenses line item is reduced by \$213,034, \$116,168 of which is from the general fund, to remove funding for indirect cost allocation payments to the Office of Management and Budget.

Funding is added for the livestock division as follows:

Salaries and wages (1 FTE)	\$64,846
Operating expenses	<u>6,050</u>

Total general fund \$70,896

Funding of \$100,000 for Agriculture Mediation is changed from the general fund to special funds and two FTE positions are added for the program.

The noxious weeds line item is reduced by \$100,000. Funding from the general fund is increased by \$100,000 and carryover authority of \$200,000 from the environment and rangeland protection fund is removed.

Funding of \$115,000 from the general fund is added for rangeland grasshopper control.

Funding for the waterbank program is increased by \$106,000 of other funds to allow the department to raise additional funds for the program.

In total, this amendment increases funding for the Agriculture Department by \$55,477. General fund support is increased by \$131,905 and other funds are reduced by \$76,428.

In total, this amendment increases funding in House Bill No. 1001 by \$2,883,482. Funding from the general fund is reduced by \$7,625,774 and funding from other funds is increased by \$10,509,256.

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1002

DIVISION A

Page 6, after line 3, insert:

SECTION 4. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury the sum of \$428,926, or so much of the sum as may be necessary, and the sum of \$3,247,979 from special funds derived from federal funds and from other income, for a total of \$3,676,905, or so much of the sum as may be necessary to the operator described in section 13 of this Act for the biennium beginning July 1, 1993, and ending June 30, 1995.

SECTION 5. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$200,339, or so much of the sum as may be necessary, and \$587,150 from special funds derived from federal funds and other income, for a total of \$787,489, or so much of the sum as may be necessary, to the department of human services for the purpose of paying the fees charged for services furnished to medicaid eligible residents of the facility described in section 13 of this Act for the biennium beginning July 1, 1993, and ending June 30, 1995."

Page 6, after line 22, insert:

"SECTION 13. A new chapter to title 37 of the North Dakota Century Code is created and enacted as follows:

Definitions. For purposes of this chapter:

1. "Facility" means the cedar grove building module at the developmental center.
2. "Long-term care" means care in a nursing facility as that term is defined in 42 U.S.C. 1396r(a).
3. "Operator" means the department of veterans' affairs, the northeast veterans' home committee, or an agency established by agreement between the states of Minnesota and North Dakota, as determined by the governor.

Powers and duties of operator. The operator shall:

1. Lease the facility from the department of human services;
2. Provide long-term care in the facility in a manner that conforms to requirements imposed by the United States department of veterans' affairs for the furnishing of a nursing home level of care in a state home for veterans;
3. Comply with requirements for licensure of the facility under chapter 23-16;
4. Comply with requirements for certification of the facility to provide services under medicare and medicaid;
5. Operate the facility, to the greatest extent reasonable, in conformance with the requirements of chapter 37-15;
6. Employ a qualified administrator to supervise the operation of the facility;
7. Employ subordinate staff necessary to the proper operation of the facility;
8. Purchase services from the developmental center at Grafton;
9. Charge fees for services furnished to residents of the facility, and take any action reasonably necessary to collect those fees; and
10. Maintain an operating fund into which all fees for services provided in the facility are deposited, and out of which all expenses of the operation of the facility are paid.

Rates charged to nonresidents. Notwithstanding any provision of chapter 50-24.4, the operator shall charge rates, approved by the department of human services, for services furnished to facility residents who are not residents of the state of North Dakota, which are not less than the total cost of furnishing those services."

Page 14, after line 29, insert:

SECTION 28. LEGISLATIVE INTENT. It is the intent of the legislative assembly that the operator described in section 13 of this Act shall prepare and present, for the approval of the budget section of the legislative council, a proposed budget describing anticipated expenses and staffing patterns and requirements for the operation of the facility described in section 13 of this Act, for the biennium beginning July 1, 1993, and ending June 30, 1995.

SECTION 29. DEPARTMENT TO LEASE FACILITY. The department shall lease the facility described in section 13 of this Act, to the operator described in section 13 of this Act, on such terms as the department and the operator deem mutually beneficial. Notwithstanding the requirements of section 50-06-06.6, the lease may extend for a period of up to thirty years."

THE SENATE FAILED TO ADOPT DIVISION A.

DIVISION B

Page 1, line 4, after the comma insert "an appropriation from the state aid distribution fund, and an appropriation for a long-term care facility for veterans;"

- Page 1, line 5, after "institutions" insert "and to require budget section approval of alternative programs at the state hospital"
- Page 1, line 6, replace "section to chapter 50-06.2" with "subsection to section 23-01-03, a new subsection to section 23-17.2-02, a new chapter to title 37, a new section to chapter 43-17, a new subsection to section 50-06-05.1,"
- Page 1, line 7, after "to" insert "the duties of the North Dakota health council, to the definition of long-term care facility, to the certificate of need program, to a long-term care facility for veterans, to an exemption from a fee paid by a physician, to the lease of developmental center facilities or properties, to"
- Page 1, line 8, after "funds" insert a comma and replace "a basic care assistance program" with "aid to aged, blind, and disabled persons"
- Page 1, line 9, replace the first "section" with "subsection 7 of section 23-17.2-02, sections 23-17.2-03," and after "50-01-01" insert a comma
- Page 1, line 10, replace the comma with "and to amend and reenact section 4 of chapter 561 of the 1991 Session Laws of North Dakota," and after "to" insert "the definition of health care facility, to the scope of the certificate of need program, to"
- Page 1, line 11, replace "and" with a comma and after "services" insert ", and to extending an appropriation for the developmental center"
- Page 1, replace line 15 with "provide legislative intent regarding developmentally disabled provider salary increases, for senior citizens mill levy match funding, for a legislative council study of human service center funding formula, and establishment of a management information system for service payments for elderly and disabled by the department"
- Page 1, line 16, remove "hospital"
- Page 1, line 17, replace "and" with "to provide legislative intent regarding state hospital income;" and after "date" insert "; to provide a contingent effective date; to provide an expiration date; and to declare an emergency"
- Page 2, line 7, replace "248,253" with "405,507"
- Page 2, after line 7, insert:
"Equipment 4,617"
- Page 2, line 8, replace "39,096" with "44,749"
- Page 2, line 9, replace "287,349" with "454,873"
- Page 2, line 10, replace "80,243" with "125,277"
- Page 2, line 11, replace "207,106" with "329,596"
- Page 2, line 15, replace "1,049,627" with "1,296,595"
- Page 2, line 16, replace "5,837,971" with "4,361,696"
- Page 2, line 19, replace "14,526,541" with "13,297,234"
- Page 2, line 20, replace "8,778,363" with "7,875,741"
- Page 2, line 21, replace "5,748,178" with "5,421,493"

Page 2, line 25, replace "5,680,732" with "6,007,188"
Page 2, line 26, replace "10,671,501" with "11,006,445"
Page 2, line 28, replace "135,451,189" with "137,391,189"
Page 2, line 29, replace "155,735,981" with "158,337,381"
Page 3, line 1, replace "136,218,731" with "138,515,343"
Page 3, line 2, replace "19,517,250" with "19,822,038"
Page 3, line 5, replace "2,487,891" with "2,554,596"
Page 3, line 6, replace "1,621,756" with "1,665,807"
Page 3, line 9, replace "497,360,828" with "552,436,154"
Page 3, line 10, replace "503,747,484" with "558,933,566"
Page 3, line 11, replace "367,582,266" with "408,264,831"
Page 3, line 12, replace "136,165,218" with "150,668,735"
Page 3, line 16, replace "352,714" with "277,059"
Page 3, line 20, replace "16,090,560" with "16,014,905"
Page 3, line 21, replace "14,218,072" with "14,157,627"
Page 3, line 22, replace "1,872,488" with "1,857,278"
Page 3, line 25, replace "4,707,028" with "4,775,500"
Page 3, line 26, replace "912,247" with "917,491"
Page 3, line 27, replace "7,831,897" with "9,346,217"
Page 3, after line 27, insert:
"State hospital downsizing funding pool 2,000,000"
Page 3, line 29, replace "53,912,186" with "56,949,494"
Page 4, line 1, replace "67,521,254" with "74,146,598"
Page 4, line 2, replace "44,253,471" with "45,494,887"
Page 4, line 3, replace "23,267,783" with "28,651,711"
Page 4, line 6, replace "49,425,282" with "53,739,094"
Page 4, line 7, replace "523,122" with "881,230"
Page 4, line 8, replace "9,653,243" with "10,390,142"
Page 4, line 9, replace "409,826" with "557,550"
Page 4, line 11, replace "23,841,692" with "10,287,087"
Page 4, line 12, replace "84,200,915" with "76,202,853"
Page 4, line 13, replace "34,032,943" with "35,256,095"
Page 4, line 14, replace "50,167,972" with "40,946,758"

- Page 4, line 17, replace "41,207,571" with "41,684,456"
- Page 4, line 18, replace "789,723" with "1,108,863"
- Page 4, line 19, replace "7,060,840" with "7,018,682"
- Page 4, line 21, replace "412,557" with "501,352"
- Page 4, line 22, replace "49,758,312" with "50,600,974"
- Page 4, line 23, replace "29,722,065" with "17,578,863"
- Page 4, line 24, replace "20,036,247" with "33,022,111"
- Page 4, line 27, replace "31,116,026" with "31,503,510"
- Page 4, line 28, replace "369,725" with "402,079"
- Page 4, line 29, replace "8,290,360" with "10,669,946"
- Page 5, line 3, replace "39,924,198" with "42,723,622"
- Page 5, line 4, replace "27,916,631" with "29,907,562"
- Page 5, line 5, replace "12,007,567" with "12,816,060"
- Page 5, line 9, replace "4,680" with "5,120"
- Page 5, line 13, replace "1,177,678" with "1,178,118"
- Page 5, line 14, replace "1,138,683" with "1,138,763"
- Page 5, line 15, replace "38,995" with "39,355"
- Page 5, line 16, replace "269,028,804" with "294,204,400"
- Page 5, line 17, replace "663,941,468" with "702,350,118"
- Page 5, line 18, replace "932,970,272" with "996,554,518"
- Page 6, line 16, after "CLIENTS" insert "- STATE HOSPITAL ALTERNATIVE USES -
BUDGET SECTION APPROVAL"
- Page 6, line 17, replace "Notwithstanding section 4 of this Act, the" with
"The"
- Page 6, line 18, after "transfer" insert ", subject to budget section
approval,"
- Page 6, line 22, after the period insert "The department of human services,
during the 1993-95 biennium, shall review the financial and other
impacts of alternative programs at the state hospital, including the
development of a psychiatric skilled nursing facility and subject to
budget section approval shall begin such optional uses it determines
appropriate.

SECTION 9. A new subsection to section 23-01-03 of the North Dakota Century Code is created and enacted as follows:

Regulate the expansion of long-term care facilities and services through the certificate of need process under chapter 23-17.2.

SECTION 10. AMENDMENT. Subsection 7 of section 23-17.2-02 of the North Dakota Century Code is amended and reenacted as follows:

7. "Health care facility" means those health care facilities licensed by the department or certified by the department under the federal Social Security Act as amended including, but not limited to, hospitals, skilled nursing facilities, kidney disease treatment centers (including freestanding hemodialysis units), intermediate care facilities, rehabilitation facilities, and ambulatory surgical facilities, but not including clinical laboratories which under title XVIII of the federal Social Security Act meet the requirements of paragraphs (10) and (11) of section 1861(s) of that Act. The term includes a long-term care facility.

SECTION 11. A new subsection to section 23-17.2-02 of the North Dakota Century Code is created and enacted as follows:

"Long-term care facility" means any nursing facility as defined in 42 U.S.C. 1396r(a), or basic care facility as defined in section 23-09.3-01. The term does not include a facility, as defined by subsection 2 of section 25-01.2-02, which provides services to developmentally disabled persons.

SECTION 12. AMENDMENT. Section 23-17.2-03 of the North Dakota Century Code is amended and reenacted as follows:

23-17.2-03. Scope of coverage of certificate of need program. The certificate of need program required under this chapter provides for the following:

1. The department, pursuant to this chapter and rules of the health council, shall review proposals subject to this chapter and shall approve, disapprove, or revoke the certificate of need, as appropriate. The certificate of need program applies to:
 - a. The obligation by or on behalf of a health care facility of any capital expenditure of seven hundred fifty thousand dollars or more (other than to acquire an existing facility). The capital expenditure must include the costs of designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment.
 - b. The addition or expansion of a health service by or on behalf of a health care facility beyond that which was offered within the previous twelve-month period before the month in which the health service would be offered which is associated with a capital expenditure and entails an annual operating cost of at least three hundred thousand dollars; or the termination of a health service effected by a capital expenditure of seven hundred fifty thousand dollars or more.
 - c. The acquisition by any person of major medical equipment that will be owned by or located in a health care facility the capital expenditure for which is five hundred thousand dollars or more or the annual operating cost for which is three hundred thousand dollars or more. In determining whether major medical equipment costs more than five hundred thousand dollars, the cost of designs, plans, working drawings, specifications, and other activities essential to placement, to acquiring the

equipment and making it operational must be included. If the equipment is acquired at less than fair market value, the term "cost" includes the fair market value.

- d. The acquisition by any person of major medical equipment not owned by or located in a health care facility the capital expenditure for which is five hundred thousand dollars or more or the annual operating cost for which is three hundred thousand dollars or more, if the department finds that the equipment will be used primarily to provide services to persons who are admitted patients in a health care facility. This does not include use of equipment on a temporary basis as in the case of a natural disaster, a major accident, or equipment failure.
 - e. The obligation of a capital expenditure of seven hundred fifty thousand dollars or more by any person to acquire an existing health care facility if a notice of intent is not received at least thirty days prior to entering into a contract for the obligation or the department finds that the services or bed capacity of the facility will be changed.
 - f. An acquisition by donation, lease, transfer, or comparable arrangement must be reviewed if such acquisition would have been subject to review if purchased. An acquisition for less than fair market value must be reviewed if the acquisition at fair market value would have been subject to review.
 - g. Any expansion of services by or of the physical plant of a long-term care facility or any conversion of beds from any other licensure category to any category of long term care.
2. Upon a decision by the health council to issue a certificate of need, the certificate shall specify the maximum amount of capital expenditures which may be obligated under such certificate.
 3. The health council shall prescribe by rule the extent to which a project authorized by a certificate of need shall be subject to further review if the amount of capital expenditures obligated or expected to be obligated for the project exceed the maximum specified in the certificate of need.
 4. ~~Any state agency construction project subject to the provisions of this chapter, the determination of need established through legislative procedure, finalized by appropriation, must be accepted by the health council without any formal reviews.~~

SECTION 14. A new section to chapter 43-17 of the North Dakota Century Code is created and enacted as follows:

Physicians in resident training not to pay fee. No licensed and registered physician who practices medicine in this state as a physician in resident training employed on a full-time basis by a medical hospital required to be licensed under chapter 23-16 or by the university of North Dakota may be required to pay the annual fee described in section 1 of reengrossed House Bill No. 1064, as amended by amendments to page 1, after line 4, as printed on page 1359 of the Senate journal."

Page 8, replace lines 6 through 12 with:

"SECTION 16. A new subsection to section 50-06-05.1 of the North Dakota Century Code is created and enacted as follows:

With the approval of the governor, to lease or transfer use of any part of the developmental center facilities or properties, located in section thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal government, or any public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:

- a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the developmental center.
- b. The transaction is exempt from the provisions of section 50-06-06.6.
- c. The term of any lease may not exceed ninety-nine years.
- d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
- e. Any funds realized by any transaction must be deposited in the state's general fund."

Page 8, after line 16, insert:

- "2. "Assisted living" means an environment where a person lives in an apartment-like unit and receives services on a twenty-four-hour basis to accommodate that person's needs and abilities to maintain as much independence as possible."

Page 8, line 17, replace "2." with "3."

Page 8, line 19, replace "3." with "4."

Page 8, after line 22, insert:

- "5. "Congregate housing" means housing shared by two or more persons not related to each other which is not provided in an institution."

Page 8, line 23, replace "4." with "6."

Page 8, line 24, replace "5." with "7."

Page 8, line 25, replace "6." with "8."

Page 8, line 29, replace "7." with "9."

Page 9, line 4, replace "Is" with "Has applied for and is", remove "cash", and replace "XVI" with "XIX"

Page 9, line 5, replace "1381" with "1396" and replace "or would be" with ", provided that a person who was eligible to receive benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] and who was receiving benefits under title XVI before the effective date of this section is not ineligible because that person is not eligible to receive benefits under title XIX;"

Page 9, remove line 6

Page 9, line 19, replace "8." with "10."

Page 9, after line 21, insert:

"11. "Living independently" includes living in congregate housing. The term does not include living in an institution.

12. "Qualified service provider" means a county agency or independent contractor who agrees to meet standards for services and operations established by the department."

Page 9, line 22, replace "9." with "13."

Page 9, line 26, replace "10." with "14."

Page 10, line 5, replace "a basic care assistance program" with "aid to vulnerable aged, blind, and disabled persons"

Page 10, line 6, replace "the basic care assistance" with "aid to vulnerable aged, blind, and disabled persons."

Page 10, remove line 7

Page 10, after line 17, insert:

"4. Pay qualified service providers at rates determined by the department, within the limits of legislative appropriation, for the provision of the following services provided to an eligible beneficiary to the extent that the eligible beneficiary lacks income sufficient to meet the cost of these services:

a. Homemaker services;

b. Chore services;

c. Respite care;

d. Home health aide services;

e. Case management;

f. Family home care;

g. Personal attendant care;

h. Adult family foster care;

i. Adaptive assessment; and

j. Other services the department determines to be essential and appropriate to sustain an individual in the individual's home and community and to delay or prevent institutional care.

5. Establish, maintain, and ensure the enforcement of standards for congregate housing as may be appropriate to the needs of the residents of congregate housing who are receiving services under this chapter. The standards must govern matters such as admission policy, safety, sanitation, and protection of civil rights."

Page 10, line 18, replace "4." with "6."

Page 10, line 19, after "services" insert "or assisted living services"

Page 10, line 20, replace "5." with "7."

Page 10, line 22, replace "6." with "8."

Page 10, line 25, replace "a basic care assistance program" with "aid to aged, blind, and disabled persons"

Page 10, after line 27, insert:

"2. Provide the services described in this chapter. The county agency may contract with a qualified service provider in its provision of its services."

Page 11, line 1, replace "2." with "3."

Page 11, after line 3, insert:

"4. Review the circumstances of congregate housing for residents receiving services under this chapter which may exist or may be established in the county and certify to the department that each congregate housing facility conforms to standards contained in rules adopted by the department.

5. Provide case management services to eligible beneficiaries.

6. Provide assessments to eligible beneficiaries and to applicants, where necessary."

Page 11, line 4, replace "3." with "7."

Page 11, line 6, replace "4." with "8."

Page 11, after line 8, insert:

"9. Cooperate with any other county agency to assure the conduct of initial and ongoing functional assessments and determinations of eligibility with respect to any applicant or eligible beneficiary who is physically present in a county other than the county in which the applicant or eligible beneficiary is a resident for purposes of chapter 50-02."

Page 11, line 22, after "department" insert "- Reimbursement by county agency"

Page 11, line 24, replace "local" with "county's share of the cost of supplements provided and"

Page 11, line 27, after the underscored period insert "Upon claim being made by the department, the county agency shall reimburse the department for fifty percent the first year of the 1993-95 biennium and thirty percent thereafter of the cost of supplementing the income of any eligible beneficiary who is a resident of the county for purposes of chapter 50-02."

Page 12, line 27, replace "living" with "a resident for purposes of chapter 50-02"

Page 13, after line 22, insert:

"SECTION 19. AMENDMENT. Section 4 of chapter 561 of the 1991 Session Laws of North Dakota is amended and reenacted as follows:

SECTION 4. PROCEEDS - APPROPRIATION. The proceeds from the sale of land at the state developmental center at Grafton must be deposited in the lands and minerals trust fund. There is hereby appropriated \$200,000, or so much thereof as may be necessary, from the lands and minerals trust fund, to the department of human services for capital improvements or demolition of existing buildings at the state developmental center at Grafton for the biennium period beginning July 1, 1991, and ending June 30, ~~1993~~ 1995."

Page 14, line 9, replace "2" with "20"

Page 14, replace lines 20 through 25 with:

"SECTION 23. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES PROVIDER SALARY INCREASES. It is the intent of the legislative assembly that community developmental disabilities provider agencies provide, to the extent possible, employee salary increases each year of the 1993-95 biennium similar to state employee salary increases.

SECTION 24. SENIOR CITIZENS MILL LEVY MATCH PROGRAM FUNDING. The amount of \$288,000, or so much of the sum as is necessary, included in the estimated income line item in subdivision 6 of section 1 of this Act, is to be spent by the department of human services from the state aid distribution fund during the biennium beginning July 1, 1993, and ending June 30, 1995.

SECTION 25. HUMAN SERVICE CENTER FUNDING FORMULA - REPORT TO LEGISLATIVE COUNCIL. The department of human services shall, during the 1993-95 biennium, study and develop alternatives for a formula to allocate funding to human service centers. It shall periodically report to the Legislative Council or its designated committee on its findings and recommendations.

SECTION 26. MANAGEMENT INFORMATION SYSTEM - SERVICE PAYMENTS FOR THE ELDERLY AND DISABLED. The department of human services shall, during the 1993-95 biennium, develop a management information system to accumulate information for presentation to the members of the fifty-fourth legislative assembly regarding the costs and utilization of the service payments to the elderly and disabled program. The information developed must include client utilization, length of stay on the program, cost of services provided, and reasons for cases closed.

SECTION 27. LEGISLATIVE INTENT - STATE HOSPITAL INCOME - MEDICAID GRANTS. It is the intent of the legislative assembly that in the event the department of human services projects a deficiency appropriation relating to state hospital income or medicaid grant funding it report any anticipated deficiencies to the budget section and seek its approval before it continues to spend at a level which would require a request for a general fund deficiency appropriation from the next legislative assembly."

Page 15, line 1, remove "Section 8 of this Act becomes effective"

Page 15, line 2, remove "on January 1, 1994." and replace "16" with "31"

Page 15, after line 2, insert:

"SECTION 33. EFFECTIVE DATE. Section 14 of this Act becomes effective August 1, 1993, only if the new section to chapter 43-17, created by section 1 of House Bill No. 1064, as amended by amendments to page 1, after line 4, as printed on page 1359 of the Senate journal, becomes effective. Section 14 of this Act ceases to be effective upon a determination by the secretary of the United States department of health and human services that the fee required by the new section to

chapter 43-17, created by section 1 of House Bill No. 1064, as amended by amendments to page 1, after line 4, as printed on page 1359 of the Senate journal is a health-care related tax that is not a broad-based health-care related tax under authority granted to the secretary in section 2(a) of the Medicaid Voluntary Contribution and Provider Specific Tax Amendments of 1991 [Pub. L. 102-234; 105 Stat. 1795; 42 U.S.C. 1396b(w)].

SECTION 34. EXPIRATION DATE. Section 14 of this Act is effective through June 30, 1995, and after that date is ineffective.

SECTION 35. EMERGENCY. Sections 9, 10, 11, 12, 13, 28, and 29 of this Act are declared to be an emergency measure."

Correct the title, revise the Statement of Purpose of Amendment, and renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 326 - EXECUTIVE OFFICE

SENATE - SUBDIVISION 1 - This amendment makes the following changes to the House version:

-- The salaries and wages line item is adjusted as follows:

	GENERAL FUND	OTHER FUNDS	TOTAL
Restore internal audit function (2 FTE)	<u>\$114,800</u>	<u>\$42,454</u>	<u>\$157,254</u>

-- The operating expenses (\$5,653) and equipment (\$4,617) line items are adjusted:

To restore internal audit function	<u>\$ 7,690</u>	<u>\$ 2,580</u>	<u>\$ 10,270</u>
Total changes Subdivision 1	\$122,490	\$45,034	\$167,524

DEPARTMENT 327 - MANAGERIAL SUPPORT

SENATE - SUBDIVISION 2 - This amendment makes the following changes to the House version:

	GENERAL FUND	OTHER FUNDS	TOTAL
-- The information services line item is adjusted:			
To restore funds as requested by the department (House cut \$116,625, \$85,904 from the general fund)	<u>\$ 181,912</u>	<u>\$ 65,056</u>	<u>\$ 246,968</u>

-- The operating expense line item is adjusted as follows:

Reduce funds for the payment of indirect cost allocation to the Office of Management and Budget (\$225,000 of other funds remains)	\$(383,714)	\$(737,670)	\$(1,121,384)
Reduce funds for Merit System fees to be paid to the Office of Management and Budget (\$72,443 of other funds remains)	<u>(124,883)</u>	<u>(230,008)</u>	<u>(354,891)</u>
Subtotal	<u>\$(508,597)</u>	<u>\$(967,678)</u>	<u>\$(1,476,275)</u>

Total changes Subdivision 2	\$(326,685)	\$(902,622)	\$(1,229,307)
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DEPARTMENT 328 - ECONOMIC ASSISTANCE

SENATE - SUBDIVISION 3 - This amendment makes the following changes to the House version:

	GENERAL FUND	OTHER FUNDS	TOTAL
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-- The information services line item is adjusted:

To restore funds as requested by the department (House cut \$628,693, \$83,623 from the general fund)	<u>\$ 43,428</u>	<u>\$ 283,028</u>	<u>\$ 326,456</u>
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-- The operating expenses line item is adjusted as follows:

Fund EBT program for food stamps and AFDC to be effective January 1, 1995, rather than April 1, 1995, and July 1, 1995, respectively	<u>\$ 72,360</u>	<u>\$ 262,584</u>	<u>\$ 334,944</u>
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-- The grants line is adjusted as follows:

Fund Indian reservations child support project	\$ 0	\$ 309,000	\$ 309,000
Fund basic care program at 50% first year/70% second year (House funded at 70%)	(490,000)	0	(490,000)
Continue state matching of general assistance costs through July 1, 1994 (repeal matching law July 1, 1994)	216,000	0	216,000
Provide a 2% annual increase in AFDC payments	<u>463,000</u>	<u>1,442,000</u>	<u>1,905,000</u>
Total grants changes	<u>\$ 189,000</u>	<u>\$ 1,751,000</u>	<u>\$ 1,940,000</u>
Total changes Subdivision 3	\$ 304,788	\$ 2,296,612	\$ 2,601,400

DEPARTMENT 329 - MEDICAL ASSISTANCE

SENATE - SUBDIVISION 4 - This amendment makes the following changes to the House version:

-- The salaries and wages line item is adjusted as follows:

	GENERAL FUND	OTHER FUNDS	TOTAL
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Administrative costs of expanded pregnant women and children coverage	<u>\$ 23,507</u>	<u>\$ 43,198</u>	<u>\$ 66,705</u>
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-- The information services line item is adjusted:

As requested by the department (House cut \$180,195, \$47,969 from the general fund)	\$ (100,298)	\$ (276,764)	\$ (377,062)
Funds for expanded Medicaid coverage	<u>148,402</u>	<u>272,711</u>	<u>421,113</u>
Subtotal	<u>\$ 48,104</u>	<u>\$ (4,053)</u>	<u>\$ 44,051</u>

-- The grants line item is adjusted as follows:

Adjust optional Medicaid services

- Special education (correction)	\$ 0	\$ (946,920)	\$ (946,920)
- Other areas fully restored	749,558	2,128,673	2,878,231
Add funds related to a 90% occupancy limit at nursing homes rather than 95% occupancy as contained in original HB 1096 and funded in HB 1002	117,000	346,000	463,000
Add funds for developmentally disabled grants inflation to provide funds for a 2 1/2% increase	1,033,600	1,870,100	2,903,700
Add funds for long-term care inflation (DRI)	1,040,000	3,120,000	4,160,000
Add funds for increase in Medicaid eligibles from 100 to 150 per month	614,000	1,784,000	2,398,000
Delay managed care waiver from 7/1/93 to 1/1/94	188,000	546,000	734,000
Cost of implementation of provider tax based on HB 1064 (Senate version)	4,855,798	13,818,296	18,674,094
Less amount in HB 1002	<u>(1,582,200)</u>	<u>(3,691,802)</u>	<u>(5,274,002)</u>
Net increase	<u>3,273,598</u>	<u>10,126,494</u>	<u>13,400,092</u>
Eliminate copayments			
- Physicians	93,800	274,700	368,500
- Drugs	159,500	467,400	626,900
Change personal needs allowance from \$30 (House) to \$40/month - nursing home patients	221,100	651,600	872,700
Eliminate limit on home health services	452,000	1,324,300	1,776,300
Allow 5% increase in income levels retained for medically needy	351,000	1,035,500	1,386,500
Fund expanded coverage of pregnant women and children at 150% of the poverty level - January 1, 1994	6,066,750	17,783,250	23,850,000
County administration of expanded coverage for pregnant women and children	<u>72,000</u>	<u>132,323</u>	<u>204,323</u>
Total grants changes	<u>\$14,431,906</u>	<u>\$40,643,420</u>	<u>\$55,075,326</u>
Total changes Subdivision 4	\$14,503,517	\$40,682,565	\$55,186,082

DEPARTMENT 330 - VOCATIONAL REHABILITATION

SENATE - SUBDIVISION 5 - This amendment makes the following changes to the House version:

GENERAL FUND	OTHER FUNDS	TOTAL
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-- The information services line item is adjusted:

As requested by the department (House cut \$119,253, \$39,904 from the general fund)	<u>\$(15,210)</u>	<u>\$(60,445)</u>	<u>\$(75,655)</u>
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Total changes Subdivision 5	\$(15,210)	\$(60,445)	\$(75,655)
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DEPARTMENT 331 - OFFICE OF FIELD SERVICES

SENATE - SUBDIVISION 6 - This amendment makes the following changes to the House version:

-- The salaries and wages line item is adjusted as follows:

	GENERAL FUND	OTHER FUNDS	TOTAL
Authorize 2 FTEs Aging Services, no funding provided			
Add 1 FTE and federal funds for alcohol and drug cooperative education program	\$ <u>0</u>	\$ <u>68,472</u>	\$ <u>68,472</u>

-- The information services line item is adjusted:

To restore funds as requested by the department (House cut \$101,361, \$61,641 from the general fund)	\$ <u>3,189</u>	\$ <u>2,055</u>	\$ <u>5,244</u>
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-- The operating expenses line item is adjusted as follows:

Restore House other funds reductions to operating expenses	\$ <u>0</u>	\$ <u>1,214,320</u>	\$ <u>1,214,320</u>
Fund an adult protective services program - provide \$37,500 to each human service center dedicated to adult protective services to be done in consultation with county social services	<u>300,000</u>	<u>0</u>	<u>300,000</u>
Subtotal	<u>\$ 300,000</u>	<u>\$1,214,320</u>	<u>\$1,514,320</u>
A State Hospital downsizing funding pool line item is added	<u>\$2,000,000</u>	<u>\$ 0</u>	<u>\$2,000,000</u>

-- The grants line item is adjusted as follows:

Fund foster care and subsidized adoption grant inflation at 2%/2%	\$ 420,810	\$ 97,350	\$ 518,160
Increase senior citizens mill levy match from House level of \$1,332,000 to 1991-93 level of \$1,620,000, the increase is funded from the state aid distribution fund	0	288,000	288,000
Fund expanded SPED program proposed in HB 1030 (delay to January 1, 1994)	1,211,250	0	1,211,250
Increase SPED funding to a total of \$6,594,000, all general fund, eliminate county match	1,305,701	(428,781)	876,920
Fully fund corporate guardianship	<u>142,978</u>	<u>0</u>	<u>142,978</u>

Total grants changes	<u>\$3,080,739</u>	<u>\$ (43,431)</u>	<u>\$3,037,308</u>
Total changes Subdivision 6	\$5,383,928	\$1,241,416	\$6,625,344

DEPARTMENT 332 - HUMAN SERVICE CENTERS

SENATE - SUBDIVISION 7 - This amendment makes the following changes to the House version:

	GENERAL FUND	OTHER FUNDS	TOTAL
-- Restore human service center funding:			
Salaries and wages (66.5 FTE)			\$ 4,313,812
ISD			58,890
Operating			736,899
Equipment			147,724
Grants			<u>1,270,547</u>
Subtotal	<u>\$ 5,324,732</u>	<u>\$1,203,140</u>	<u>\$ 6,527,872</u>

-- The information services line item is also adjusted:

To restore funds as requested by the department (House cut \$91,458, \$59,943 from the general fund plus \$300,000, \$196,500 from the general fund for telephone switch reductions)	<u>\$ 196,112</u>	<u>\$ 103,106</u>	<u>\$ 299,218</u>
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-- The grants line item is adjusted as follows:

Remove grants for State Hospital downsizing	\$(15,000,000)	\$ 0	\$(15,000,000)
Fund psychosocial clubs at 100% of 1991-93 level (House funded at 90% of current general fund level)	107,942	(83,094)	24,848
Add funds for clubhouse model in Grand Forks (House funded program at Minot)	<u>150,000</u>	<u>0</u>	<u>150,000</u>
Total grants changes	<u>\$(14,742,058)</u>	<u>\$ (83,094)</u>	<u>\$(14,825,152)</u>
Total changes Subdivision 7	\$ (9,221,214)	\$1,223,152	\$ (7,998,062)

DEPARTMENT 333 - STATE HOSPITAL

SENATE - SUBDIVISION 8 - This amendment makes the following changes to the House version:

-- The salaries and wages line item is adjusted as follows:

	GENERAL FUND	OTHER FUNDS	TOTAL
Restore funds to reduce salary vacancies savings from \$750,000 to \$500,000 authorized to use \$52,000 for psychiatric residency program	\$ 250,000	\$ 0	\$ 250,000
Provide funds for patient living skills program	<u>226,885</u>	<u>\$ 0</u>	<u>226,885</u>

Subtotal	\$ 476,885	\$ 0	\$ 476,885
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-- The information services line item is adjusted:

To restore funds as requested by the department (House cut \$87,747 from the general fund)	\$ 319,140	\$ 0	\$ 319,140
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-- The operating expenses line item is adjusted as follows:

Restoration of outside doctor and hospital services	\$ 200,000	\$ 0	\$ 200,000
Eliminate funds for the payment of indirect cost allocation to the Office of Management and Budget	(98,956)	(143,202)	(242,158)

Subtotal	\$ 101,044	\$ (143,202)	\$ (42,158)
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The capital improvements line item is increased	\$ 88,795	\$ 0	\$ 88,795
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Funding source change (use of a portion of \$15 million)	\$12,000,000	\$(12,000,000)	\$ 0
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Total changes Subdivision 8	\$12,985,864	\$(12,143,202)	\$ 842,662
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DEPARTMENT 334 - DEVELOPMENTAL CENTER

SENATE - SUBDIVISION 9 - This amendment makes the following changes to the House version:

-- The salaries and wages line item is adjusted as follows:

	GENERAL FUND	OTHER FUNDS	TOTAL
Developmental Center - authorize 20 additional FTEs, no funding provided			
Add funds for early retirement incentives for early retirement options and extended health insurance benefits	\$135,620	\$ 251,864	\$ 387,484

-- The information services line item is adjusted:

To restore funds as requested by the department (House cut \$41,081, \$14,427 from the general fund)	\$ 11,362	\$ 20,992	\$ 32,354
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-- The operating expenses line item is adjusted as follows:

Add funds related to implementation of provider tax	\$736,317	\$1,718,075	\$2,454,392
Reduce funds for the payment of indirect cost allocation to the Office of Management and Budget (\$173,662 of other funds remain)	(74,806)	0	(74,806)

Subtotal	\$661,511	\$1,718,075	\$2,379,586
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Total changes Subdivision 9	\$808,493	\$1,990,931	\$2,799,424
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DEPARTMENT 335 - DEVELOPMENTAL DISABILITIES AND GOVERNOR'S COUNCILS

SENATE - SUBDIVISION 10 - This amendment makes the following changes to the House version:

	GENERAL FUND	OTHER FUNDS	TOTAL
-- The information services line item is adjusted:			
To restore funds as requested by the department (House cut \$520, \$440 from the general fund)	\$ 360	\$ 80	\$ 440
Total changes Subdivision 10	\$ 360	\$ 80	\$ 440
Separate section - carryover of lands and minerals trust fund moneys to Developmental Center	<u>\$ 0</u>	<u>\$ 200,000</u>	<u>\$ 200,000</u>
Separate sections - veterans' facility at Developmental Center	<u>\$ 629,265</u>	<u>\$ 3,835,129</u>	<u>\$ 4,464,394</u>
GRAND TOTAL BILL CHANGES	<u>\$25,175,596</u>	<u>\$38,408,650</u>	<u>\$63,584,246</u>

SUMMARY OF DEPARTMENT OF HUMAN SERVICES FUNDING

	GENERAL FUND	OTHER FUNDS	TOTAL
Governor Schafer's budget	\$274,814,795	\$665,569,194	\$940,383,989
Governor Sinner's budget (original HB 1002)	\$243,847,697	\$717,390,750	\$961,238,447
House version (Engrossed HB 1002)	\$269,028,804	\$663,941,468	\$932,970,272
Senate changes to Engrossed HB 1002	<u>\$ 25,175,596</u>	<u>\$ 38,408,650</u>	<u>\$ 63,584,246</u>
Senate version HB 1002	\$294,204,400	\$702,350,118	\$996,554,518

SENATE - This amendment:

Removes Section 8 of the bill, providing for a 10% county match of the SPED program, as all funding is from the general fund.

Amends Chapter 561 of the 1991 Session Laws to allow the appropriation of \$200,000 from the lands and minerals trust fund for capital improvements at the Developmental Center to extend to June 30, 1995.

Merges Sections 6 and 14 of Engrossed House Bill No. 1002 and requires Budget Section approval of the transfers between Subdivisions 7, 8, and 9 of funds and employee positions to correlate those resources with the movement of institutional residents and human service center clients.

Provides legislative intent that community developmental disabilities providers provide, to the extent possible, employee salary increases each year of the 1993-95 biennium, similar to state employee salary increases.

Provides for the transfer of \$288,000 from the state aid distribution fund to be used by the Department of Human Services to fund a portion of the senior

citizens mill levy match program. A total of \$1,332,000 from the general fund was provided by the House. This additional amount provides a total of \$1,620,000 for the program, the same as the 1991-93 level.

Provides for a Department of Human Services study of a funding formula for the human service center and reporting to the Legislative Council.

Requires the Department of Human Services to develop a management information system to provide information regarding the utilization of the SPED program.

Provides for expansion of certificate of need for long-term care facilities and removing the exemption for state-funded facilities from certificate of need.

Provides that physicians in resident training are not required to pay the fee included in House Bill No. 1064.

Provides for included the statutory provisions of House Bill No. 1030 related to expanded SPED.

Provides for the establishment of a veterans' facility at the Developmental Center and allows the Developmental Center to rent or lease facilities.

Provides a statement of legislative intent regarding a possible deficiency at the State Hospital.

Provides an emergency clause on the sections related to certificate of need and the veterans' center at the Developmental Center.

THE SENATE ADOPTED DIVISION B.

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1003

Page 1, line 3, replace "an exemption" with "exemptions"

Page 1, line 4, remove "and"

Page 1, line 5, after "fund" insert "; to provide an appropriation for a Legislative council study; to provide for the contingent distribution of a separate and additional per student payment; to create and enact two new sections to chapter 15-40.1 of the North Dakota Century Code, relating to cooperating school districts and mandatory high school districts; to amend and reenact section 2 of chapter 701 of the 1989 Session Laws of North Dakota, as amended by section 1 of chapter 656 of the 1991 Session Laws of North Dakota, sections 15-27.3-19, 15-27.6-10, 15-38-17 as amended by section 11 of Senate Bill No. 2418, as approved by the fifty-third legislative assembly, 15-40.1-06, 15-40.1-07, 15-40.1-08, 15-40.1-09, 15-40.1-16, 15-40.1-18, 15-44-03, and subdivision q of subsection 1 of section 28-32-01 of the North Dakota Century Code, relating to the foundation program, appointments to the education standards and practices board and the administrator's professional practices board, the expiration date concerning withdrawals from special reserve funds, school district reorganization, per student payments, transportation aid, tuition apportionment, rulemaking authority of the superintendent of public instruction, and school district special reserve funds"

Page 1, line 17, replace "8,255,919" with "9,021,685"

Page 1, line 18, replace "632,172" with "697,470"

Page 1, line 19, replace "5,480,382" with "5,209,554"

Page 1, line 20, replace "281,471" with "371,653"

Page 2, after line 1, insert:

"Grants - foundation aid and transportation 388,500,000"

Page 2, line 3, replace "44,077,495" with "49,077,495"

Page 2, after line 3, insert:

"Grants - governor's school 200,000"

Page 2, after line 4, insert:

"Grants - vocational and technical education 1,500,000"

Page 2, line 6, replace "2,550,000" with "7,660,750"

Page 2, line 9, replace "140,000" with "228,000"

Page 2, line 11, replace "203,984,601" with "605,033,769"

Page 2, line 12, replace "159,621,158" with "159,546,989"

Page 2, line 13, replace "44,363,443" with "445,486,780"

Page 2, line 16, replace "1,664,885" with "1,596,614"

Page 2, line 17, replace "72,098" with "79,090"

Page 2, line 18, replace "1,207,506" with "889,098"

Page 2, line 20, replace "50,000" with "105,836"

Page 2, after line 20, insert:

"Talking book program 235,271"

Page 2, line 22, replace "843,000" with "893,000"

Page 2, line 23, replace "3,927,989" with "3,889,409"

Page 2, line 24, replace "1,183,595" with "1,138,981"

Page 2, line 25, replace "2,744,394" with "2,750,428"

Page 2, line 28, replace "3,374,443" with "3,497,492"

Page 2, line 29, replace "42,862" with "47,501"

Page 3, line 1, replace "811,598" with "822,536"

Page 3, line 4, replace "4,315,476" with "4,454,102"

Page 3, line 5, replace "480,525" with "469,700"

Page 3, line 6, replace "3,834,951" with "3,984,402"

Page 3, line 11, replace "495,018" with "465,000"

Page 3, line 14, replace "2,791,549" with "2,761,531"

Page 3, line 15, replace "471,855" with "292,471"

Page 3, line 16, replace "2,319,694" with "2,469,060"

Page 3, line 17, replace "53,262,482" with "454,970,670"

Page 3, line 18, replace "161,757,133" with "161,448,141"

Page 3, line 19, replace "215,019,615" with "616,418,811"

Page 4, line 6, replace "843,000" with "893,000"

Page 4, remove lines 14 through 19

Page 4, line 21, replace "\$2,550,000" with "\$7,660,750"

Page 4, line 22, replace "\$2,050,000" with ", \$6,910,750"

Page 4, line 23, replace "in 1991 which shall continue to be funded for one more" with "under chapter 15-27.6 which received planning grants prior to January 1, 1993. Of the \$6,910,750, \$80,000 is available for planning grants to four consortiums currently on the department of public instruction's waiting list, and \$160,000 is available for technical assistance to consortiums. The remaining \$750,000 for school district restructuring is dedicated to educational service agreements as provided for in chapter 15-27.7."

Page 4, remove lines 24 through 28

Page 5, remove lines 1 and 2

Page 5, after line 8, insert:

SECTION 8. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$180,000, or so much of the sum as may be necessary, to the department of public instruction for the purpose of undertaking a study of school transportation services and developing by December 1, 1994, a school transportation system data base that includes the network of usable roads, school district boundaries, and the location of all schools and related facilities.

SECTION 9. LEGISLATIVE INTENT. It is the intent of the legislative assembly that \$600,000 of the \$1,500,000 included in the grants - vocational and technical education line item in subdivision 1 of section 1 be used by the state board of vocational and technical education for vocational and technical education programs offered by comprehensive high schools. In addition, \$240,000 of the \$1,500,000 is to be used for the purchase and sharing of high technology equipment by three new vocational and technical education sites. The remaining \$660,000 is to be used for the replacement of obsolete equipment in high schools and multidistrict vocational and technical centers.

SECTION 10. APPROPRIATION - LEGISLATIVE COUNCIL STUDY OF EDUCATION FINANCE. There is hereby appropriated out of any moneys in the general fund in the state treasury not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the legislative council for the purpose of conducting an education finance study during the biennium beginning July 1, 1993, and ending June 30, 1995. The legislative council shall appoint a committee consisting of seven members of the senate and seven members of the house of representatives to conduct a study during the 1993-94 interim of education finance issues, including school district wealth, educational excellence, and funding equity. The appropriation in this section is for a consultant or consultants to assist with this study. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the fifty-fourth legislative assembly.

SECTION 11. EXEMPTIONS. The educational technology grants authorized for the 1991-93 biennium in the grants - other grants line

item of Senate Bill No. 2003, as approved by the fifty-second legislative assembly, are not subject to the provisions of section 54-44.1-11 and any unexpended funds from that appropriation are available for educational technology grants during the biennium beginning July 1, 1993, and ending June 30, 1995.

SECTION 12. CONTINGENT SEPARATE AND ADDITIONAL PER STUDENT PAYMENTS. The superintendent of public instruction shall distribute a separate and additional per student payment from any unspent amount appropriated to the grants - foundation aid program for the biennium beginning July 1, 1993, and ending June 30, 1995, in the May 1, 1995, foundation aid payment to school districts. Any payment made under this section must be on a weighted basis, as determined under chapter 15-40.1.

SECTION 13. AMENDMENT. Section 15-27.3-19 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-27.3-19. Changes in reorganization proposal. At any time after the reorganization proposal has become effective, any provision of the reorganization proposal ~~theretofore or thereafter adopted~~, including provisions affecting the adjustment of assets and liabilities but excepting provisions defining the boundaries of the district, may be changed by a majority vote of the qualified electors without approval of the state board or the county committee. The school board in the reorganized district may, upon its own motion, or shall, upon the filing with it of a petition signed by ~~a number of~~ qualified electors equal in number to twenty percent of the ~~number of~~ persons enumerated in the most recent school district census for that district ~~for the most recent year the census was taken~~, unless the census is greater than four thousand, in which case only fifteen percent of the number of persons enumerated in the school census is required, submit the question of authorizing a change in the school district's adopted reorganization proposal at the next regular or special election. However, not fewer than twenty-five signatures of qualified electors is required unless the district has fewer than twenty-five qualified electors, in which case the petition must be signed by not less than twenty-five percent of the qualified electors of the district. In ~~those~~ districts with fewer than twenty-five qualified electors, the county superintendent for the county in which the school is located shall determine the number of qualified electors in the ~~qualified~~ district. If a majority of all votes cast by the electors residing in each of the geographic areas is in favor of the proposed change, then the proposed change is effected. ~~However, a~~ If a reorganization plan has been in effect for at least ten years, any proposed change to geographic voting areas is effective upon a majority vote in an election at large by the qualified electors of the district. A school board in a reorganized school district may change, by resolution, to at large voting for school board candidates if there is a variance of more than ten percent in the population between any of the district's established geographic areas with resident candidates.

SECTION 14. AMENDMENT. Section 15-27.6-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-27.6-10. Approved proposal received by county superintendent - Special election called - Formation of new district.

1. Upon receipt from the state board of an approved proposal for the reorganization of school districts, the county superintendent, after consulting with the interim district board, shall call a special election as provided in section 15-27.3-08.

2. If a majority of electors residing within each school district vote in favor of the formation of the new district, the county superintendent shall make the proper adjustments and perform all necessary duties as provided in subsection 6 of section 15-27.3-08.
3. If fewer than all of the districts vote in favor of a new district, any contiguous districts voting in favor of the proposal shall form a new district ~~if the new district would qualify to receive the payments provided for in section 15-27.6-11 and if approved by the state board~~ approves and:
 - a. There are three districts, at least one of which offers grades one through twelve, they have a minimum combined enrollment of six hundred students, and they cover a minimum combined area of seven hundred square miles [181299.168 hectares]; or
 - b. There are four or more districts, at least one of which offers grades one through twelve, and they have a minimum combined enrollment of six hundred students or they cover a minimum combined area of seven hundred square miles [181299.168 hectares].

Any contiguous districts voting that vote in favor of forming a new district, but that would not qualify for payments under section 15-27.6-11 do not meet the requirements of either subdivision a or b of this subsection, may form a new district. To form a new district, the board members of the interim district board who represent the contiguous districts involved shall make a determination and adjustment of property, assets, debts, and liabilities of the districts as provided in section 15-27.3-04 and make a determination of tax levy as provided in section 15-27.3-06, hold a hearing similar to the one described in section 15-27.6-07, and submit a new proposal to the state board for approval. No additional vote is required on the revised proposal, including a proposal that becomes effective on July 1, 1993. However, the newly proposed mill levy may not exceed the general fund mill levy limitations provided in section 57-15-14 plus the additional levy authorized by Senate Bill No. 2024, as approved by the fifty-third legislative assembly. For purposes of determining the amount that can be levied under Senate Bill No. 2024, the amount levied in dollars in the base year is the amount proposed to be levied in dollars by the new district in its first year of operation. If the state board approves the plan, the county superintendent shall make the proper adjustment of the property, assets, debts, and liabilities as provided in the proposal and organize and establish the districts and, in doing so, shall perform all other necessary duties as provided in subsection 6 of section 15-27.3-08.

4.
 - a. If fewer than all of the districts vote in favor of a new district and the contiguous districts voting in favor do not meet the requirements of subdivision a or b of subsection 3, all or some of the districts may choose to vote again on the same or on a revised reorganization proposal, provided the districts meet the requirements of subdivision a or b of subsection 3.
 - b. If the reorganization proposal is revised, the interim district board members representing the districts choosing to vote again shall hold another hearing and

make findings as outlined in section 15-27.6-07. The interim district board members shall keep a record of the hearing and shall submit the record and the revised proposal, along with any other relevant information, to the state board for approval. If the state board approves the revised reorganization proposal, the county superintendent shall proceed pursuant to subsection 1 of this section.

c. The second special election must be held within one year after the initial special election.

5. If a school district does not vote in favor of forming a new school district, any part of that school district excluded from the reorganization proposal pursuant to section 15-27.6-07 may either proceed with annexation or remain a part of that school district.

SECTION 15. AMENDMENT. Section 15-38-17 of the North Dakota Century Code as amended by section 11 of Senate Bill No. 2418, as approved by the fifty-third legislative assembly, is amended and reenacted as follows:

15-38-17. Education standards and practices board and administrator's professional practices board. The education standards and practices board consists of nine members. The governor shall appoint four classroom teachers from public schools, one classroom teacher from a private school, one school board member, two school administrators, and one dean of a college of education. The superintendent of public instruction or the superintendent's designee shall serve as a nonvoting ex officio member. The administrator's professional practices board consists of five members from the education standards and practices board. The administrator's professional practices board includes the two school administrators who are members of the education standards and practices board, the one school board member who is a member of the education standards and practices board, and two teacher members who are members of and are selected by the education standards and practices board. The term of office of members of the education standards and practices board and the administrator's professional practices board shall be three years commencing on January first of the year of the appointment. Vacancies shall be filled for an unexpired term in the same manner as original appointments. No person may serve for more than two consecutive terms as a member of either board. ~~For each classroom teacher vacancy on the education standards and practices board, the governor shall appoint the member from a list of three names provided by the North Dakota education association. For each administrator vacancy on either board, the governor shall appoint the member from a list of three names provided by the North Dakota council of school administrators. For each school board vacancy on the board, the governor shall appoint the member from a list of three names provided by the North Dakota school board association. For each college dean vacancy on the board, the governor shall appoint a member from a list of three names provided by the deans of colleges of education. Members of the current teachers' professional practices commission may serve out their remaining terms.~~

The education standards and practices board and the administrator's professional practices board shall each annually select a chairman and vice chairman, and the executive director of the education standards and practices board or the executive director's designee shall serve as secretary. Meetings of either board must be held after ten days' notice to all members at the call of the chairman or upon request in writing of a majority of either board. A majority shall constitute a quorum and a majority of the quorum shall have authority to act upon any matter properly before either board. Each

board shall adopt its own rules of order and procedure not inconsistent with sections 15-38-16 through 15-38-19 and shall hold meetings pursuant to the provisions of sections 15-38-16 through 15-38-19.

The members of each board shall receive twenty-five dollars for each day actually engaged in the service of the appropriate board and shall be paid actual and necessary traveling and other expenses at the same rate as for employees of the state. No member of either board shall lose the member's regular salary or the above compensation while serving on official business of the appropriate board. The office of management and budget shall approve proper vouchers for expenses.

SECTION 16. A new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

High school per student payments - Cooperating districts. If any school district receiving payments under section 15-40.1-07 cooperates with another school district for the joint provision of education services under a plan approved by the superintendent of public instruction, each cooperating district is entitled to receive, for a period of four years, at least the same per student payment for each high school student as the district received prior to initiation of the cooperative plan.

SECTION 17. AMENDMENT. Section 15-40.1-06 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-40.1-06. Declaration of legislative intent - Educational support per ~~pupil~~ student - School district equalization factor - Limitations.

1. It is the intent of the legislative assembly, not considering any separate and supplemental payments as may be provided by law, to support elementary and secondary education in this state from state funds based on the educational cost per ~~pupil~~ student. In determining the educational cost per ~~pupil~~ student, the following criteria may not be used:
 - a. Expenditures for capital outlay for buildings and sites, or debt service.
 - b. Expenditures from school activities and school lunch programs.
 - c. Expenditures for the cost of transportation, including the cost of schoolbuses.
2. a. The educational support per ~~pupil~~ student during the first year of the ~~1991-93~~ 1993-95 biennium must be one thousand five hundred ~~fifty-two~~ eighty-nine dollars and for the second year of the biennium the educational support per ~~pupil~~ student must be one thousand six hundred ~~eight~~ forty-seven dollars and is the basis for calculating grants-in-aid on a ~~per-pupil~~ per student basis as provided in sections 15-40.1-07 and 15-40.1-08.
 - b. School districts operating high schools not meeting the minimum curriculum as provided in section 15-41-24 or the teacher qualifications in section 15-41-25 must be supported in the amount of two hundred twenty dollars, which is the basis for calculating grants-in-aid on a ~~per-pupil~~ per student basis as provided in section 15-40.1-07.

- c. School districts operating high schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1991, or that become unaccredited in any succeeding school year must be supported for the 1991-92 school year or for the first year that they become unaccredited in the amount of the educational support per ~~pupil~~ student established in subdivision a, which is the basis for calculating grants-in-aid on a ~~per-pupil~~ per student basis as provided in section 15-40.1-07, but those school districts are not entitled to the amounts resulting from applying the factors in that section. The amount of aid a school district is entitled to under this subsection for each high school that is not accredited must be reduced by two hundred dollars times the number of ~~pupils~~ students in the school for the second school year that the high school is unaccredited, and an additional two hundred dollars per ~~pupil~~ student in the unaccredited school for each additional year the school remains unaccredited. Any high school that becomes accredited is entitled to the ~~per-pupil~~ per student payments provided for in section 15-40.1-07 for the entire school year in which the school becomes accredited.
 - d. School districts operating elementary schools that are not accredited pursuant to the accreditation standards adopted by the superintendent of public instruction on July 1, 1992, or that become unaccredited in any succeeding school year must be supported for the 1992-93 school year or for the first year that they become unaccredited in the amount of the educational support per ~~pupil~~ student established in subdivision a, which is the basis for calculating grants-in-aid on a ~~per-pupil~~ per student basis as provided in section 15-40.1-08, except that the amount of aid that a school district is entitled to under this subsection for each elementary school that is unaccredited must be reduced by two hundred dollars times the number of ~~pupils~~ students in the school each year that the elementary school is unaccredited. Any elementary school that becomes accredited is entitled to the ~~per-pupil~~ per student payments provided for in section 15-40.1-08 for the entire school year in which the school becomes accredited.
3. In determining the amount of payment due school districts for ~~per-pupil~~ per student aid under this section, the following amounts must be subtracted from the amount of such aid:
 - a. The product of ~~twenty-one~~ twenty-three mills for the ~~1989-90~~ 1993-94 school year and ~~twenty-two~~ twenty-four mills for each year thereafter times the latest available net assessed and equalized valuation of property of the school district.
 - b. The amount that the unobligated balance of a school district's interim fund on the preceding June thirtieth is in excess of the amount authorized by section 57-15-27.
 4. No school district may receive foundation payments beyond the October payment unless the following reports have been filed with the superintendent of public instruction:

- a. Annual average daily membership report.
 - b. Annual school district financial report.
 - c. The September tenth fall enrollment report.
 - d. The personnel report forms for certified and noncertified employees.
5. No school district may receive the January foundation payment unless the taxable valuation and mill levy certifications are on file with the department of public instruction by December fifteenth.

SECTION 18. A new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

Mandatory high school districts - Review of closure decisions by the state board of public school education.

1. Beginning July 1, 1996, every school district in the state must be a high school district.
2. If as a result of subsection 1 a school board chooses to close a school that is located fifteen or more miles using the most common route of public travel from another school that offers at a minimum the same grade level services, the decision to close the school must be approved by a unanimous vote of the school board. Any person aggrieved by the decision of the school board may seek a review by the state board of public school education by filing a petition with the state board. The petition must bear the signatures of parents or guardians representing no fewer than twenty-five percent of the households having students in the school that the school board proposes to close. Upon receipt of the petition, the state board of public school education shall publish notice of and hold a public hearing regarding the matter. The decision of the state board is binding upon the school board for a period of two years.
3. The superintendent of public instruction, with assistance from the state board of public school education, shall adopt rules under chapter 28-32 for the purpose of implementing this section.

SECTION 19. AMENDMENT. Section 15-40.1-07 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-40.1-07. High school per-pupil per student payments - Amount - Proportionate payments. Payments must be made each year from state funds to each school district operating a high school and to each school district contracting to educate high school pupils students in a federal school, subject to adjustment as provided in section 15-40.1-09, as follows:

1. For each high school district having under seventy-five pupils students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor ~~1.635 for the 1989-90 school year~~ and, beginning July 1, 1990, the factor ~~1.625~~ 1.5838 times the number of high school pupils students in grades nine through twelve registered in that school district, times the educational support per pupil student as provided in section 15-40.1-06.

2. For each high school district having seventy-five or more, but less than one hundred fifty ~~pupils~~ students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor ~~1.35~~ for the ~~1989-90 school year and, beginning July 1, 1990, the factor 1.335~~ 1.3013 times the number of high school ~~pupils~~ students in grades nine through twelve registered in that school district times the educational support per ~~pupil~~ student as provided in section 15-40.1-06.
3. For each high school district having one hundred fifty or more, but less than five hundred fifty ~~pupils~~ students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor ~~1.28~~ for the ~~1989-90 school year and, beginning July 1, 1990, the factor 1.24~~ 1.220 times the number of high school ~~pupils~~ students in grades nine through twelve registered in that school district times the educational support per ~~pupil~~ student as provided in section 15-40.1-06.
4. For each high school district having a total high school enrollment of five hundred fifty or more ~~pupils~~ students in average daily membership in grades nine through twelve, the amount of money resulting from multiplying the factor ~~1.17~~ for the ~~1989-90 school year and, beginning July 1, 1990, the factor 1.14~~ 1.1225 times the number of high school ~~pupils~~ students in grades nine through twelve registered in that school district times the educational support per ~~pupil~~ student as provided in section 15-40.1-06.
5. For high schools having an approved alternative education program, the amount of money resulting from multiplying the factor in:
 - a. Subsection 1 times the number of ~~pupils~~ students registered in the alternative education program times the educational support per ~~pupil~~ student as provided in section 15-40.1-06 if the alternative education program has less than seventy-five ~~pupils~~ students in average daily membership.
 - b. Subsection 2 times the number of ~~pupils~~ students registered in the alternative education program times the educational support per ~~pupil~~ student as provided in section 15-40.1-06 if the alternative education program has seventy-five or more, but less than one hundred fifty ~~pupils~~ students in average daily membership.
 - c. Subsection 3 times the number of ~~pupils~~ students registered in the alternative education program times the educational support per ~~pupil~~ student as provided in section 15-40.1-06 if the alternative education program has one hundred fifty or more, but less than five hundred fifty ~~pupils~~ students in average daily membership.
 - d. Subsection 4 times the number of ~~pupils~~ students registered in the alternative education program times the educational support per ~~pupil~~ student as provided in section 15-40.1-06 if the alternative education program has five hundred fifty or more ~~pupils~~ students in average daily membership.

Every high school district must receive at least as much in total payments as it would have received if it had the highest number of

~~pupils~~ students in the next lower category. ~~Such payments~~ Payments may not be made unless four or more units of standard high school work approved by the superintendent of public instruction are offered during the current year, only certificated teachers have been employed, and the other standards prescribed by this chapter have been met. Payments must be made to the high school district in which the student is enrolled for graduation and units of approved vocational education in accordance with the provisions of chapter 15-20.1, and other courses approved by the superintendent of public instruction, earned in another high school district must be included to meet the minimum four required units. In the case of students enrolled in nonpublic schools for graduation or students enrolled in less than four units of standard high school work who are in their fourth year of high school coursework and who are enrolled in approved alternative high school curriculum programs, proportionate payments must be made to the public school district in which ~~such~~ the student is enrolled for specific courses. School districts offering high school summer school programs are eligible for proportionate payments provided each course offered ~~in~~ such ~~programs~~ satisfies requirements for graduation, comprises at least as many clock hours as courses offered during the regular school term, and complies with rules adopted by the superintendent of public instruction. The superintendent may adopt rules regarding eligibility for school districts to receive proportionate payments for ~~such~~ summer education programs.

~~Districts that did not maintain high schools during the year of 1964-1965 are not eligible for payments unless they have a minimum enrollment of twenty five pupils if four years of high school work are offered, a minimum enrollment of twenty pupils if three years of high school work are offered, a minimum enrollment of fifteen pupils if two years of high school work are offered, and a minimum enrollment of ten pupils if one year of high school work is offered. Payments pursuant to this chapter to school districts in bordering states must be made after subtracting the amounts provided for in subsection 3 of section 15-40.1-06 in the sending school district divided by the total number of resident ~~pupils~~ students enrolled in the school district plus the number of resident ~~pupils~~ students from the district attending school in another state.~~

SECTION 20. AMENDMENT. Section 15-40.1-08 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-40.1-08. Elementary per-pupil per student payments - Amount. Payments must be made from state funds to each school district operating an elementary school and to each school district contracting to educate elementary ~~pupils~~ students in a federal school, employing teachers holding valid certificates or permits in accordance with section 15-47-46 and chapter 15-36, adjusted as provided in section 15-40.1-09, as follows:

1. For each one-room rural school, the amount of money resulting from multiplying the factor ~~1.29 for the 1989-90 school year and, beginning July 1, 1990, the factor 1.28~~ 1.2675 times the number of ~~pupils~~ students in that school in grades one through eight in average daily membership, up to a maximum of sixteen ~~pupils~~ students, times the educational support per ~~pupil~~ student as provided in section 15-40.1-06. There must be paid .9 times each additional ~~pupil~~ student in its school in grades one through eight in average daily membership times the educational support per ~~pupil~~ student as provided in section 15-40.1-06, except that no payment may be made for more than twenty ~~pupils~~ students in average daily membership. If the one-room rural school is located in a school district with another elementary school, the weighting

factor for the pupils students in grades one through six must be based on the average daily membership in the district in grades one through six as provided in subsections 2 through 4. If the one-room rural school is located in a school district with another school that has pupils students in grade seven or eight, the weighting factor for the pupils students in grades seven and eight must be the same as that provided for in subsection 5.

2. For each elementary school in school districts having under one hundred pupils students in average daily membership in grades one through six, the amount of money resulting from multiplying the factor ~~1.045 for the 1989-90 school year and, beginning July 1, 1990, the factor 1.09~~ 1.1155 times the number of pupils students in that school in grades one through six in average daily membership in each classroom or for each teacher, up to a maximum of twenty pupils students per classroom or per teacher, times the educational support per pupil student as provided in section 15-40.1-06. There must be paid .9 times each additional pupil student in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per pupil student as provided in section 15-40.1-06, except that no payment may be made for more than twenty-five pupils students in average daily membership in each classroom or for each teacher.
3. For each elementary school in school districts having one hundred or more pupils students in average daily membership in grades one through six, and provided the districts in which such schools are located have an average daily membership of less than one thousand elementary pupils students in grades one through six, the amount of money resulting from multiplying the factor ~~.9025 for the 1989-90 school year and, beginning July 1, 1990, the factor .905~~ .9040 times the number of pupils students in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per pupil student as provided in section 15-40.1-06, except that no payment may be made for more than thirty pupils students in average daily membership in each classroom or for each teacher.
4. For each elementary school in school districts having an average daily membership of one thousand or more elementary pupils students in grades one through six, the amount of money resulting from multiplying the factor ~~.95~~ .9525 times the number of pupils students in that school in grades one through six in average daily membership in each classroom or for each teacher times the educational support per pupil student as provided in section 15-40.1-06, except that no payment may be made for more than thirty pupils students in average daily membership in each classroom or for each teacher.
5. For each of the above classes of elementary schools, except for one-room rural schools that are not located in a district with another school that has pupils students in grade seven or eight, there must be paid to each school the amount of money resulting from multiplying the factor ~~1.005 for the 1989-90 school year and, beginning July 1, 1990, the factor 1.01~~ 1.0100 times the number of pupils students in that school in grades seven and eight in average daily membership in each classroom or for each teacher times the educational support per pupil student as provided in section 15-40.1-06,

except that no payment may be made for more than thirty ~~pupils~~ students in average daily membership in each classroom or for each teacher.

6. For each elementary school having ~~pupils~~ students under the compulsory age for school attendance, but not less than three years of age, in a special education program approved by the director of special education, the amount of money resulting from multiplying the factor ~~.75 for the 1989-90 school year and, beginning July 1, 1990, the factor 1.01~~ 1.1125 times the number of special education ~~pupils~~ students in that school under the compulsory age for school attendance in average daily membership in each classroom or for each teacher times the educational support per ~~pupil~~ student as provided in section 15-40.1-06.
7. For each elementary school providing a kindergarten that is established according to provisions of section 15-45-01, and for each out-of-state kindergarten program, approved by the state superintendent and utilized by North Dakota school districts bordering other states, the amount of money resulting from multiplying the factor .50 times the number of ~~pupils~~ students in that school in average daily membership in each classroom or for each teacher times the educational support ~~per pupil~~ per student payment for that elementary school as determined under this section, except that no payment may be made for more than twenty-five ~~pupils~~ students in average daily membership in each classroom or for each teacher. The full ~~per pupil~~ per student payment shall be made only to those kindergarten programs providing the equivalent of ninety full days of classroom instruction during any twelve-month period. Programs providing shorter periods of instruction during the same time period shall receive a proportionately smaller ~~per pupil~~ per student payment.

Every school district must receive at least as much in total payments for elementary ~~pupils~~ students as it would have received if it had the highest number of ~~pupils~~ students in the next lower category. Payments pursuant to this chapter to school districts in bordering states must be made after subtracting the amounts provided for in subsection 3 of section 15-40.1-06 in the sending school district divided by the total number of resident ~~pupils~~ students enrolled in the school district plus the number of resident ~~pupils~~ students from the district attending school in another state.

SECTION 21. AMENDMENT. Section 15-40.1-09 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-40.1-09. Application for payments - Verification and determination of payments for high school students - Report of county superintendent of schools - Appeal. Immediately upon the completion of the registration of students at the beginning of each school term and in no event later than September tenth of each year, the business manager of each school district within or without this state which is claiming payments from state funds under the provisions of this chapter shall file with the county superintendent of schools a claim on a form prescribed by the superintendent of public instruction stating the number of students registered in high school and elementary grades for which payments are claimed, and such other information as may be reasonably requested by the superintendent of public instruction. Not later than December first, the superintendent of public instruction shall certify to the office of management and budget a list of the school districts and schools not operated by school districts entitled

to payments from state funds, together with the amounts to which the several districts and schools are entitled. Per-pupil Per student aid as provided under sections 15-40.1-06, 15-40.1-07, and 15-40.1-08 must be computed on the basis of the previous year's average daily membership less the number of students attending school during the current school year in another district under the provisions of open enrollment or the current year's fall enrollment, whichever is greater, for all current grade levels. Adjustments must be made in the subsequent year according to a comparison between the average daily membership for the year for which the adjusted payment is being made and the year preceding the year for which the adjusted payment is being made, whichever is greater, for grade levels that existed in both years. The greater of the two preceding years' average daily membership must be used in computing any adjustment in a district's foundation aid payments. For purposes of this chapter, "average daily membership" shall mean the total days all students in a given school are in attendance, including days set aside for the North Dakota education association convention, plus any three holidays selected from those listed in subsections 2 through 10 of section 15-38-04.1 which have been decided upon after consultation with the teachers, the total days all students are absent, and the two parent-teacher conference days authorized in section 15-47-33, divided by one hundred eighty days. School districts educating children of agricultural migratory workers or offering high school summer school programs during the months of June, July, and August shall not be restricted to payments for a one hundred eighty-day school term.

Immediately upon the termination of the school term and in no event later than July fifteenth of each year, the business manager of each school district within or without this state which has received payments from state funds under the provisions of this chapter shall file with the county superintendent of schools a verified statement of the name, residence, and membership of elementary and high school students as provided for in this section, and number of units of high school work taken by each high school student enrolled during the previous school year. ~~Such~~ The statement shall be attested to by the county superintendent of schools. The county superintendent shall investigate the validity of the statement and shall determine the residence and other qualifications of each student named in the statement ~~filed with him. He.~~ The county superintendent shall certify to the superintendent of public instruction on or before September first of each year the number of enrolled students in each district in ~~his~~ the county for the previous school year upon which any adjustment may be based as provided in this section. If any statement is disallowed in whole or in part, notice ~~thereof~~ of the disallowance and the names of students who are disallowed shall be reported to the superintendent of public instruction and to the district filing the statement. Any district may appeal to the superintendent of public instruction from the determination of the county superintendent of schools on or before September fifteenth in the year in which the determination is made. The superintendent of public instruction may change or modify the determination of the county superintendent if the evidence submitted by the district warrants a modification. The judgment of the superintendent of public instruction shall be final.

SECTION 22. AMENDMENT. Section 15-40.1-16 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-40.1-16. Aid for transportation. There shall be paid from state funds to each school district providing schoolbus transportation in contract schoolbuses or in district-owned and operated schoolbuses, and to school districts with students riding commercial buses to and from school within the incorporated limits of a city, the following amounts:

1. For schoolbuses and school vehicles transporting pupils students who live outside the incorporated limits of the city in which school the pupil student is enrolled is located, a sum equal to twenty-five cents per mile [1.61 kilometers] ~~during each year of the 1991-93 biennium~~ for vehicles having a capacity of nine or fewer pupils students and sixty-seven cents per mile [1.61 kilometers] ~~for each year of the 1991-93 biennium~~ for schoolbuses having a capacity of ten or more pupils. ~~In addition, those school students.~~ School districts qualifying for payments for buses having a capacity of ten or more pupils students are entitled to an amount equal to twenty-eight cents per day for each public school pupil student living outside the city limits who is transported in such buses.
2. For pupils students who ride schoolbuses or commercial buses to or from school and who live within the incorporated limits of the city ~~in~~ within which the school that the pupil is enrolled students attend is located, a sum equal to seventeen and one-half cents per pupil student per one-way trip. However, no payment ~~shall~~ may be made under this subsection for a student who rode on a vehicle for which payments are claimed under subsection 1.

The mileage payments provided for in this section shall be made to each school district for transporting pupils students to and from school. ~~Such payments~~ Payments shall be made only to school districts operating schoolbuses in accordance with the laws of this state relating to standards for schoolbuses, and to the qualifications of schoolbus drivers. Certification as to ~~the~~ compliance with the laws of this state in regard to schoolbuses and their drivers shall be made in such manner and ~~in~~ such detail as the superintendent of public instruction may require at the time an application is made for payments provided under this section.

SECTION 23. AMENDMENT. Section 15-40.1-18 of the North Dakota Century Code is amended and reenacted as follows:

15-40.1-18. State transportation payments to school districts.

The superintendent of public instruction shall determine the total amount of payments to be made to the school districts for transportation aid. The office of management and budget shall pay the sum certified by the superintendent of public instruction to each school district. ~~Such payments~~ Payments shall be made in the same manner and at the same time as other payments from the state to school districts are made, as provided in section 15-40.1-05. During the 1993-94 school year, no school district may receive more than one hundred percent of the actual costs it incurs in the provision of transportation services. During the 1994-95 school year, no school district may receive more than eighty-five percent of the actual costs it incurs in the provision of transportation services. The superintendent of public instruction shall calculate the difference between the actual costs incurred by all districts in the provision of transportation services during the 1994-95 school year and eighty-five percent of the actual costs incurred by all school districts in the provision of transportation services during the previous school year. The superintendent shall use the difference to increase the per student payments provided for in subsections 1 and 2 of section 15-40.1-16 by the same amount under each subsection. For purposes of this section, actual costs include the transportation operating expenditures reported to the superintendent of public instruction for the most recent year plus the eight-year average cost of transportation equipment determined by the superintendent of public instruction.

SECTION 24. AMENDMENT. Section 15-44-03 of the North Dakota Century Code is amended and reenacted as follows:

15-44-03. Certificate by office of management and budget - Apportionment by superintendent of public instruction - Warrant - Payment. The office of management and budget on or before the third Monday in February, April, August, October, and December in each year, shall certify to the superintendent of public instruction the amount of the state tuition fund. The superintendent shall apportion ~~such~~ seventy-five percent of the proceeds of the fund among the several school districts of the state in proportion to the number of children of school age residing in each as shown by the last enumeration provided for by law, and twenty-five percent of the proceeds of the fund among the several school districts of the state in the proportion that the amount of foundation aid received by a district bears to the total amount of foundation aid distributed by the state. The superintendent shall certify to the office of management and budget and the state treasurer the amount apportioned to the respective school districts. Immediately upon receipt of the apportionment from the superintendent of public instruction, the office of management and budget shall pay each school district the amount to which it is entitled from the state tuition fund and such payments shall be combined with and paid at the same time as ~~per-pupil~~ per student payments pursuant to section 15-40.1-05.

SECTION 25. AMENDMENT. Subdivision q of subsection 1 of section 28-32-01 of the North Dakota Century Code is amended and reenacted as follows:

- q. The superintendent of public instruction except with respect to rules prescribed under section 15-21-07, rules relating to the review of local school board decisions to close certain schools under the provisions of section 18 of this Act, rules relating to teacher certification, and rules relating to professional codes and standards approved under section 15-38-18.

SECTION 26. AMENDMENT. Section 2 of chapter 701 of the 1989 Session Laws of North Dakota, as amended by section 1 of chapter 656 of the 1991 Session Laws of North Dakota, is amended and reenacted as follows:

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, ~~1993~~ 1997, and after that date is ineffective."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 201 - PUBLIC INSTRUCTION

SENATE - These amendments make the following changes:

ANALYSIS OF SENATE CHANGES TO THE DEPARTMENT OF PUBLIC INSTRUCTION

LINE ITEM	ENGROSSED HB 1003	RESTORE HOUSE REDUCTIONS	REMOVE INDIRECT COST AND RESTORE ISD PORTION	RESTORE FILM LIBRARY ¹	ADD 3 FTE ²	ADD FUNDING FOR SPECIAL PROJECTS	INCREASE FUNDING FOR GRANTS	TOTAL (DECREASES) INCREASES	SENATE VERSION OF DPI
Salaries and wages	\$ 8,255,919	\$365,000		\$131,786	\$260,980			\$ 765,766	\$ 9,021,685
Information services	632,172		\$ 61,348	500	1,500	\$ 1,950		65,298	697,470
Operating expenses	5,480,382	65,000	(588,498)	95,945	126,725	30,000		(270,828)	5,209,554
Equipment	281,471			87,582	1,500	1,100		90,182	371,653
Foundation aid	0						\$388,500,000	388,500,000	388,500,000
Special education	44,877,495						5,000,000	5,000,000	49,877,495
Governor's school	0						200,000	200,000	200,000
Vocational education	0						1,500,000	1,500,000	1,500,000
Restructuring	2,550,000						5,110,750	5,110,750	7,660,750
LEAD	140,000						88,000	88,000	228,000
All other line items	<u>142,567,162</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>0</u>	<u>0</u>	<u>142,567,162</u>
Total	\$203,984,601	\$430,000	\$(527,150)	\$315,813	\$398,785	\$ 33,050	\$400,398,750	\$401,049,168	\$605,033,769
Other funds	\$159,621,158		\$(135,178)	\$105,052	\$ 18,285	\$(62,248)		\$ (74,169)	\$159,546,989
General fund	\$ 44,363,443	\$430,000	\$(391,972)	\$210,761	\$380,500	\$ 95,298	\$400,398,750	\$401,123,337	\$445,486,780
FTE	124.45	4.0	0	2.0	3.0	0	0	9.0	133.45

¹ When added to the \$166,030 of other funds and 4 FTEs provided by the House for the Film Library. The Department of Public Instruction has indicated use in the Independent Study area.

² These 3 FTEs include 1 additional FTE in state testing, telecommunication were not provided by the House or Governors Sinner and Schafer.

Two sections are added to appropriate \$180,000 from the general fund for a school transportation study and the development of a transportation system data base and \$100,000 from the general fund for a Legislative Council education finance study.

Foundation Aid:

The following schedule compares foundation aid and state tuition fund payments for 1991-93, Sinner 1993-95, Schafer 1993-95, and Senate 1993-95:

	1991-93 APPROPRIATION	1993-95 GOVERNOR SINNER	1993-95 GOVERNOR SCHAFER	1993-95 SENATE
Per-pupil payments	\$386,784,025	\$ 472,112,798	\$390,801,486	\$397,433,283
Less: Mills deducted	(42,076,240)	(103,271,462)	(41,308,584)	(43,926,035)
Total per-pupil payments	\$344,707,785	\$ 368,841,336	\$349,492,902	\$353,513,248
Transportation payments	<u>36,306,549</u>	<u>31,521,432</u>	<u>31,521,432</u>	<u>34,986,752</u>
Total general fund - foundation program	\$381,014,334	\$ 400,362,768	\$381,014,334	\$388,500,000
Tuition apportionment	\$ 47,225,456	\$ 46,017,000	\$ 46,017,000	\$ 46,017,000
<u>Per-pupil payments</u>				
1st year	\$ 1,552	Not specified	Not specified	\$ 1,589
2nd year	\$ 1,541	Not specified	Not specified	\$ 1,647
<u>Mill deducts</u>				
1st year	22 mills	50 mills	22 mills	23 mills
2nd year	22 mills	60 mills	22 mills	24 mills

Weighted units in the Senate version are changed to reflect 25 percent of the difference between current weighted factors and the five-year average.

The "special projects" were changed as follows:

ANALYSIS OF "SPECIAL PROJECTS"

	1991-93 APPROPRIATION	1993-95 AGENCY REQUEST	1993-95 EXECUTIVE RECOMMENDATIONS	HB 1003 1993-95 HOUSE RECOMMENDATION	HB 1003 1993-95 SENATE RECOMMENDATION
Electronic media	\$ 360,000	\$ 412,354	\$ 0	\$ 360,000	\$ 360,000
Uniform accounting	150,000	75,000	0	0	0
Uniform student records	0	250,000	0	0	0
School district restructuring	5,900,000	10,235,661	0	2,550,000 ¹	7,660,750 ²
Telecommunications	5,050,295	6,752,000	0	3,000,000	3,000,000
Teacher centers	199,400	240,000	0	200,000	200,000
LEAD	140,000	228,000	0	140,000	228,000
Education reform	0	479,000	0	0	0
Governor's school	0	200,000	0	0	200,000
Special projects and grants	0	0	7,000,000	0	0
	\$11,799,695	\$18,872,015	\$7,000,000	\$6,250,000	\$11,648,750

¹ The \$2,550,000 provides \$2,050,000 for \$165 per student payments for one organized in 1991; \$200,000 for annexation and reorganization funding; reorganization grants for school districts that received planning grant and \$50,000 miscellaneous grants.

² The \$7,660,750, \$6,670,750 is to provide per student payments of \$105 for year 4, and \$105 for year 5, \$80,000 is provided for four planning assistance to consortiums; and \$750,000 for educational service agreement to consortiums that received planning grants prior to January 1, 1

DEPARTMENT 250 - STATE LIBRARY

SENATE - Talking Book Program: The salaries and wages line item is reduced by \$68,271 and operating expenses by \$167,000, and these amounts totaling \$235,271 from federal funds are provided as a talking book program line item. The funding is to reinstate three FTE positions deleted by the House and to

operate the talking book program at the State Library rather than contracting with South Dakota for the service. It is the intent of the Legislative Assembly that the State Library begin operating the program during the first year of the 1993-95 biennium and that the Office of Management and Budget waive the rent charges for the 1993-95 biennium.

The information services line item is increased by \$6,992, of which \$6,034 is from the general fund, to restore a portion of the funding reduced by the House.

Operating expenses are reduced by \$151,408, \$105,836 of which is from the general fund, to remove the amount added by the House for indirect cost allocation payments.

The multitype library authority program line item is increased by \$55,836, from \$50,000 to \$105,836 from the general fund for continuing the pilot project begun during 1991-93.

The grants to public libraries line item is increased by \$50,000, from \$843,000 to \$893,000 from the general fund. The House had reduced this line item by \$50,000 and provided the \$50,000 for the multitype library authority.

DEPARTMENT 252 - SCHOOL FOR THE DEAF

SENATE - This amendment makes the following changes:

- The salaries and wages line item is increased by \$123,049 from the general fund for the following positions:

.75 FTE	Dormitory counselor	\$ 19,892
	Librarian I (the House included authorization for the .76 FTE without funding the position)	50,081
<u>.79 FTE</u>	Speech clinician	<u>53,076</u>
1.54	Total	\$123,049

- The information services line item is increased by \$4,639, of which \$4,522 is from the general fund and \$117 is from other funds, to restore a portion of the funding removed by the House.

- The operating expenses line item is increased by \$50,000 from the general fund to restore funding reduced by the House, and decreased by \$39,062, of which \$28,120 is from the general fund and \$10,942 is from other funds to remove the indirect cost allocation payments to the Office of Management and Budget. In total, the operating expenses line item is increased by \$10,938, of which \$21,880 is a general fund increase and \$10,942 is a decrease in other funds.

This amendment provides for a total authorized FTE level of 52.27, 1.54 FTEs more than the House level of 50.73 FTEs.

In total, this amendment increases the school's general fund appropriation by \$149,451 and decreases the other funds by \$10,825, for a net increase of \$138,626.

DEPARTMENT 253 - SCHOOL FOR THE BLIND

SENATE - This amendment decreases the operating expenses line item by \$30,018, of which \$20,634 is from the general fund and \$9,384 is from other funds to remove the indirect cost allocation payments to the Office of Management and Budget.

This amendment also increases the general fund appropriation by \$170,000 and decreases the other funds appropriation by \$170,000 to more accurately reflect the anticipated income the school will receive during the biennium.

In total, this amendment increases the school's general fund appropriation by \$149,366 and decreases the other funds by \$179,384, for a net decrease of \$30,018.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has amended, subsequently passed, and the emergency clause carried: HB 1005.

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1005

Page 1, line 3, after the semicolon insert "to provide financial assistance to tribally controlled community colleges;" and replace "6-09.10-03" with "23-29-07"

Page 1, remove line 4

Page 1, line 5, remove the second "and" and after "41-09-42.1" insert ", and subsections 2 and 5 of section 54-06-04"

Page 1, line 6, replace the second "the" with "solid waste management facility permits"

Page 1, remove line 7

Page 1, line 8, remove "insurance tax distribution fund, and"

Page 1, line 9, after "fund" insert ", and the preparation of agency biennial reports"

Page 1, line 14, after the semicolon insert "to provide a statement of legislative intent relating to state agency leave allowance;"

Page 1, line 15, after the semicolon insert "to provide a statement of legislative intent relating to indirect cost allocations;" and after "authorize" insert "the"

Page 1, line 16, after the semicolon insert "to limit state agency and institution travel, printing, and postage expenditures;" and remove "sections 18-04-04.1,"

Page 1, remove line 17

Page 1, line 18, remove "and"

Page 1, line 19, remove "the insurance tax distribution fund, the insurance regulatory"

Page 1, line 20, remove "trust fund, and"

Page 2, line 12, replace "1,794,378" with "1,962,515"

Page 2, line 13, replace "1,534,986" with "1,634,539"

Page 2, line 26, replace "200,000" with "100,000"

Page 2, line 27, replace "48,892,886" with "49,060,576"

Page 2, line 28, replace "40,904,725" with "40,415,025"

Page 2, line 29, replace "7,988,161" with "8,645,551"

Page 3, line 3, replace "2,979,741" with "3,058,489"

- Page 3, line 4, replace "28,800" with "32,000"
- Page 3, line 7, replace "1,926,000" with "1,626,000"
- Page 3, line 8, replace "7,617,541" with "7,399,489"
- Page 3, line 9, replace "300,000" with "500,000"
- Page 3, line 10, replace "7,317,541" with "6,899,489"
- Page 3, line 14, replace "18,123,904" with "20,310,599"
- Page 3, line 16, replace "33,516,508" with "35,703,203"
- Page 3, line 20, replace "51,174" with "56,702"
- Page 3, line 21, replace "2,444,878" with "2,356,982"
- Page 3, line 23, replace "3,820,126" with "3,737,758"
- Page 3, line 28, replace "434,402" with "411,208"
- Page 4, line 1, replace "3,702,120" with "3,678,926"
- Page 4, line 2, replace "332,006" with "330,000"
- Page 4, line 3, replace "3,370,114" with "3,348,926"
- Page 4, line 4, replace "18,675,816" with "19,093,966"
- Page 4, line 5, replace "78,873,365" with "81,135,986"
- Page 4, line 6, replace "97,549,181" with "100,229,952"
- Page 4, remove lines 28 and 29
- Page 5, remove lines 1 through 3
- Page 5, line 4, replace "\$300,000" with "\$500,000" and after the second "of" insert "the"
- Page 5, line 19, remove "in the classified"
- Page 5, replace lines 20 through 27 with "are to be seventy-five dollars per month beginning July 1, 1993, to be paid August 1, 1993, and 2.0 percent beginning August 1, 1994, to be paid September 1, 1994. The 2.0 percent increase is contingent on general fund revenues for the fiscal year ended June 30, 1994, exceeding the amount estimated at the close of the fifty-third legislative assembly by \$4,700,000. If general fund revenues exceed estimates, but are less than \$4,700,000 more than estimates, salary increases must be provided proportionately. Temporary and part-time employees must be provided pro rata increases in accordance with the number of hours worked. Pay grade maximums may not limit the amount of any increase."
- Page 6, after line 5, insert:

"SECTION 10. INTENT - LEAVE ALLOWANCE. It is the intent of the fifty-third legislative assembly that the \$1,000,000 leave allowance line item contained in section 1 of this Act is only to be used for assisting state agencies paying accumulated annual leave and sick leave in accordance with North Dakota Century Code section 54-06-14, for those employees whose positions are eliminated as a result of employee reductions made by the fifty-third legislative assembly. The leave

allowance line item is to be used only when it can be determined by the office of management and budget that sufficient funds are not available pursuant to an agency's appropriation."

Page 6, line 13, after the period insert "Notwithstanding North Dakota Century Code section 54-44.1-15 the department of public instruction and the department of health and consolidated laboratories may deposit indirect cost recoveries in their operating accounts."

Page 6, line 21, replace "Housing finance agency reserves" with "State aid distribution fund" and replace "1,500,000" with "18,894,000"

Page 6, after line 22, insert:

"SECTION 14. Definitions. In sections 14 through 18 and section 27 of this Act, unless the context otherwise requires:

1. "Non-Indian" means a person who is less than one-quarter quantum Indian blood.
2. "Tribally controlled community college" means an institution of higher education located in this state which is formally controlled or has been formally sanctioned or chartered by the governing body of an Indian tribe, except that no more than one such institution may be recognized with respect to any one tribe.

SECTION 15. Institutions eligible for grant assistance. Any tribally controlled community college located in this state is eligible to receive supplemental grant assistance for students who do not qualify for federal assistance under the provisions of the Tribally Controlled Community College Assistance Act of 1978, as amended.

SECTION 16. Grant authorization. The office of management and budget may make grants to tribally controlled community colleges to defray the costs of education associated with the enrollment of non-Indian students for whom federal subsidies are unavailable under the Tribally Controlled Community College Assistance Act of 1978. Grants made pursuant to this section must go directly to the general operating funds of the recipient institutions.

SECTION 17. Submission of grant application - Distribution of grants. Institutions seeking grants pursuant to sections 3 through 8 of this Act shall submit applications in the manner required by the state board of higher education. If an application is approved, the office of management and budget shall grant an amount allocated for non-Indian students on a full-time equivalent student basis for that same academic year in the following manner: the state board of higher education shall divide the amount allocated by the number of approved full-time equivalent students to determine the allocation per student. Each tribal college grant assistance payment must be determined by multiplying the total number of eligible full-time equivalent students by the allocation per full-time equivalent student. The number of full-time equivalent students is determined by adding the number of students enrolled full time and the full-time equivalent of the students enrolled part time, as determined by the quotient of the sum of all part-time students' credit hours divided by twelve, in each tribally controlled community college at the conclusion of the sixth week of an academic year. No grant made under sections 14 through 18 and section 27 of this Act may exceed the total cost of the educational program provided by a recipient institution.

SECTION 18. Reporting by recipient institutions. Each institution receiving grant payments under sections 14 through 18 and section 27 of this Act shall annually provide to the state board of

higher education an accurate and detailed account of its operating and maintenance expenses and documentation of the enrollment status and ethnic status of each student on whose account financial assistance under sections 14 through 18 and section 27 of this Act is sought.

SECTION 19. TRAVEL, PRINTING, AND POSTAGE EXPENSES - REDUCTIONS. State agencies and institutions shall for the biennium beginning July 1, 1993, and ending June 30, 1995, reduce in-state travel, printing, and postage expenses by ten percent of amounts appropriated for in-state travel, printing, and postage for the 1993-95 biennium and out-of-state travel expenses by twenty percent of amounts appropriated for 1993-95 biennium out-of-state travel. The savings from the reduced expenses must be applied to state employee salary increases at levels approved by the legislative assembly for the second year of the biennium."

Page 6, line 25, remove "or any"

Page 6, line 26, remove "other marketing program" and remove "and the"

Page 6, remove line 27

Page 6, line 28, remove "of agriculture as a result of the agricultural mediation service"

Page 7, line 9, replace "any" with "the pride of Dakota program"

Page 7, line 10, remove "marketing program within the department"

Page 7, replace lines 12 through 29 with:

"**SECTION 22. AMENDMENT.** Section 23-29-07 of the North Dakota Century Code is amended and reenacted as follows:

23-29-07. Permits.

1. The department is hereby authorized to may issue permits for solid waste management facilities and solid waste transporters. It is unlawful for any person to own, operate, or use a facility for solid waste disposal or transport solid wastes without a valid permit. All such permits are nontransferable and are for a term of not more than five years from the date of issuance. All such permits so issued are conditioned upon the observance of the laws of the state and the rules and regulations authorized herein under this chapter.
2. The department shall notify the board of county commissioners of a county in which a new solid waste management facility will be located of the department's intention to issue a permit for the facility. The board of county commissioners may call a special election to be held within sixty days after receiving notice from the department to allow the qualified electors of the county to vote to approve or disapprove of the facility. If a majority of the qualified electors voting in the election vote to disapprove of the facility, the department may not issue the permit and the facility may not be located in that county.
3. Subsection 2 does not apply to a solid waste management facility operated as part of an energy conversion facility or part of a surface coal mining and reclamation operation, if the solid waste management facility disposes of only waste generated by the energy conversion facility or surface coal mining and reclamation operation."

Page 8, remove lines 1 through 29

Page 9, remove lines 1 through 27

Page 10, remove lines 1 through 28

Page 11, remove lines 1 through 29

Page 12, remove lines 1 through 28

Page 13, remove lines 1 through 26

Page 15, after line 13, insert:

"SECTION 26. AMENDMENT. Subsections 2 and 5 of section 54-06-04 of the 1991 Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. A committee composed of the governor, the superintendent of the state historical board, the state librarian, and the director of the office of management and budget, or such other persons as may be designated by such persons to represent them, shall meet at the call of the director of the office of management and budget to set ~~minimum~~ the requirements ~~and establish guidelines~~ which must be prescribed by the office of management and budget for form, style, materials, and content ~~to assist state departments, institutions, and agencies of the executive branch of government in preparation of biennial reports required by law.~~

5. All officers, departments, boards, commissions, and state institutions required to submit reports covering their operations for the two preceding fiscal years to the governor and the office of management and budget shall submit ~~typewritten or mimeographed~~ copies of their reports in the form and style, using the materials, and having the content prescribed under the provisions of subsection 2 on or before the first day of December in each year after the regular session of the legislative assembly. One copy of each report must be submitted to the governor and two copies to the office of management and budget. The office of management and budget shall cause to be prepared twenty-five copies of each report submitted under the provisions of this subsection ~~and shall bind these reports into volumes or sets to be known as "governmental biennial reports" which must be distributed to the following agencies:~~
 - a. Governor's office.
 - b. Attorney general's office.
 - c. Legislative council.
 - d. State law library.
 - e. The state institutions of higher education.
 - f. State library.
 - g. Two ~~volumes~~ copies of each report must be placed in the office of the secretary of state for official and public use.

~~The style of binding to be used for the biennial reports must be determined by the office of management and~~

~~budget-~~ The reports included in this subsection may not be further printed or reproduced except as provided for in this subsection and section 54-06-05.

SECTION 27. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of funding and administering grant assistance payments to tribally controlled community colleges for the biennium beginning July 1, 1993, and ending June 30, 1995. No more than one-half of this appropriation may be expended during the first year of the biennium."

Page 15, line 14, replace "Sections 18-04-04.1, 26.1-01-07.1, 26.1-01-07.2," with "Section"

Page 15, line 15, remove "and 26.1-01-07.3 of the North Dakota Century Code and section"

Page 15, line 16, replace "are" with "is"

Page 15, line 17, replace "24" with "1"

Page 15, replace line 18 with "pertaining to the leave allowance line item and section 28 of this Act are"

Page 15, line 19, remove "an" and replace "measure" with "measures"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 111 - FACILITY MANAGEMENT

SENATE - This amendment makes the following changes:

- The salaries and wages line item is increased by \$78,748 from the general fund for the addition of 2 FTE custodians, for a total authorized FTE level of 60.6.
- The information services line item is increased by \$3,200 from the general fund to restore the funding reduced by the House.
- The capital improvements line item is decreased by \$300,000 from the general fund to reflect the elimination of the following projects:

Public Service Commission Hearing Room	\$175,000
Other unspecified projects	<u>125,000</u>
Total	\$300,000

- The estimated income line item is increased by \$200,000 from the Capitol building fund and the general fund appropriation is decreased by \$200,000.

In total, this amendment decreases the general fund appropriation to the Facility Management Division by \$418,052, and increases the other funds appropriation by \$200,000, for a net decrease of \$218,052.

DEPARTMENT 112 - INFORMATION SERVICES DIVISION

SENATE - This amendment increases the operating expenses line item by \$2,284,158 from other funds to restore a portion of the funding reduced by the House and decreases it by \$97,463 from other funds to reduce the amount included for indirect cost allocation payments, for a net increase of

\$2,186,695. The indirect cost allocation payment was reduced from \$102,024 to \$4,561.

In total, this amendment increases the appropriation to the Information Services Division by \$2,186,695 of other funds.

DEPARTMENT 113 - OFFICE OF MANAGEMENT AND BUDGET CENTRAL OPERATIONS

SENATE - This amendment makes the following changes:

- The information services line item is increased by \$168,137, of which \$165,702 is from the general fund and \$2,435 is from other funds, to restore a portion of the funding reduced by the House.
- The operating expenses line item is increased as follows:

	GENERAL FUND	OTHER FUNDS	TOTAL
Indirect cost allocation payments ¹	\$(1,268)	\$ (46)	\$ (1,314)
Merit System payments	(260)		(260)
Community development block grant program funding previously in Economic Development and Finance	<u> </u>	<u>101,127</u>	<u>101,127</u>
Total	\$(1,528)	\$101,081	\$ 99,553

¹ The indirect cost allocation payment was reduced from \$44,614 to \$43,300. The general fund portion of \$1,268 was eliminated and the other funds portion was reduced by \$46.

- The estimated income line item and general fund appropriation are changed as follows for funding source changes:

	GENERAL FUND	OTHER FUNDS	TOTAL
Capital planning line item from Capitol building fund to the general fund	\$200,000	\$(200,000)	\$0
Merit System	<u>393,216</u>	<u>(393,216)</u>	<u>0</u>
Total	\$593,216	\$(593,216)	\$0

- The capital planning line item is decreased by \$100,000 from the general fund.

In total, this amendment increases the general fund appropriation to the Office of Management and Budget Central Operations by \$657,390 and decreases the other funds appropriation by \$489,700, for a net increase of \$167,690.

This amendment changes the state employee compensation adjustment guidelines to reflect increases of \$75 per month beginning July 1, 1993, and two percent beginning August 1, 1994. The two percent is contingent on general fund revenues exceeding the legislative forecast by an amount sufficient to pay for the general fund portion of the two percent salary increase.

This amendment adds \$200,000 from the general fund for financial assistance to tribally controlled community colleges.

This amendment removes the requirement that agency biennial reports be bound in volumes.

This amendment adds a section of legislative intent stating the \$1,000,000 general fund appropriation for state agency leave allowance is to be used for

paying the annual leave and sick leave, when applicable, of state employees being terminated due to reductions in authorized FTE levels by the Fifty-third Legislative Assembly.

This amendment removes the transfer of \$1,500,000 from Housing Finance Agency reserves to the general fund, the transfer is being made in House Bill No. 1009. The amendment also reflects a transfer of \$18,894,000 from the state aid distribution fund to the general fund to reflect Governor Sinner's recommendation for the state aid distribution fund.

This amendment removes the following special fund transfers and funding source changes adopted by the House:

- Any moneys generated by the Agricultural Mediation Service.
- Insurance tax distribution fund and the insurance regulatory trust fund.

The changes restore these funds to a special fund status and continue to fund the respective programs and agencies from the special funds.

DEPARTMENT 118 - CENTRAL DUPLICATING SERVICES

SENATE - This amendment makes the following changes:

- The information services line item is increased by \$5,528 from other funds to restore a portion of the funding reduced by the House.
- The operating expenses line item is decreased by \$87,896 from other funds to remove the indirect cost allocation payments to the Office of Management and Budget.

In total, this amendment decreases the appropriation to Central Duplicating Services by \$82,368 of other funds.

DEPARTMENT 506 - STATE RADIO COMMUNICATIONS

SENATE - This amendment decreases the operating expenses line item by \$23,194, of which \$21,188 is from the general fund and \$2,000 is from other funds, to remove the indirect cost allocation payments to the Office of Management and Budget.

In total, this amendment decreases the appropriation to State Radio Communications by \$23,194, of which \$21,188 is from the general fund and \$2,006 is from other funds.

In total, this amendment increases the appropriations contained in this bill by \$2,680,771, of which \$418,150 is from the general fund and \$2,262,621 is from other funds.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has amended, subsequently passed, and the emergency clause carried: HB 1389.

SENATE AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1389

In lieu of the amendments adopted by the Senate as printed on page 1362 of the Senate Journal, Reengrossed House Bill No. 1389 is amended as follows:

Page 1, line 4, remove the third "and"

Page 1, line 5, after "penalty" insert "; and to declare an emergency"

Page 2, line 17, after "who" insert "has filed a resident North Dakota income tax return for the year prior to the effective date of this Act and who"

Page 3, line 2, replace the period with "; or"

Page 3, line 3, replace ""Resident" also means a veteran who was" with "Was"

Page 3, line 6, remove "A person is not a resident of North Dakota for"

Page 3, remove lines 7 through 11

Page 4, line 2, replace "December 31, 1993" with "June 30, 1995"

Page 6, after line 17, insert:

"SECTION 10. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 540 - ADJUTANT GENERAL

SENATE - This amendment requires the filing of a resident North Dakota income tax return in addition to meeting the residency requirements contained in the bill and extends the application deadline to June 30, 1995.

This amendment also adds an emergency clause.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has passed unchanged: HB 1274, HB 1514.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1104, HB 1126.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2083, SB 2028, SB 2096, SB 2227, SB 2295, SB 2367, SB 2441.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed, and the emergency clause carried: SB 2088.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently failed to pass: SB 2287.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2540.

REPORT OF CONFERENCE COMMITTEE

HB 1026: Your conference committee (Sens. Scherber, Tomac, Evanson and Reps. Wardner, Klein, Goffe) recommends that the SENATE RECEDE from the Senate amendments on HJ pages 1478-1479, adopt amendments as follows, and place HB 1026 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1478-1479 of the House Journal and pages 1273-1275 of the Senate Journal and that House Bill No. 1026 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 54-06 and a new section to chapter 54-52.1 of the North Dakota Century Code, relating

to discharge or replacement of certain governmental employees to avoid providing benefits; to amend and reenact section 54-06-14 and subsection 4 of section 54-52.1-01 of the North Dakota Century Code, relating to sick, annual, and family leave and group medical benefits; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-14 of the 1992 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-06-14. Annual leave and sick leave for state employees. Annual leave and sick leave must be provided for temporary employees who have been employed by the state for at least one year and for all persons in the permanent employment of this state who are not employed under a written contract of hire setting forth the terms and conditions of their employment, within the limitations, terms, and provisions of this section. Annual leave for an employee entitled to it must be within a range of a minimum of one working day per month of employment to a maximum of two working days per month of employment, based on tenure of employment, to be fixed by rules adopted by the employing unit. Sick leave for an employee entitled to it must be within a range of a minimum of one working day per month of employment to a maximum of one and one-half working days per month of employment, based on tenure of employment, to be fixed by rules adopted by the employing unit. Annual leave must be compensated for on the basis of full pay for the number of working days' leave credited to the employee. Sick leave must be compensated for on the basis of full pay for absence due to illness on working days during tenure of employment. An employee with at least ten continuous years of state employment is entitled to a lump sum payment equal to one-tenth of the pay attributed to the employee's unused sick leave accrued under this section. The pay attributed to the accumulated, unused sick leave must be computed on the basis of the employee's salary or wage at the time the employee leaves the employ of the state and at the rate of one hour of pay for each hour of unused sick leave. The agency, unit, or entity that last employed the employee shall make the lump sum payment from funds appropriated by the legislative assembly to that agency, unit, or entity for salaries and wages. Any state agency, unit, or entity which employs persons subject to this section shall formulate and adopt rules governing the granting of annual leave and sick leave which will effectuate the purpose of this section and best suit the factors of employment of that employing unit. Each employing unit shall file with the office of management and budget a copy of the rules adopted, including any amendments or additions to the rules. No employing unit may discharge or replace any person to avoid providing any benefit under this section.

SECTION 2. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Discrimination - Employment policies and benefits. No employing unit of this state may discriminate in its employment policies or benefits between any permanent employee or temporary employee employed at least one year.

SECTION 3. AMENDMENT. Subsection 4 of section 54-52.1-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. "Eligible employee" means every permanent employee who is employed by a governmental unit, as that term is defined in section 54-52-01. "Eligible employee" includes members of the legislative assembly, judges of the supreme court, paid members of state or political subdivision boards,

commissions, or associations, full-time employees of political subdivisions, elective state officers as defined by subsection 2 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workers' compensation fund. As used in this subsection, "permanent employee" means one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least seventeen and one-half hours per week and at least five months each year. As used in this subsection, "permanent employee" also means a temporary employee who has been employed by the state for at least one year.

SECTION 4. A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Discharge - Replacement. The state may not discharge or replace any person to avoid providing any benefit under this chapter.

SECTION 5. EFFECTIVE DATE. This Act becomes effective on August 1, 1994."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 113 - OMB-CENTRAL OPERATIONS

SENATE - This amendment provides annual leave, sick leave, family leave, and group health insurance benefits to temporary employees who work for the state at least one year.

HB 1026 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1256: Your conference committee (Sens. Tomac, Scherber, W. Stenehjem and Reps. Kelsch, Kretschmar, Grumbo) recommends that the SENATE RECEDE from the Senate amendments on HJ pages 1122-1123, adopt amendments as follows, and place HB 1256 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1122-1123 of the House Journal and pages 869-871 of the Senate Journal and that House Bill No. 1256 be amended as follows:

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

Page 1, line 2, replace "section" with "sections" and after "54-03-19.2" insert ", and 54-03-20"

Page 1, line 3, remove "procedures of the", remove "in determining" and after "and" insert "travel reimbursement."

Page 1, remove lines 4 and 5

Page 1, line 17, remove "Bill introduction -"

Page 1, line 18, remove "- Staff"

Page 2, line 2, remove ", the commission"

Page 2, line 3, overstrike "shall" and insert immediately thereafter ", the commission may" and replace "majority and minority leaders of the house and senate" with "leadership of the legislative assembly"

Page 2, line 12, replace ", and" with ". The commission may"

Page 2, line 13, remove "for any change in the level of legislative"

Page 2, remove lines 14 through 20

Page 2, line 21, remove "election of members of the house of representatives"

Page 3, after line 2, insert:

"SECTION 3. AMENDMENT. Section 54-03-20 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-03-20. Compensation and expense reimbursement of members of the legislative assembly. Each member of the legislative assembly of the state of North Dakota is entitled to receive as compensation for services the sum of ninety dollars for each calendar day during any organizational, special, or regular legislative session. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed a maximum of six hundred dollars per calendar month for lodging in state, at the rates and in the manner provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session. Members of the legislative assembly who receive reimbursement for lodging are also entitled to reimbursement for travel for not to exceed one round trip taken during any calendar week, or portion of a week, the legislative assembly is in session, between their residences and the place of meeting of the legislative assembly, at the rate provided for state employees with the additional limitation that reimbursement for travel by common carrier may not exceed thirty-five cents per mile based upon air mileage. Members A member of the legislative assembly who ~~do~~ does not receive reimbursement for lodging and ~~who do not live whose place of residence in a the~~ legislative district ~~completely or partially that the member represents is not~~ within the city of Bismarck ~~are 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 ~~their residences 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 ~~this~~ the total reimbursement may not exceed six hundred dollars per month. The amount to which each legislator is entitled must be paid following the organizational session in December and following each month during a regular or special session.

A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session must be included as a calendar day during a legislative session for the purposes of this section.

In addition, each member ~~shall~~ is entitled to receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of one hundred eighty dollars a month, which is payable every six months. If a member dies or resigns from office during the member's term, the member may be paid only the allowances provided for in this section for the period for which the member was actually a member.

Attendance at any organizational, special, or regular session of the legislative assembly by any member is a conclusive presumption of entitlement as set out in this section and compensation and expense allowances must be excluded from gross income for income tax purposes to the extent permitted for federal income tax purposes under section

127 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 162(i)]."

Renumber accordingly

HB 1256 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2028, as engrossed: Your conference committee (Sens. Graba, Jerome, Nalewaja and Reps. Rydell, Christopherson, Bodine) recommends that the **HOUSE RECEDE** from the House amendments on HJ pages 941-942, adopt amendments as follows, and place SB 2028 on the Seventh order:

That the House recede from its amendments as printed on pages 859-860 of the Senate Journal and pages 941-942 of the House Journal and that Engrossed Senate Bill No. 2028 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for child care provider reimbursements; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Child care provider reimbursement payments. Within the limits of federal regulations, the department of human services shall directly reimburse early childhood facilities monthly under child care assistance programs administered by the department.

SECTION 2. Child care provider reimbursement system. Within the limits of federal regulations, the department of human services may generate state matching funds for federal child care assistance programs by withholding monthly from a child care provider's reimbursement payment under child care assistance programs administered by the department, an amount not to exceed fourteen dollars for each child for whom at least a portion of the child care services costs are paid by the department. The amounts withheld must be deposited into the department's operating fund and may be used only to match federal funds for child care assistance programs administered by the department. The department may also obtain state matching funds from other available sources. This section is effective only when child care provider reimbursement payments made to child care providers pursuant to this section are at least fourteen dollars per month more than the reimbursement payments would be without the provisions of this section.

SECTION 3. APPROPRIATION. There is hereby appropriated from special funds, derived from federal funds and other funds arising pursuant to section 2 of this Act, and other income, the sum of \$2,719,707, or so much of the sum as may be necessary, to the department of human services for the purpose of providing child care assistance payments for the biennium beginning July 1, 1993, and ending June 30, 1995."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 325 - DEPARTMENT OF HUMAN SERVICES

CONFERENCE COMMITTEE - This amendment provides that the Department of Human Services directly reimburse child care providers rather than families under child care assistance programs.

In addition, this amendment provides that the department may withhold up to \$14 from child care providers' monthly reimbursement payments or obtain funds

from other sources in order to generate state matching funds for accessing federal funds to provide reimbursement payments under federal child care assistance programs. The section is effective only if it is allowed under federal regulations and if reimbursements made pursuant to the section are at least \$14 more per month than if the section would not be effective.

An appropriation of \$1,925,136 of federal funds and \$794,571 of state matching funds derived from special funds arising from Section 2 of this bill is added for the Department of Human Services to provide child care assistance payments under its various child care assistance programs for the 1993-95 biennium.

Engrossed SB 2028 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2083: Your conference committee (Sens. Keller, Krauter, Krebsbach and Reps. Tollefson, Keiser, Mahoney) recommends that the **HOUSE RECEDE** from the House amendments on HJ pages 961-962, adopt amendments as follows, and place SB 2083 on the Seventh order:

That the House recede from its amendments as printed on page 890 of the Senate Journal and pages 961-962 of the House Journal, and that Senate Bill No. 2083 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 43-09 of the North Dakota Century Code, relating to coal mines subject to the jurisdiction of the federal mine safety and health administration; and to" and replace "section" with "sections 11-33-01 and"

Page 1, line 2, after "to" insert "the power of a county to regulate property and"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. If House Bill No. 1057 as approved by the fifty-third legislative assembly becomes effective, section 11-33-01 of the North Dakota Century Code, as amended by House Bill No. 1057, is amended and reenacted as follows:

11-33-01. County power to regulate property. For the purpose of promoting health, safety, morals, public convenience, general prosperity, and public welfare, the board of county commissioners of any county may regulate and restrict within the county, subject to section 11-33-20 and chapter 54-21.3, the location and the use of buildings and structures and the use, condition of use, or occupancy of lands for residence, recreation, and other purposes. The board of county commissioners shall establish zoning requirements for solid waste disposal and incineration facilities before July 1, 1994. The board of county commissioners may impose tipping or other fees on solid waste management and incineration facilities. The board of county commissioners may not impose any fee under this section on an energy conversion facility or coal mining operation that disposes of its waste onsite."

Page 1, after line 11, insert:

"SECTION 3. A new section to chapter 43-09 of the North Dakota Century Code is created and enacted as follows:

Exemption for coal mines. The jurisdiction of the board and other requirements of this chapter do not apply to installations, wiring, apparatus, or equipment that are part of a coal mine permitted

by the public service commission and are subject to the jurisdiction of the federal mine safety and health administration."

Renumber accordingly

SB 2083 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2088, as engrossed: Your conference committee (Sens. Marks, Kinnoin, Freborg and Reps. Rennerfeldt, Johnson, Kerzman) recommends that the HOUSE RECEDE from the House amendments on HJ page 880, adopt amendments as follows, and place SB 2088 on the Seventh order.

That the House recede from its amendments as printed on page 814 of the Senate Journal and page 880 of the House Journal and that Engrossed Senate Bill No. 2088 be amended as follows:

Page 1, line 8, replace "license fee" with "annual fee for a license for a bird species required to be licensed is five dollars. The maximum annual fees for bird species licenses to be paid by a person holding more than one bird species license is twenty-five dollars. The annual fee for a license for any other species required to be licensed is ten dollars. The maximum annual fees for nonbird species licenses to be paid by a person holding more than one nonbird species license is seventy-five dollars."

Page 1, remove lines 9 through 11

Renumber accordingly

Engrossed SB 2088 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2096: Your conference committee (Sens. Schoenwald, Keller, Krebsbach and Reps. Jacobs, C. Carlson, Kilichowski) recommends that the SENATE ACCEDE to the House amendments on HJ page 1080, adopt amendments as follows, and place SB 2096 on the Seventh order:

That the Senate accede to the House amendments as printed on page 1028 of the Senate Journal and page 1080 of the House Journal and that Senate Bill No. 2096 be further amended as follows:

Page 1, line 10, after "other" insert "individual"

Renumber accordingly

SB 2096 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2227: Your conference committee (Sens. Keller, Krauter, Mutch and Reps. Soukup, Froseth, Mahoney) recommends that the HOUSE RECEDE from the House amendments on HJ pages 1081-1082, adopt amendments as follows, and place SB 2227 on the Seventh order:

That the House recede from its amendments as printed on pages 1028-1029 of the Senate Journal and pages 1081-1082 of the House Journal and that Senate Bill No. 2227 be amended as follows:

Page 3, line 22, after "address" insert "where appropriate"

Page 5, line 4, after "be" insert "adequately"

Page 5, line 11, replace "concerning" with "connection with"

Page 6, line 19, after "obtained" insert "consistent with the requirements of the governing instrument or law"

Page 6, line 28, remove "might"

Page 6, line 29, replace "affect" with "affects" and replace "bank" with "banking institution"

Page 7, line 2, replace "bank" with "banking institution"

Page 7, line 6, replace "bank" with "banking institution"

Page 7, line 9, replace "might affect" with "affects"

Page 7, line 12, after "employees" insert "except:

- a. As authorized by the instrument creating the relationship or as authorized by law;
- b. When the banking institution has been advised in writing by its counsel or auditor that it has incurred as a fiduciary a contingent or potential liability and desires to relieve itself of that liability, a sale or transfer may be made with the approval of the board of directors, provided that the banking institution, upon consummation of the sale or transfer, makes reimbursement in cash at no loss to the account;
- c. To purchase at market value, defaulted investment funds; or
- d. Where ordered by the board"

Page 7, line 14, replace "bank" with "banking institution"

Page 7, line 16, after the underscored period insert "If the retention of stock or obligations of the banking institution or its affiliates is authorized by the instrument creating the relationship, by court order, or by law it may exercise rights to purchase its own stock or securities convertible into its own stock when offered pro rata to stockholders. When the exercise of rights or receipt of a stock dividend results in fractional share holdings, additional fractional shares may be purchased to complement the fractional shares so acquired."

Page 7, line 17, remove "not" and remove "or make a loan"

Page 7, line 19, remove "not" and after "accounts" insert "and if the transaction is not prohibited by the terms of any governing instrument"

Page 7, after line 19, insert:

- "5. A banking institution may make a loan to an account from the funds belonging to another account when the making of a loan to a designated account is authorized by the instrument creating the account from which the loan is made.
6. A banking institution may make a loan to an account and may take as security for the loan, assets of the account provided the transaction is fair to the account."

Page 7, line 26, after the underscored period insert "The banking institution may permit the investments of a fiduciary account to be deposited elsewhere."

Page 7, line 27, replace "The" with "Except for commingled investments, the"

Renumber accordingly

SB 2227 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2295, as engrossed: Your conference committee (Sens. Yockim, Mathern, Thane and Reps. Svedjan, Price, Kerzman) recommends that the HOUSE RECEDE from the House amendments on HJ pages 1245-1249, adopt amendments as follows, and place SB 2295 on the Seventh order:

That the House recede from its amendments as printed on pages 1085-1089 of the Senate Journal and pages 1245-1249 of the House Journal and that Engrossed Senate Bill No. 2295 be amended as follows:

Page 1, line 2, after "providers" insert "; and to provide an appropriation"

Page 1, replace lines 6 through 13 with:

1. "Cooperative agreement" means an agreement among two or more health care providers or third-party payers for the sharing, allocation, or referral of patients, personnel, instructional programs, support services and facilities, or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered by health care providers.
2. "Department" means the department of health and consolidated laboratories."

Page 2, replace lines 1 through 12 with:

5. "Third-party payer" means any insurer or other entity responsible for providing payment for health care services, including the workers compensation bureau, the comprehensive health association of North Dakota, and any self-insured entity.

SECTION 2. Application for cooperative agreements - Departmental review. A health care provider may negotiate a cooperative agreement with another health care provider or third-party payer if the likely benefits resulting from the agreement outweigh the disadvantages attributable to a reduction in competition that may result from the agreement. The parties to a cooperative agreement may apply to the department for a certificate of public advantage governing the agreement. The application must include an executed copy of the cooperative agreement and must describe the nature and scope of the cooperation in the agreement and any consideration passing to any party under the agreement. The applicants shall file a copy of the application and related materials with the attorney general and the department. The department shall review the application and shall hold a public hearing on the application. The department shall grant or deny the application within ninety days of the date of filing of the application. The decision must be in writing and must set forth the basis for the decision. The department shall furnish a copy of the decision to the applicants, the attorney general, and any intervenor."

Page 2, line 13, remove "cooperative agreement approved under this Act."

Page 2, line 14, after "representatives" insert "of a health care provider or third-party payer"

Page 2, replace lines 18 through 29 with:

"SECTION 3. Standards for certification. The department shall issue a certificate of public advantage for cooperative agreement if the department determines that the applicants have demonstrated by clear and convincing evidence that the likely benefits to health care consumers resulting from the agreement outweigh any disadvantages attributable to a reduction in competition that may result from the agreement. The department shall consult with the attorney general regarding its evaluation of any potential reduction in competition resulting from a cooperative agreement.

1. In evaluating the potential benefits of a cooperative agreement to health care consumers, the department shall consider whether any of the following benefits may result from the cooperative agreement:
 - a. Enhancement of the quality of health care services provided to residents of this state;
 - b. Preservation of health care facilities in geographical proximity to the communities traditionally served by those facilities;
 - c. Gains in the cost efficiency of services provided by the parties involved;
 - d. Improvements in the utilization of health care resources and equipment; and
 - e. Avoidance of duplication of health care resources.
2. The department's evaluation of any disadvantages attributable to any reduction in competition likely to result from the agreement may include the following factors:
 - a. The extent of any likely adverse impact on the bargaining power of health maintenance organizations, preferred provider organizations, managed health care service agents, or other health care payers in negotiating payment and service arrangements with hospitals, physicians, allied health care professionals, or other health care providers;
 - b. The extent of any reduction in competition among physicians, allied health professionals, other health care providers, or persons furnishing goods or services to or in competition with providers or third-party payers that is likely to result directly or indirectly from the cooperative agreement;
 - c. The extent of any likely adverse impact on patients in the quality, availability, and price of health care services; and
 - d. The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits to health care consumers over disadvantages attributable to any reduction in competition likely to result from the agreement.

SECTION 4. Certificate termination. The department may, after notice and hearing, terminate a certificate of public advantage if the department determines that:

1. The likely or actual benefits to health care consumers that result from a certified agreement no longer outweigh the disadvantages attributable to a potential reduction in competition resulting from the agreement; or
2. Performance by the parties under the certified agreement does not conform to the representations made by the parties in the application or to the provisions of any conditions attached to the certificate of public advantage by the department at the time the application was granted.

SECTION 5. Records. The department shall maintain all cooperative agreements for which the certificates of public advantage remain in effect. Any party to a cooperative agreement who terminates the agreement shall file a notice of termination with the department within thirty days after termination.

SECTION 6. Investigation by attorney general. The attorney general, at any time after an application is filed under section 2 of this Act, may require by subpoena the attendance and testimony of witnesses and the production of documents in the county in which the applicants are located for the purpose of investigating whether the cooperative agreement satisfies the standards set forth in section 3 of this Act. The attorney general may seek an order from the district court compelling compliance with a subpoena issued under this section.

SECTION 7. Cooperative agreement enjoined - Automatic stay - Standards for adjudication. The attorney general may seek to enjoin the operation of a cooperative agreement for which an application for certificate of public advantage has been filed by filing suit against the parties to the cooperative agreement in district court. The attorney general may file an action before or after the department acts on the application for a certificate, but the action must be brought no later than forty days following the department's approval of an application for certificate of public advantage. Upon the filing of the complaint, the department's certification, if previously issued, must be stayed and the cooperative agreement is of no further force unless the court orders otherwise or until the action is concluded. The attorney general may apply to the court for ancillary temporary or preliminary relief necessary to stay the cooperative agreement pending final disposition of the case. In any action, the applicants for a certificate bear the burden of establishing by clear and convincing evidence that the likely benefits to health care consumers which result from the cooperative agreement outweigh any disadvantages attributable to a reduction in competition that may result from the agreement. The court shall review whether the agreement constitutes an unreasonable restraint of trade under state or federal law in assessing disadvantages attributable to a reduction in competition likely to result from the agreement.

SECTION 8. Cancellation of a certificate of public advantage. If, at any time following the forty-day period specified in section 7 of this Act, the attorney general determines that, as a result of changed circumstances, the benefits to health care consumers which result from a certified agreement no longer outweigh the disadvantages attributable to a reduction in competition resulting from the agreement, the attorney general may file suit in district court seeking to cancel the certificate of public advantage. In an action brought under this section, the attorney general has the burden of establishing by a preponderance of the evidence that, as a result of changed circumstances, the benefits to health care consumers which result from the agreement and the unavoidable costs of canceling the agreement are outweighed by disadvantages attributable to a reduction in competition resulting from the agreement. If the attorney general first establishes by a preponderance of the evidence that the department's

certification was obtained as a result of material misrepresentation to the department or the attorney general as the result of coercion, threats, or intimidation toward any party to the cooperative agreement, the parties to the agreement bear the burden of establishing by clear and convincing evidence that the benefits to health care consumers which result from the agreement and the unavoidable costs of canceling the agreement are outweighed by disadvantages attributable to any reduction in competition resulting from the agreement.

SECTION 9. Resolution by consent decree - Attorney fees. The district court may resolve any action brought by the attorney general under section 7 or 8 of this Act by entering an order that, with the consent of the parties, modifies the cooperative agreement. Upon the entry of the order, the parties to the cooperative agreement have the protection specified in section 10 of this Act and the cooperative agreement has the effectiveness specified in section 10 of this Act. If the attorney general prevails in an action under section 6, 7, or 8 of this Act, the attorney general is entitled to an award of the reasonable costs of the investigation or litigation and reasonable attorney fees, expert witness fees, and court costs incurred in litigation.

SECTION 10. Effective certification - Validity - Application. A cooperative agreement for which a certificate of public advantage has been issued is a lawful agreement. If the parties to a cooperative agreement file an application for a certificate of public advantage governing the agreement with the department, the conduct of the parties in negotiating a cooperative agreement is lawful conduct. This section does not immunize any person for conduct in negotiating a cooperative agreement for which an application for a certificate of public advantage is not filed. If the department or the district court determines that the applicants have not established by clear and convincing evidence that the likely benefits to health care consumers which result from a cooperative agreement outweigh any disadvantage attributable to a potential reduction in competition resulting from the agreement, the agreement is invalid and has no force or effect. This section does not exempt hospitals or other health care providers from compliance with laws governing hospital cost reimbursement. This Act does not apply to any agreement among hospitals by which ownership or control over substantially all of the stock, assets, or activities of one or more previously licensed and operating hospitals is placed under the control of another licensed hospital or hospitals. Notwithstanding any provisions to the contrary, any improvements, construction, expansion, or acquisition of health care equipment or services approved as a condition of a cooperative agreement is not subject to laws governing certificate of need.

SECTION 11. Assessment - Health care cooperative agreement fund. The department shall establish an assessment to be paid by each party to a cooperative agreement. The aggregate amount of the assessment for a cooperative agreement may not exceed forty thousand dollars. The parties shall pay the assessment to the department when the application for the cooperative agreement is submitted to the department. The department shall deposit the moneys received under this section in the health care cooperative agreement fund of the state treasury.

SECTION 12. APPROPRIATION. There is hereby appropriated out of any moneys in the health care cooperative agreement fund, not otherwise appropriated, such amounts as may be necessary to the department of health and consolidated laboratories for administering the cooperative agreements between health care providers and for reimbursement to the attorney general for expenses incurred for the biennium beginning July 1, 1993, and ending June 30, 1995."

Page 4, remove lines 1 through 28

Page 5, remove lines 1 through 28

Page 6, remove lines 1 through 5

Renumber accordingly

Engrossed SB 2295 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2367, as engrossed: Your conference committee (Sens. Maxson, W. Stenehjem, Traynor and Reps. Dorso, Tollefson, Thorpe) recommends that the SENATE ACCEDE to the House amendments on HJ page 1416 and place SB 2367 on the Seventh order.

Engrossed SB 2367 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2441: Your conference committee (Sens. Langley, Krauter, Streibel and Reps. Rennerfeldt, Belter, Dobrinski) recommends that the HOUSE RECEDE from the House amendments on HJ pages 1179-1180, adopt amendments as follows, and place SB 2441 on the Seventh order:

That the House recede from its amendments as printed on page 1094 of the Senate Journal and pages 1179-1180 of the House Journal and that Senate Bill No. 2441 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 section 26.1-30-18 of the North Dakota Century Code, relating to the inception and expiration of insurance policies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-30-18 of the North Dakota Century Code is amended and reenacted as follows:

26.1-30-18. Inception and expiration of policies - Inception of hail insurance policies. An Except as provided in this section, an insurance policy covers the insured at from 12:01 a.m. on of the day on which coverage begins and expires at 12:01 a.m. on of the day of expiration of the policy. However, If the application for a policy, or the amendment to a policy, of insurance on growing crops against loss by hail has been signed in the presence of the insurance agent, the policy or amendment takes effect at the time and on the day date stated on the application for the insurance. The provision allowing In all other instances, an application for a policy of insurance on growing crops against loss by hail to take takes effect as provided on the application may not be limited or restricted by rule or bulletin of the commissioner no earlier than 12:01 a.m. of the day following the date on the application."

Renumber accordingly

SB 2441 was placed on the Seventh order of business on the calendar.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report on HB 1393, HB 1178.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1463, HB 1383, HB 1120.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2490, SB 2277, SB 2440, SB 2101.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SCR 4031.

REPORT OF CONFERENCE COMMITTEE

SB 2101, as engrossed: Your conference committee (Sens. Tomac, Scherber, Evanson and Reps. Bernstein, Jacobs, Stenson) recommends that the **HOUSE RECEDE** from the House amendments on HJ pages 1061-1062, adopt amendments as follows, and place SB 2101 on the Seventh order:

That the House recede from its amendments as printed on pages 988-989 of the Senate Journal and pages 1061-1062 of the House Journal and that Engrossed Senate Bill No. 2101 be amended as follows:

Page 1, line 3, after "act" insert "; and to provide a penalty"

Page 1, line 7, after "records" insert "- Civil penalty"

Page 2, after line 6, insert:

- "3. a. The administrator or any state employee conducting an audit on the administrator's behalf may not disclose confidential information when auditing financial institutions, except as required to perform duties required under this chapter. Any other person or entity performing an audit for unclaimed property may not disclose confidential information concerning a financial institution or other holder to any person or other entity except the administrator.
 - b. Any person or entity, other than the administrator or any state employee conducting an audit on the administrator's behalf, who intentionally discloses information in violation of this section is liable to the person or entity that was audited in an amount equal to the greater of one thousand dollars or the actual damages caused by the disclosure of the information. Any person who discloses information in good faith reliance on this section is not liable for that disclosure.
4. The administrator and any state employee conducting an audit on the administrator's behalf are exempt from chapter 6-08.1."

Renumber accordingly

Engrossed SB 2101 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2277, as engrossed: Your conference committee (Sens. Scherber, Heinrich, W. Stenehjem and Reps. Stenehjem, Rydell, Brodshaug) recommends that the **HOUSE RECEDE** from the House amendments on HJ page 1114, adopt amendments as follows, and place SB 2277 on the Seventh order.

That the House recede from its amendments as printed on page 995 of the Senate Journal and page 1114 of the House Journal and that Engrossed Senate Bill No. 2277 be amended as follows:

Page 1, line 16, after "~~3-~~" insert "The state registrar, and local registrars, may supervise and regulate physical access to vital records to protect vital records from loss, mutilation, or destruction and to prevent improper disclosure of records that are confidential. Information relating to the birth or fetal death of a child to a woman who was not married to the child's father when the child was conceived or born may be disclosed only to the child's guardian, to the person to whom the record relates if that person is at least eighteen years old, to the parent of the child, or upon order of a court of competent jurisdiction.", remove "cause of death or", and overstrike "that a"

Page 1, line 17, overstrike "birth or fetal death occurred out of wedlock" and insert immediately thereafter "cause of death"

Page 1, line 18, after "~~regulation~~" insert "to a relative or personal representative of the deceased, to the attorney or the agent of a relative or personal representative of the deceased," and remove the overstrike over "~~or~~"

Renumber accordingly

Engrossed SB 2277 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2440, as engrossed: Your conference committee (Sens. Tomac, Scherber, W. Stenehjem and Reps. Dorso, Tollefson, Mahoney) recommends that the **SENATE ACCEDE** to the House amendments on HJ page 1179, adopt amendments as follows, and place SB 2440 on the Seventh order:

That the Senate accede to the House amendments as printed on pages 1066-1067 of the Senate Journal and page 1179 of the House Journal, and that Engrossed Senate Bill No. 2440 be further amended as follows:

Page 3, line 11, after "~~or~~" insert "offered in North Dakota after" and remove the overstrike over "July 1, 1989,"

Renumber accordingly

Engrossed SB 2440 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2490, as engrossed: Your conference committee (Sens. O'Connell, Kelsh, Evanson and Reps. Monson, Boehm, Aarsvold) recommends that the **HOUSE RECEDE** from the House amendments on HJ pages 1141-1142, adopt amendments as follows, and place SB 2490 on the Seventh order:

That the House recede from its amendments as printed on page 1095 of the Senate Journal and pages 1141-1142 of the House Journal and that Engrossed Senate Bill No. 2490 be amended as follows:

Page 2, line 11, overstrike "In the event that the district does not comply with a"

Page 2, overstrike lines 12 through 17

Page 2, line 18, overstrike "15-40.1-08 based on the weighting factor of the student's district" and remove "of"

Page 2, overstrike line 19

Page 2, line 20, overstrike "15-40.2-10 shall be paid by the district of the pupil's residence" and insert immediately thereafter "Foundation aid payments for students attending out-of-state schools must be made to the district of residence. However, the district of residence is entitled to reduce the tuition payment to an out-of-state school by an amount commensurate with the tuition cost the district would be entitled to receive as compensation for a student from the out-of-state district enrolled in its school"

Page 2, line 24, overstrike "pupil" and insert immediately thereafter "student"

Page 2, line 25, overstrike "pupils" and insert immediately thereafter "students"

Renumber accordingly

Engrossed SB 2490 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SCR 4031: Your conference committee (Sens. Kelsh, Kinnoin, Bowman and Reps. C. Carlson, Froseth, Sitz) recommends that the SENATE ACCEDE to the House amendments on HJ page 991 and place SCR 4031 on the Seventh order.

SCR 4031 was placed on the Seventh order of business on the calendar.

FIRST READING OF SENATE BILL

SB 2540: A BILL for an Act to create and enact three new sections to chapter 12.1-35 and a new subsection to section 12.1-35-02 of the North Dakota Century Code, relating to testimony and proceedings involving a witness or victim who is a minor; and to amend and reenact sections 12.1-35-01 and 12.1-35-04 of the North Dakota Century Code, relating to victim and witness standards.

Was read the first time and referred to the Judiciary Committee.

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

ROY GILBREATH, Chief Clerk