

JOURNAL OF THE SENATE

Fifty-sixth Legislative Assembly

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Bismarck, April 15, 1999

The Senate convened at 8:00 a.m., with President Myrdal presiding.

The prayer was offered by Mike Boyle, District Superintendent, Evangelical Free Church of America, Bismarck.

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

A quorum was declared by the President.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

MADAM PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1019.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

MADAM PRESIDENT: The House has adopted the conference committee report on SB 2410.

REPORT OF CONFERENCE COMMITTEE

SEN. ST. AUBYN MOVED that the conference committee report on Engrossed SB 2043 as printed on SJ pages 1300-1302 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2043, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2043: A BILL for an Act to provide for the information technology department and transition of responsibilities to the department; to amend and reenact sections 15-65-02, 41-09-46, 54-16-11.1, 54-35-15, 54-44-11, 54-44.6-03, 54-44.8-01, 54-44.8-02, 54-44.8-03, 54-44.8-04, 54-44.8-05, 54-44.8-07, 54-44.8-08, 54-46-03, and 54-46.1-01 of the North Dakota Century Code, relating to references to the information services division, the information services operating fund, the legislative council, and the state records administrator; to repeal chapter 54-44.2 of the North Dakota Century Code, relating to the information services division; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

ABSENT AND NOT VOTING: Bercier

Engrossed SB 2043, as amended, passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. ST. AUBYN MOVED that the conference committee report on SB 2044 as printed on SJ pages 1302-1303 be adopted, which motion prevailed on a voice vote.

SB 2044, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2044: A BILL for an Act to create and enact three new sections to chapter 54-35 of the North Dakota Century Code, relating to the legislative council information technology committee.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

ABSENT AND NOT VOTING: Bercier

SB 2044, as amended, passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. ST. AUBYN MOVED that the conference committee report on Engrossed HB 1022 as printed on SJ pages 1303-1304 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1022, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1022: A BILL for an Act to provide an appropriation for capital projects of various state departments and institutions; to authorize the industrial commission to issue and sell bonds for capital projects; to provide an appropriation; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1022, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

REPORT OF CONFERENCE COMMITTEE

HB 1019, as engrossed: Your conference committee (Sens. Grindberg, Kringstad, Tallackson and Reps. Poolman, Carlisle, Guleson) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1210-1212, adopt amendments as follows, and place HB 1019 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1210-1212 of the House Journal and pages 1078-1080 of the Senate Journal and that Engrossed House Bill No. 1019 be amended as follows:

Page 1, line 3, after the second semicolon insert "to authorize a mutual fund capital pool; to create and enact a new subsection to section 54-44.3-20 of the North Dakota Century Code, relating to excepting officers and employees of the department of economic development and finance from the state classified service;", after "sections" insert "4-14.1-03.1,", and after "4-14.1-07" insert a comma

Page 1, line 4, after "to" insert "grant repayments and"

Page 1, line 5, after "purposes" insert "; to provide for a legislative council study; to provide legislative intent"

Page 1, line 13, replace "2,358,086" with "2,548,086"

Page 1, line 14, replace "2,008,447" with "2,158,447"

Page 1, line 15, replace "66,358" with "96,358"

Page 1, line 16, replace "1,078,061" with "1,968,061"

Page 1, remove line 17

Page 1, line 18, replace "800,000" with "750,000"

Page 1, line 20, replace "10,896,863" with "11,506,863"

Page 1, line 22, replace "7,203,788" with "7,813,788"

Page 1, after line 22, insert:

"SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the agricultural fuel tax 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 agricultural products utilization commission for the purpose of obtaining assistance in resolving beef industry trade issues, for the biennium beginning July 1, 1999, and ending June 30, 2001. Notwithstanding any other provisions of law, the agricultural products utilization commission may use these funds to obtain the assistance of the ranchers and cattlemen action legal foundation."

Page 3, line 16, replace "\$800,000" with "\$750,000"

Page 4, after line 6, insert:

"SECTION 10. AMENDMENT. Section 4-14.1-03.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-14.1-03.1. Agricultural products utilization commission - Authority. The North Dakota agricultural products utilization commission may apply for, accept, and expend any appropriation, grant, gift, or service made available from public or private sources consistent with the purpose of this chapter. The commission may administer grant programs consistent with the purpose of this chapter including a basic and applied research grant program, utilization and marketing grant program, cooperative marketing grant program, farm diversification grant program, agricultural prototype development grant program, and a North American marketing grant program. The commission may require, by contract, repayment of a grant, in whole or in part, if the grant recipient does not fulfill the conditions under which the grant was awarded."

Page 4, line 14, replace "seven" with "twelve"

Page 4, line 21, overstrike "one million" and insert immediately thereafter "seven hundred fifty thousand"

Page 4, line 22, overstrike "An ethanol plant that was in operation before July 1,"

Page 4, overstrike lines 23 through 27

Page 4, after line 27, insert:

"SECTION 12. A new subsection to section 54-44.3-20 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

Officers and employees of the department of economic development and finance."

Page 5, after line 16, insert:

"SECTION 14. MUTUAL FUND CAPITAL POOL - AUTHORIZATION. The department of economic development and finance, in conjunction with the agricultural products utilization commission, may establish a mutual fund capital pool to attract farm and nonfarm investments in value-added processing projects.

SECTION 15. APPROPRIATION - CONTINGENT ETHANOL INCENTIVE PAYMENTS. In addition to the ethanol incentive payments provided in section 1 of this Act and notwithstanding any other sections of law, there is hereby appropriated \$300,000, or so much of the sum as may be necessary, from the highway tax

distribution fund for the biennium beginning July 1, 1999, and ending June 30, 2001, for the purpose of providing production incentives to any ethanol plant that becomes operational after July 1, 1999. An eligible plant shall receive ten cents for each gallon of agriculturally derived fuel as defined in this Act produced in the state which is marketed by the producing plant to a distributor or wholesaler for sale within North Dakota.

SECTION 16. LEGISLATIVE COUNCIL STUDY - ECONOMIC DEVELOPMENT AND FINANCE EFFORTS. The legislative council shall consider studying during the 1999-2000 interim the economic development efforts in the state, including the provision of economic development services statewide and the related effectiveness, the potential for the privatization of the department of economic development and finance, and the appropriate location of the North Dakota development fund, including the potential transfer of the fund to the Bank of North Dakota.

SECTION 17. LEGISLATIVE INTENT - GRANT ALLOCATION - UNITED STATES DEPARTMENT OF AGRICULTURE DESIGNATED CHAMPION COMMUNITIES. It is the intent of the legislative assembly that \$50,000 of the grants line item in section 1 of this Act be allocated to provide matching funds on a dollar-for-dollar basis to United States department of agriculture designated champion communities for the funding of an economic development coordinator employed by the champion communities to assist in economic development. Local matching funds may be in cash or in-kind contributions.

SECTION 18. LEGISLATIVE INTENT - GRANTS LINE ITEM. It is the intent of the legislative assembly that \$150,000 of the grants line item in section 1 of this Act be available for the manufacturing technology partnership."

Page 5, line 17, replace "10" with "13"

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 601 - DEPARTMENT OF ECONOMIC DEVELOPMENT AND FINANCE

CONFERENCE COMMITTEE - This amendment makes the following changes:

	EXECUTIVE BUDGET	HOUSE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	SENATE VERSION	CONFERENCE COMPARISON TO SENATE VERSION
Salaries and wages	\$3,041,771	\$2,358,086	\$190,000	\$2,548,086	\$2,798,086	(\$250,000)
Operating expenses	2,158,447	2,008,447	150,000	2,158,447	2,158,447	
Equipment	96,358	66,358	30,000	96,358	96,358	
Grants	1,518,061	1,078,061	890,000	1,968,061	2,308,061	(340,000)
General allocation grants	750,000	600,000	(600,000)			
North Dakota Development Fund	1,000,000	800,000	(50,000)	750,000	550,000	200,000
Agricultural Products Utilization Comm.	4,085,911	3,985,911		3,985,911	4,535,911	(550,000)
Separate section resolving beef trade issues			100,000	100,000	100,000	
Total all funds	\$12,650,548	\$10,896,863	\$710,000	\$11,606,863	\$12,546,863	(\$940,000)
Less special funds	<u>3,695,701</u>	<u>3,693,075</u>	<u>100,000</u>	<u>3,793,075</u>	<u>4,393,075</u>	<u>(600,000)</u>
General fund	\$8,954,847	\$7,203,788	\$610,000	\$7,813,788	\$8,153,788	(\$340,000)
FTE	29.00	26.00	(3.00)	23.00	26.00	(3.00)

Detail of Conference Committee changes to the House version includes:

	RESTORE OPERATING EXPENSES	RESTORE EQUIPMENT	COMBINE GRANTS AND INCREASE BY \$290,000	REDUCE DEVELOPMENT FUND	ADD FUNDING FOR RESOLVING BEEF TRADE ISSUES	RESTORE SALARIES AND WAGES
Salaries and wages						\$190,000
Operating expenses	\$150,000					
Equipment		\$30,000				
Grants			\$890,000			
General allocation grants			(600,000)			
North Dakota Development Fund				(\$50,000)		
Agricultural Products Utilization Comm.						
Separate section resolving beef trade issues					\$100,000	
Total all funds	\$150,000	\$30,000	\$290,000	(\$50,000)	\$100,000	\$190,000
Less special funds					<u>100,000</u>	

General fund	\$150,000	\$30,000	\$290,000	(\$50,000)	\$0	\$190,000
FTE	0.00	0.00	0.0	0.00	0.00	(3.00)
TOTAL CONFERENCE COMMITTEE CHANGES						
Salaries and wages	\$190,000					
Operating expenses	150,000					
Equipment	30,000					
Grants	890,000					
General allocation grants	(600,000)					
North Dakota Development Fund	(50,000)					
Agricultural Products Utilization Comm.						
Separate section resolving beef trade issues	100,000					
Total all funds	\$710,000					
Less special funds	<u>100,000</u>					
General fund	\$610,000					
FTE	(3.00)					

CONFERENCE COMMITTEE - These amendments also make the following changes to Engrossed House Bill No. 1019:

- Extend the number of years that an ethanol plant may receive the incentives, if in operation before July 1, 1995, from seven in the engrossed bill to 12.
- Adjust the maximum production incentive that may be paid annually to \$750,000.
- Provide for contingent ethanol incentive payments of \$300,000 for a plant that becomes operational after July 1, 1999. An eligible plant may receive 10 cents per gallon of agriculturally derived fuel (equivalent 40 cents per gallon for 25 percent of production). (Section 11)
- Provide in Section 2 \$100,000 from the agricultural fuel tax fund for resolving beef trade issues.
- Authorize mutual fund capital pool.
- Allow Economic Development and Finance employees to be exempt from central personnel system.
- Provide for a Legislative Council study of Economic Development and Finance.
- Provide legislative intent regarding funds for United States Department of Agriculture champion communities and the grants line item.

Engrossed HB 1019 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SEN. GRINDBERG MOVED that the conference committee report on Engrossed HB 1019 be adopted.

REQUEST

SEN. B. STENEHJEM REQUESTED a recorded roll call vote on the motion to adopt the conference committee report on Engrossed HB 1019, which request was granted.

ROLL CALL

The question being on the motion to adopt the conference committee report on Engrossed HB 1019, the roll was called and there were 30 YEAS, 18 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Cook; Fischer; Flakoll; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, T.; Mutzenberger; Nelson, G.; Nething; O'Connell; Redlin; Robinson; St. Aubyn; Stenehjem, W.; Tallackson; Thompson; Traynor; Urlacher; Wanzek; Wardner

NAYS: Bowman; Christmann; DeMers; Freborg; Klein; Krauter; Krebsbach; Mathern, D.; Mutch; Naaden; Nelson, C.; Sand; Schobinger; Solberg; Stenehjem, B.; Thane; Tomac; Watne

ABSENT AND NOT VOTING: Bercier

The conference committee report on Engrossed HB 1019 was adopted. Engrossed HB 1019, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1019: A BILL for an Act to provide an appropriation for defraying the expenses of the department of economic development and finance and to the agricultural products utilization commission for grants; to provide for transfers of funds; to authorize a mutual fund capital pool; to create and enact a new subsection to section 54-44.3-20 of the North Dakota Century Code, relating to excepting officers and employees of the department of economic development and finance from the state classified service; to amend and reenact sections 4-14.1-03.1, 4-14.1-07, and 57-43.1-03.1 of the North Dakota Century Code, relating to grant repayments and ethanol plant production incentives for fuel used for agricultural purposes; to provide for a legislative council study; to provide legislative intent; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 44 YEAS, 4 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Schobinger; Solberg; St. Aubyn; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner

NAYS: Mutch; Sand; Stenehjem, B.; Watne

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1019, as amended, passed and the title was agreed to.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

MADAM PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1108.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The President has signed: HB 1108.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

MADAM PRESIDENT: The House has adopted the conference committee report and subsequently passed: SB 2008.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2043, SB 2044.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1019, HB 1022.

MOTION

SEN. G. NELSON MOVED that the Senate be on the Fifteenth order of business for the purpose of electing an Interim President Pro Tempore, which motion prevailed.

NOMINATIONS FOR PRO TEMPORE

SEN. NETHING: Madam President and Ladies and Gentlemen of the Senate: I'm one of three Senators in this body who was here when each of you came into the Senate. Consequently, I've had an opportunity to observe and to enjoy and to learn from each of you. There is one individual I'm going to nominate for the position of Pro Tem that I want to single out this morning. That individual is Senator Layton Freborg from District 8. It's exciting for me to be able to nominate someone older than I for this position. When you reach our age, it's these kind of things that give you a little tickle.

Senator Freborg came to us in the Senate in 1985. Prior to that, he had an apprenticeship over in the House. Unfortunately, they didn't tap his strong suit and he spent some time on the

Appropriations Committee. Here he immediately moved to the Education Committee and has been a pillar of strength on that committee, both during the time he served as a member of the minority and a member of the majority. It is that service on the Education Committee that our caucus recognizes in presenting to this body, "Mr. Education."

We are excited to know we will have a tested, fair, and impartial President Pro Tem should the need arise. We know that, because we have watched him as Chairman of the Education Committee. There is only one way Senator Freborg knows how to function, and that is to give the highest degree of fairness that he can obtain to every interest. It's that same quality, Madam President, that he will bring to us as Interim President Pro Tempore. I'm thrilled to be able to nominate my friend, Senator Freborg.

SEN. LINDAAS: Thank you, Madam President. It is my distinct honor and privilege to nominate for Interim President Pro Tempore a good friend of all of us, Senator Larry Robinson. Senator Robinson was born in rural North Dakota, the typical farm boy. I understand he and his brothers milked 50 cows twice a day. That explains the handshake that we get from him. He did that until his father took him off that duty because, for one thing, the cows began complaining and the milk pails were becoming dented in the bottom from his hearty squeeze.

In 1988, he was elected to the North Dakota Senate. It was apparent at that time that he would be a strong leader. He's been on the Appropriations Committee. We all know that he is ambitious, works hard, and is very dedicated, not only to his duties here but to his family. His wife and two young sons will attest to that. We know he has a strong voice, that's evident when he gets up to speak and the Secretary of the Senate has to adjust the volume control.

Senator Robinson has great intelligence. It's a fact that he carries a lot of weight in everything he does. I understand the outcome of this election. It's quite predictable, I don't expect my oratory ability to sway too many, and I understand that some within our caucus might even not vote for him because they like to vote for a winner, but it would be appreciated if all of you would at least flash a little green in honor of my good friend, Senator Larry Robinson. Respectfully, I offer his name in nomination for Interim President Pro Tem.

ANNOUNCEMENT

PRESIDENT MYRDAL ANNOUNCED that the vote for the office of Interim President Pro Tempore showed the Senate was in favor of electing Senator Freborg as Interim President Pro Tempore.

REMARKS BY SENATOR ROBINSON

Thank you, Madam President and Members of the Senate. First of all, I would like to thank the Senator from Mayville for his kind words. I know he worked hard, up most of the night trying to put that together. But, as "USA Today" predicted in yesterday's paper, this would be a very close vote.

MOTION

SEN. ROBINSON MOVED that the Senate cast a unanimous ballot for the honorable Senator from District 8, Senator Layton Freborg, for Interim President Pro Tempore, which motion prevailed.

OATH OF OFFICE

PRESIDENT MYRDAL APPOINTED Sens. Nething and Robinson as a committee of two, to escort Sen. Freborg to the rostrum for the Oath of Office, which was administered by the President.

REMARKS OF SENATOR FREBORG

Madam President and Members of the Senate. I have been on deck so long I didn't know if it was a ploy to try to get around me or if we really were too busy. I usually don't take up much of your time and I won't today, certainly not as much time as it took my good friend to tell you all the good things about me when he nominated me - I know that he skipped a lot of them. I do want to take at least enough time to tell you what a great honor it is for me to be elected to a position like this. It really is. When I think back, even in my fondest dreams I did not believe that I would ever be able to serve in the North Dakota Senate, and certainly not as Interim President Pro Tem. I do thank you for that opportunity and I do want to thank the Senator from District 48, who is a very good friend. I value that friendship. We've known each other for twenty-five years. I didn't realize that he thought that I really was OK. Thank you, Senator.

I've always been thankful that I am a part of this great family. That is what I believe we are, I think that we all think so: A family of people that set the standards for the people of the State of North Dakota. We couldn't put a value on the education that we receive here, at least I could not. For someone like me, it is certainly the greatest experience of a lifetime. I've always believed that even though we have a little different philosophy, we all want the same things for

the people that we represent. The difference is that we have a little different way of going about achieving that end.

If the need should arise for me to preside, I will certainly do my best to be fair to each and every one of you. As I represent you in the interim, I will try hard to uphold the honor and dignity of the North Dakota Senate. Thank you very much.

MOTION

SEN. ST. AUBYN MOVED that the Senate stand in recess until 11:00 a.m., which motion prevailed.

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

REPORT OF CONFERENCE COMMITTEE

SB 2404, as engrossed: Your conference committee (Sens. Grindberg, Holmberg, Robinson and Reps. Dalrymple, Carlisle, Hoffner) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 1105-1108 and place SB 2404 on the Seventh order.

Engrossed SB 2404 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SEN. GRINDBERG MOVED that the conference committee report on Engrossed SB 2404 be adopted, which motion prevailed on a voice vote.

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

SECOND READING OF SENATE BILL

SB 2404: A BILL for an Act to create and enact five new sections to chapter 52-08 of the North Dakota Century Code, relating to work force training; to amend and reenact subsection 6 of section 15-10-01 and subsection 13 of section 15-10-17 of the North Dakota Century Code, relating to name changes of institutions of higher education; to repeal section 15-11-02.1 of the North Dakota Century Code, relating to supervision of the college at Devils Lake; and to provide an appropriation.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 0 YEAS, 47 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

NAYS: Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepelin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nothing; O'Connell; Redlin; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

ABSENT AND NOT VOTING: Bercier; Robinson

Engrossed SB 2404, as amended, lost.

REPORT OF CONFERENCE COMMITTEE

SB 2441, as engrossed: Your conference committee (Sens. Freborg, Wanzek, Kelsh and Reps. R. Kelsch, Monson, Grumbo) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1155-1156, adopt amendments as follows, and place SB 2441 on the Seventh order:

That the House recede from its amendments as printed on pages 1155 and 1156 of the Senate Journal and pages 1287 and 1288 of the House Journal and that Engrossed Senate Bill No. 2441 be amended as follows:

Page 1, line 23, replace "Twenty-five" with "Fifty"

Page 2, line 7, replace "The" with "After all other statutory obligations have been met within the limits of legislative appropriations, the"

Page 2, line 9, replace "items" with "item"

Page 2, line 11, replace "except that" with "provided"

Page 2, line 12, after the period insert "No reorganization bonus payable under this Act may exceed five hundred thousand dollars."

Renumber accordingly

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

REPORT OF CONFERENCE COMMITTEE

SEN. FREBORG MOVED that the conference committee report on Engrossed SB 2441 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2441, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2441: A BILL for an Act to provide for school district reorganization bonuses.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 43 YEAS, 4 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Bowman; Christmann; Cook; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krebsbach; Kringstad; Kroepelin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, G.; Nothing; O'Connell; Redlin; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

NAYS: Andrist; DeMers; Krauter; Nelson, C.

ABSENT AND NOT VOTING: Bercier; Robinson

Engrossed SB 2441, as amended, passed and the title was agreed to.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2441.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently failed to pass: SB 2404.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

MADAM PRESIDENT: The Speaker has signed: SB 2003, SB 2004, SB 2010, SB 2017, SB 2022, SB 2025, SB 2038, SB 2114, SB 2127, SB 2148, SB 2171, SB 2202, SB 2254, SB 2267, SB 2381, SB 2419.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for his approval on April 15, 1999: SB 2003, SB 2004, SB 2010, SB 2017, SB 2022, SB 2025, SB 2038, SB 2114, SB 2127, SB 2148, SB 2171, SB 2202, SB 2254, SB 2267, SB 2381, SB 2419.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

MADAM PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1443.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The President has signed: HB 1443.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

MADAM PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1002, HB 1017, HB 1020, HB 1021, HB 1037, HB 1043, HB 1089, HB 1252, HB 1276, HB 1405, HB 1428, HB 1490.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

MADAM PRESIDENT: The House has adopted the conference committee report and subsequently passed: SB 2043, SB 2044.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

MADAM PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1012.

MOTION

SEN. ST. AUBYN MOVED that the Senate stand in recess until 1:30 p.m., which motion prevailed.

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

REPORT OF CONFERENCE COMMITTEE

HB 1012, as engrossed: Your conference committee (Sens. Kringstad, B. Stenehjem, Robinson and Reps. Byerly, Poolman, Gullerson) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1193-1196, adopt amendments as follows, and place HB 1012 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1193-1196 of the House Journal and pages 1064-1067 of the Senate Journal and that Engrossed House Bill No. 1012 be amended as follows:

Page 1, line 2, after "transportation" insert "; to provide an appropriation to the department of corrections and rehabilitation; to provide for a legislative council study; to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to commemorative Lewis and Clark number plates; and to amend and reenact sections 39-04-08.1, 39-04-11, and subsection 4 of section 39-04-19 of the North Dakota Century Code, relating to the display of and fees for number plates and tabs"

Page 1, line 9, replace "25,797,360" with "25,857,360"

Page 1, line 10, replace "7,413,072" with "7,613,072"

Page 1, line 11, replace "9,281,759" with "9,438,859"

Page 1, line 12, replace "553,523,851" with "548,726,965"

Page 1, line 13, replace "34,677,551" with "33,751,351"

Page 1, line 14, replace "630,693,593" with "625,387,607"

Page 1, after line 20, insert:

"SECTION 3. APPROPRIATION - ROUGHRIDER INDUSTRIES. There is hereby appropriated from special funds, derived from income, the sum of \$75,000, or so much of the sum as may be necessary, to the department of corrections and rehabilitation for the purpose of defraying the expenses associated with the production of a Lewis and Clark commemorative license plate for the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION 4. LEGISLATIVE COUNCIL STUDY - FLEET SERVICES. The legislative council shall consider studying, during the 1999-2000 interim, the fleet services program of the department of transportation. The study should include a review, the cost-effectiveness of the program, and the methods used to project and set motor pool rates.

SECTION 5. LEGISLATIVE COUNCIL STUDY OF USED MOTOR VEHICLE DEALERS. During the 1999-2000 interim, the legislative council shall consider studying the licensing of used motor vehicle dealers, including fees, dealer plates, and insurance coverage. If the study is conducted, the legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the fifty-seventh legislative assembly.

SECTION 6. A new section to chapter 39-04 of the North Dakota Century Code is created and enacted as follows:

Commemorative Lewis and Clark number plates. The director shall design and issue a distinctive number plate commemorating Lewis and Clark. The director shall issue this plate upon application and payment of an additional fee of ten dollars. All additional fees collected under this section must be deposited in the highway fund.

SECTION 7. AMENDMENT. Section 39-04-08.1 of the North Dakota Century Code is amended and reenacted as follows:

39-04-08.1. Assignment of motor vehicle number plates. Motor vehicle number plates may not be assigned as a reward for any political activity, in recognition of any political affiliation or membership in any political party, or on the basis of political favoritism. However, an elected state office may be assigned a single or double digit number on a number plate as requested by that official. Except as provided in sections 39-04-10 and 39-04-10.3, the department shall charge a nonrefundable fee of ten dollars if an applicant chooses a number plate other than the number plate randomly assigned. The department of transportation shall may adopt rules governing the assignment of numbers on motor vehicle number plates in accordance with this section.

SECTION 8. AMENDMENT. Section 39-04-11 of the North Dakota Century Code is amended and reenacted as follows:

39-04-11. Display of number plates and tabs. Except as otherwise specifically provided, ~~no~~ a person may not operate or drive a vehicle on the public highways of this state unless the vehicle has a distinctive number assigned to it by the department, and two number plates, bearing the distinctive number conspicuously displayed, horizontally and in an upright position, one on the front and one on the rear of the vehicle, each securely fastened, except number plates assigned to a motorcycle, trailer, or housetrailer must be attached to the rear thereof. When only one number plate is furnished for an apportioned vehicle licensed under the international registration plan as authorized in section 39-19-04, truck tractor, or semitrailer, the plate must be attached to the front of the apportioned vehicle or truck tractor and the rear of the semitrailer. The bottom of each number plate must be at a height of not less than twelve inches [30.48 centimeters] above the level surface upon which the vehicle stands. Each plate must be mounted in a manner that does not cover any words, letter, or number on the plate. As far as is reasonably possible, the plates must at all times be kept free and clear of mud, ice, or snow so as to be clearly visible and all number plates, markers, or evidence of registration or licensing except for the current year must be removed from the vehicle. All vehicle license plates issued by the department continue to be the property of the state of North Dakota for the period for which the plates are valid. An annual registration tab or sticker for the current registration year must be displayed on each number plate, in the area designated by the department for the tab or sticker, in those years for which tabs or stickers are issued in lieu of number plates.

SECTION 9. AMENDMENT. Subsection 4 of section 39-04-19 of the North Dakota Century Code is amended and reenacted as follows:

4. Every trailer, semitrailer, and farm trailer required to be registered under this chapter must be furnished registration plates upon the payment of a twenty dollar annual fee. Every trailer, semitrailer, or farm trailer not required to be registered under this chapter must be furnished an identification plate upon the payment of a fee of five dollars. Upon the request of a person with a trailer or farm trailer to whom a registration or identification plate is provided under this subsection, the department shall provide a plate of the same size as provided for a motorcycle. The department shall provide notification of this option to the person before the replacement or issuance of the plate."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 530 - DEPARTMENT OF CORRECTIONS AND REHABILITATION

CONFERENCE COMMITTEE - A section is added appropriating \$75,000 of special funds to Roughrider Industries for producing Lewis and Clark license plates. The House did not include any funding and the Senate version had included \$1.7 million for producing the plates because under the Senate version a general license plate issue would have begun in December 2000.

DEPARTMENT 801 - DEPARTMENT OF TRANSPORTATION

CONFERENCE COMMITTEE - This amendment makes the following changes:

EXECUTIVE BUDGET	HOUSE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	SENATE VERSION	CONFERENCE COMPARISON TO SENATE VERSION
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Administration	\$26,902,044	\$25,797,360	\$60,000	\$25,857,360	\$25,957,360	(\$100,000)
Motor vehicle	10,646,562	7,413,072	200,000	7,613,072	9,713,072	(2,100,000)
Driver's license	9,352,175	9,281,759	157,100	9,438,859	9,448,859	(10,000)
Highways	553,629,335	553,523,851	(4,796,886)	548,726,965	548,126,965	600,000
Fleet services	<u>34,708,905</u>	<u>34,677,551</u>	<u>(926,200)</u>	<u>33,751,351</u>	<u>33,751,351</u>	
Total all funds	\$635,239,021	\$630,693,593	(\$5,305,986)	\$625,387,607	\$626,997,607	(\$1,610,000)
Less special funds	<u>635,239,021</u>	<u>630,693,593</u>	<u>(5,305,986)</u>	<u>625,387,607</u>	<u>626,997,607</u>	<u>(1,610,000)</u>
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	1,042.00	1,040.00	0.00	1,040.00	1,040.00	0.00

Detail of Conference Committee changes to the House version includes:

	RESTORE INFORMATION TECHNOLOGY FUNDING	RESTORE TEMPORARY SALARIES AND REPAIRS	RESTORE TEMPORARY SALARIES	RESTORE REPAIRS AND EQUIPMENT	REDUCE INSURANCE AND EQUIPMENT LEASE/RENTALS	REDUCE HIGHWAY CONSTRUCTION FUNDING
Administration	\$160,000 ¹					
Motor vehicle		\$100,000 ²				
Driver's license			\$30,000 ³			
Highways				\$450,000 ⁴		(\$7,194,886) ⁶
Fleet services					(\$926,200) ⁵	
Total all funds	\$160,000	\$100,000	\$30,000	\$450,000	(\$926,200)	(\$7,194,886)
Less special funds	<u>160,000</u>	<u>100,000</u>	<u>30,000</u>	<u>450,000</u>	<u>(926,200)</u>	<u>(7,194,886)</u>
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00
	ADD PUBLIC TRANSPORTATION GRANTS	ADD FUNDING RELATED TO OTHER BILLS	ADD FUNDING FROM SPECIAL ROAD FUND	ADD FUNDING FOR VOLUNTARY LICENSE PLATE	REDUCE FUNDING FOR ADMINISTRATION	TOTAL CONFERENCE COMMITTEE CHANGES
Administration					(\$100,000) ¹¹	\$60,000
Motor vehicle				\$100,000 ¹⁰		200,000
Driver's license		\$127,100 ⁸				157,100
Highways	\$1,348,000 ⁷		\$600,000 ⁹			(4,796,886)
Fleet services						<u>(926,200)</u>
Total all funds	\$1,348,000	\$127,100	\$600,000	\$100,000	(\$100,000)	(\$5,305,986)
Less special funds	<u>1,348,000</u>	<u>127,100</u>	<u>600,000</u>	<u>100,000</u>	<u>(100,000)</u>	<u>(5,305,986)</u>
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00

Conference Committee changes narrative:

- ¹ Restores \$160,000 of the \$330,000 highway fund reduction made by the House to information technology hardware funding in the administration program, the same as the Senate version.
- ² Restores \$50,000 removed by the House for temporary salaries and \$50,000 removed by the House for repairs in the motor vehicle program, the same as the Senate version.
- ³ Restores \$30,000 of funding from the highway fund removed by the House for temporary salaries in the driver's license program, the same as the Senate version.
- ⁴ Restores \$200,000 of funding from the highway fund removed by the House for repairs and \$250,000 of funding from the highway fund removed by the House for office equipment and furniture in the highways program, the same as the Senate version.
- ⁵ Reduces funding for lease/rental equipment by \$126,200 and insurance by \$800,000 from the Fleet Services fund in the Fleet Services program, the same as the Senate version.
- ⁶ Reduces funding for highway construction added by the House from budget reductions made in other areas of the department's budget, the same as the Senate version. The department does not need this additional appropriation authority to match anticipated federal highway construction funds for the 1999-2001 biennium.
- ⁷ Adds funding from the public transportation fund for grants to public transportation providers as a result of the additional funding generated pursuant to provisions of House Bill No. 1380, the same as the Senate version.
- ⁸ Adds funding as follows in the driver's license program for costs associated with the provisions of House Bill No. 1291 (graduated driver's license). The Senate provided \$110,000 of additional funding relating to this bill.

Temporary salaries

\$50,000

Operating expenses	<u>50,000</u>
Total	\$100,000

Also adds \$27,100 of funding in the driver's license program for operating costs associated with the provisions of Senate Bill No. 2406 (proof of liability insurance), the same as the Senate version.

⁹ Adds \$600,000 of funding from the special road fund in the highways program for projects approved by the Special Road Committee (SB 2267).

¹⁰ Adds \$100,000 in the Motor Vehicle Division for the department to issue a distinctive Lewis and Clark plate that an individual may choose to purchase for an additional fee of \$10. Funding is not included for a general license plate issue. The \$10 fee is estimated to generate \$200,000 of revenue to the highway fund for the 1999-2001 biennium. The House had not included funding for a new license plate issue and the Senate had provided for a voluntary Lewis and Clark license plate issue beginning in December 1999 with a \$10 fee and a general license plate issue to begin in December 2000. The cost of the Senate version was \$2.2 million.

¹¹ Reduces funding from the highway fund in the administration program as follows:

Professional services	(\$50,000)
Printing	<u>(50,000)</u>
Total	(\$100,000)

A section is added providing for an interim Legislative Council study of the Fleet Services program, the same as the Senate version.

A section is added providing for an interim Legislative Council study of used car dealers.

A section is added authorizing the department to charge an additional \$10 fee if an individual requests a specific number plate, the same as the Senate version.

Sections are added providing that license plates must be mounted in a manner that does not cover any part of the plate, that the license plate tabs be placed only in the designated area on the plate, and that the department may issue smaller plates for trailers, if requested. The Senate also made these changes.

Engrossed HB 1012 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SEN. KRINGSTAD MOVED that the conference committee report on Engrossed HB 1012 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1012, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1012: A BILL for an Act to provide an appropriation for defraying the expenses of the various divisions under the supervision of the director of the department of transportation; to provide an appropriation to the department of corrections and rehabilitation; to provide for a legislative council study; to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to commemorative Lewis and Clark number plates; and to amend and reenact sections 39-04-08.1, 39-04-11, and subsection 4 of section 39-04-19 of the North Dakota Century Code, relating to the display of and fees for number plates and tabs.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1012, as amended, passed and the title was agreed to.

ANNOUNCEMENT OF INTERIM APPOINTMENTS
PRESIDENT MYRDAL ANNOUNCED the following Senate interim appointments:

Legislative Council
 Senator Randel Christmann
 Senator Wayne Stenehjem
 Senator David E. Nething
 Senator Elroy N. Lindaas
 Senator Larry J. Robinson

Capitol Grounds Planning Commission
 Senator Pete Naaden
 Senator Carolyn Nelson

Medical Center Advisory Council
 Senator Ralph Kilzer

Comprehensive Health Association of North Dakota
 Senator Judy Lee

MOTION

SEN. GRINDBERG MOVED that the name of Senator Ray Holmberg be placed in nomination for the position of member of the Education Commission of the States, which motion prevailed.

MOTION

SEN. O'CONNELL MOVED that the name of Senator Jerry Kelsh be placed in nomination for the position of member of the Education Commission of the States, which motion prevailed.

MOTION

SEN. KELSH MOVED that the Senate cast a unanimous ballot in favor of electing Senator Holmberg to the Education Commission of the States, which motion prevailed.

ANNOUNCEMENT

PRESIDENT MYRDAL ANNOUNCED that the record would show a unanimous ballot was cast for Senator Holmberg for the Education Commission of the States.

MOTION

SEN. ST. AUBYN MOVED that the Senate stand in recess until 4:00 p.m., which motion prevailed.

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

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)
MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1012.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)
MR. SPEAKER: The President has signed: HB 1002, HB 1017, HB 1020, HB 1021, HB 1037, HB 1043, HB 1089, HB 1252, HB 1276, HB 1405, HB 1428, HB 1490.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)
MADAM PRESIDENT: The House has adopted the conference committee report and subsequently passed: SB 2441.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)
MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2008, SB 2410.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER
 This is to inform you that on April 14, 1999, I have signed the following: SB 2319.

Also, on April 15, 1999, I have signed the following: SB 2019.

MOTION

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

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

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

MADAM PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1462.

REPORT OF CONFERENCE COMMITTEE

HB 1462, as engrossed: Your conference committee (Sens. Wardner, Urlacher, Kinnoin and Reps. Mickelson, Timm, Warner) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 986-989, adopt amendments as follows, and place HB 1462 on the Seventh order:

That the Senate recede from its amendments as printed on pages 986-989 of the House Journal and pages 823-826 of the Senate Journal and that Engrossed House Bill No. 1462 be amended as follows:

Page 1, line 1, replace "sections 57-43.1-02.2, 57-43.1-12.1, 57-43.2-03.1," with "section"

Page 1, line 2, remove "57-43.2-04.4," and remove ", 57-43.3-02.2, 57-43.3-09, 57-43.3-14, 57-43.3-18, 57-43.3-28, and"

Page 1, line 3, remove "chapter 57-43.4" and replace "collection by the supplier of" with "use of dyed special fuel in a licensed motor vehicle and penalties"

Page 1, remove line 4

Page 1, line 5, remove "administration, enforcement, and penalties" and remove "57-43.1-02,"

Page 1, line 6, remove "57-43.1-14, 57-43.1-16, 57-43.1-24," after "57-43.1-26" insert ", 57-43.1-27", remove "57-43.2-02,", and after the seventh comma insert "and 57-43.2-21"

Page 1, line 7, remove "57-43.2-04.1, 57-43.2-05, 57-43.2-07, 57-43.2-11, 57-43.2-21, and 57-43.3-02"

Page 1, line 8, replace "collection by suppliers of motor vehicle, special fuels, aviation" with "definitions for special fuels tax purposes and inventory gains and losses for motor vehicle fuels and special fuels tax purposes"

Page 1, remove line 9

Page 1, line 10, remove "penalties" and replace "sections 57-43.1-27 and 57-43.3-24" with "section 57-43.2-02.2"

Page 1, line 11, replace "motor vehicle fuels tax imposition and credit for losses and aviation fuel" with "refunds of special fuels" and after "taxes" insert "; to provide for a legislative council study"

Page 1, line 12, remove "collection allowances"

Page 1, replace lines 14 through 24 with:

"SECTION 1. AMENDMENT. Section 57-43.1-26 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-26. Inventory gains - Losses —Deductions allowed to dealer— Remedies. ~~Each dealer of motor vehicle fuel may deduct the actual shrinkage of the total gallonage of motor fuel received during each calendar month from the statement submitted as required in section 57-43.1-16, but the allowance may not exceed one percent of the total received during that month.~~

1. A supplier or distributor shall take a physical inventory reading of all motor vehicle fuel located in a terminal, underground tank, aboveground tank, railcar, storage tank of a truck, and the storage tank of a bulk delivery truck on a regular basis and shall report the physical readings, inventory gains, and inventory losses to the commissioner in increments not to exceed a twelve-month period. The inventory reconciliation must include motor vehicle fuel at retail locations and motor vehicle fuel stored in a barrel, drum, or other receptacle.

2. When sold or used by a supplier or distributor, a gain in motor vehicle fuel inventories is subject to the tax imposed by this chapter in the same manner as motor vehicle fuel purchased, imported, or otherwise acquired.
3. A supplier or distributor who experiences an actual physical inventory loss due to shrinkage or evaporation is responsible for the tax imposed by this chapter on any such loss that is in excess of one-half of one percent of the motor vehicle fuel received during the period covered by the inventory reconciliation.
4. For purposes of this chapter, it is presumed that all motor vehicle fuel received ~~by each dealer~~ above ~~this~~ the one-half of one percent allowance, except that gallonage shown as inventory based on physical inventory readings at the end of each calendar month the time period covered by the inventory reconciliation, and other allowances provided in this chapter, has been sold, delivered, or used, and the ~~dealer~~ supplier or distributor is liable for the amount of the motor vehicle fuel tax on each gallon [liter] of motor vehicle fuel not accounted for. For purposes of this chapter, motor vehicle fuel refined at a refinery in this state and placed in storage at the refinery, and motor vehicle fuel brought into the state by pipeline and placed in storage at a pipeline terminal, is not deemed received until it is withdrawn from the refinery or terminal storage for sale or use in this state, or for shipment or delivery to destinations in this state.
5. The commissioner may allow a tax credit to a supplier or distributor for actual inventory losses due to a casualty loss, based on proof of the loss as required by the commissioner.

SECTION 2. AMENDMENT. Section 57-43.1-27 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-27. Sales of motor vehicle fuels to retail outlets - Tax imposed - Credit for losses. When a ~~wholesale dealer~~ supplier or distributor in motor vehicle fuels makes a sale to a retail outlet the ~~wholesale dealer~~ supplier or distributor shall credit the retail outlet with ~~one-half of~~ one percent of the total state motor vehicle fuel tax applied to the gallonage sold. This must appear on the face of the delivery invoice at the time of delivery of the motor vehicle fuel in consideration of evaporation and shrinkage losses and the retail outlet's cost of collection of the tax. On making payments to the commissioner as provided in this chapter, the ~~dealer~~ supplier or distributor shall deduct the total credit allowance granted on sales to retail outlets in motor vehicle fuels under the provisions of this section, in addition to other deductions allowed, from the amount of tax due."

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 31

Page 7, remove lines 1 through 31

Page 8, remove lines 1 through 31

Page 9, remove lines 1 through 31

Page 10, remove lines 1 through 20

Page 13, line 11, remove the overstrike over "~~compressed natural gas~~" and insert immediately thereafter an underscored comma

Page 13, line 17, remove "alternative fuels as defined in section 57-43.4-01,"

Page 13, remove lines 28 through 30

Page 14, remove lines 1 through 31

Page 15, remove lines 1 through 30

Page 16, remove lines 1 through 10

Page 16, line 14, remove the overstrike over "~~two percent~~"

Page 16, line 15, remove "one and two-tenths cents per gallon [3.79 liters]"

Page 16, line 16, remove "For a"

Page 16, remove lines 17 through 19

Page 16, line 20, overstrike "The special excise tax applies to all special fuels taxed under section 57-43.2-02"

Page 16, overstrike line 21

Page 16, line 22, overstrike "3."

Page 16, line 25, overstrike "4." and insert immediately thereafter "3."

Page 17, line 1, overstrike "5." and insert immediately thereafter "4."

Page 17, line 2, remove the overstrike over "~~identify the consumer to whom the sale was made,~~"

Page 17, line 3, remove the overstrike over "~~specify the purpose for which the special fuel was sold, and~~"

Page 17, line 5, overstrike "6." and insert immediately thereafter "5." and remove "The tax imposed by this section does not apply on sales by a supplier to another"

Page 17, remove line 6

Page 17, line 7, remove "7.", remove the overstrike over "~~The dealer~~", remove "A supplier", and remove the overstrike over "~~on all sales to a~~"

Page 17, line 8, remove "and shall pass the tax on to the distributor, retailer, or" and remove "A distributor"

Page 17, replace lines 9 through 30 with:

"**SECTION 5. AMENDMENT.** Section 57-43.2-21 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-21. Inventory gains - Losses—Deductions allowed to dealer—Remedies.

1. ~~Each dealer of special fuel other than liquefied petroleum gas is allowed to deduct the actual shrinkage of the total gallonage of special fuel received during each calendar month from the statement submitted as required in section 57-43.2-12, but such allowance may not exceed one percent of the total received during the month. Each wholesale dealer of liquefied petroleum gas may deduct the actual shrinkage of the total gallonage received during each calendar month from the statement submitted as required in section 57-43.2-12, but this allowance may not exceed two percent of the total received during the month. A supplier or distributor shall take a physical inventory reading of all special fuel located in a terminal, underground tank, aboveground tank, railcar, storage tank of a truck, and the storage tank of a bulk delivery truck on a regular basis and shall report the physical readings, inventory gains, and inventory losses to the commissioner in increments not to exceed a twelve-month period. The inventory reconciliation must include special fuel at retail locations and special fuel stored in a barrel, drum, or other receptacle.~~
2. When sold or used by a supplier or distributor, a gain in special fuel inventories is subject to the tax imposed by this chapter in the same manner as special fuel purchased, imported, or otherwise acquired.

3. A supplier or distributor who experiences an actual physical inventory loss due to shrinkage or evaporation is responsible for the tax imposed by this chapter on any loss in excess of two percent of liquefied petroleum gases and one-half of one percent of all other special fuel received during the period covered by the inventory reconciliation.
- 2- 4. ~~For the purposes of this chapter, it is presumed that all special fuel received by each dealer over and above the one percent allowance, or the two percent allowance for liquefied petroleum gas, not otherwise accounted for, but not above these allowances, except that gallonage shown as actual inventory based on physical inventory readings at the end of every calendar month the time period covered by the inventory reconciliation, and other allowances provided in this chapter, has been sold, delivered, or used.—The dealer, and the supplier or distributor is liable for the amount of the special fuel tax on each gallon [3.79 liters] of special fuel not accounted for. For purposes of this chapter, special fuel refined at a refinery in this state and placed in storage at the refinery, and special fuel brought into the state by pipeline and placed in storage at a pipeline terminal, is not deemed received until it is withdrawn from the refinery or terminal storage for sale or use in this state, or for shipment or delivery to destinations in this state.~~
5. The commissioner may allow a tax credit to a supplier or distributor for actual inventory losses due to casualty loss subject to the discretion of the commissioner and based on proof of the loss as required by the commissioner."

Page 18, remove lines 1 through 30

Page 19, remove lines 1 through 29

Page 20, remove lines 1 through 31

Page 21, remove lines 1 through 31

Page 22, remove lines 1 through 31

Page 23, remove lines 1 through 30

Page 24, remove lines 1 through 31

Page 25, remove lines 1 through 30

Page 26, line 3, replace "**Penalties**" with "**Administrative fees**"

Page 26, line 10, replace "civil penalties" with "administrative fees"

Page 26, line 11, replace "one" with "two", after "hundred" insert "fifty", and replace "fine" with "fee"

Page 26, line 12, replace "fine" with "fee"

Page 26, line 14, replace "fine" with "fee"

Page 26, line 16, replace "fine" with "fee"

Page 27, line 5, after "hearing" insert "before the tax commissioner in the manner provided in chapter 28-32 if, within thirty days after receiving a citation, the person requests a hearing"

Page 27, after line 13, insert:

- "6. All administrative fees or civil penalties under this section may be completely or partially waived by the tax commissioner for good cause shown, and any fees or penalties not waived must be collected by the tax commissioner and transferred to the state treasurer and deposited in the state highway fund."

Page 27, remove lines 14 through 29

Page 28, remove lines 1 through 31

Page 29, remove lines 1 through 31

Page 30, remove lines 1 through 31

Page 31, remove lines 1 through 31

Page 32, remove lines 1 through 30

Page 33, remove lines 1 through 29

Page 34, remove lines 1 through 31

Page 35, remove lines 1 through 31

Page 36, remove lines 1 through 30

Page 37, remove lines 1 through 30

Page 38, remove lines 1 through 30

Page 39, remove lines 1 through 31

Page 40, remove lines 1 through 30

Page 41, remove lines 1 through 30

Page 42, remove lines 1 through 31

Page 43, remove lines 1 through 31

Page 44, remove lines 1 through 31

Page 45, remove lines 1 through 31

Page 46, remove lines 1 through 30

Page 47, remove lines 1 through 31

Page 48, remove lines 1 through 31

Page 49, remove lines 1 through 31

Page 50, remove lines 1 through 31

Page 51, remove lines 1 through 31

Page 52, remove lines 1 through 31

Page 53, remove lines 1 through 19

Page 53, line 20, replace "57-43.1-27" with "57-43.2-02.2", after "the" insert "1997 Supplement to the", and replace "and" with "is repealed."

Page 53, replace lines 21 and 22 with:

"SECTION 8. LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying during the 1999-2000 interim the application, enforcement, and administration under the fuels tax laws."

Page 53, line 24, replace ", and taxable inventories held on, December 31" with "June 30"

Renumber accordingly

Engrossed HB 1462 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SEN. WARDNER MOVED that the conference committee report on Engrossed HB 1462 be adopted, which motion prevailed on a verification vote.

Engrossed HB 1462, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1462: A BILL for an Act to create and enact section 57-43.2-38 of the North Dakota Century Code, relating to use of dyed special fuel in a licensed motor vehicle and penalties; to amend and reenact sections 57-43.1-26, 57-43.1-27, 57-43.2-01, 57-43.2-03, and 57-43.2-21 of the North Dakota Century Code, relating to definitions for special fuels tax purposes and inventory gains and losses for motor vehicle fuels and special fuels tax purposes; to repeal section 57-43.2-02.2 of the North Dakota Century Code, relating to refund of special fuels taxes; to provide for a legislative council study; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 28 YEAS, 19 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Christmann; Cook; DeMers; Fischer; Flakoll; Grindberg; Holmberg; Kilzer; Kinnoin; Krauter; Krebsbach; Kringstad; Kroepelin; Lee; Mathern, D.; Mathern, T.; Mutzenberger; Nelson, C.; Nelson, G.; Nething; Robinson; St. Aubyn; Stenehjem, W.; Thompson; Tomac; Urlacher; Wanzek; Wardner

NAYS: Andrist; Bowman; Freborg; Heitkamp; Kelsh; Klein; Lindaas; Lyson; Mutch; Naaden; O'Connell; Redlin; Sand; Schobinger; Solberg; Stenehjem, B.; Thane; Traynor; Watne

ABSENT AND NOT VOTING: Bercier; Tallackson

Engrossed HB 1462, as amended, passed and the title was agreed to.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

MADAM PRESIDENT: The House has overridden the Governor's veto on HB 1108. The vote was 68 YEAS, 26 NAYS, 4 ABSENT AND NOT VOTING, and your favorable consideration is requested.

CONSIDERATION OF VETOED MEASURE

HB 1108: A BILL for an ACT to create and enact five new sections to chapter 57-34 of the North Dakota Century Code, relating to the audit and assessment of telecommunications carriers, deficiency notice, protest and appeal procedure, claim for credit or refund of the tax on telecommunications carriers, preservation of records, and resale certificates; to amend and reenact sections 57-34-01, 57-34-02, 57-34-03, 57-34-06, and 57-34-10 of the North Dakota Century Code, relating to definitions, identification of taxable resellers and pay telephone operators, elimination of tentative assessments, allocation of revenue, filing extensions, tax liabilities of less than five dollars, and interest and lien provisions; to provide for retroactive application; to provide an effective date; and to provide an expiration date.

ROLL CALL

The question being on the final passage of the enrolled bill over the Governor's veto, which has been read, the roll was called and there were 25 YEAS, 22 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Christmann; Fischer; Grindberg; Heitkamp; Kelsh; Kinnoin; Klein; Krauter; Kringstad; Kroepelin; Lindaas; Mathern, D.; Mathern, T.; Mutzenberger; Nelson, C.; Nelson, G.; Nething; Redlin; Robinson; Sand; St. Aubyn; Thompson; Tomac; Traynor

NAYS: Bowman; Cook; DeMers; Flakoll; Freborg; Holmberg; Kilzer; Krebsbach; Lee; Lyson; Mutch; Naaden; O'Connell; Schobinger; Solberg; Stenehjem, B.; Stenehjem, W.; Thane; Urlacher; Wanzek; Wardner; Watne

ABSENT AND NOT VOTING: Bercier; Tallackson

The Senate has sustained the Governor's veto of HB 1108, as enrolled.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1462.

MOTION

SEN. ST. AUBYN MOVED that the Senate stand in recess until 7:00 p.m., which motion prevailed.

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

MOTION

SEN. O'CONNELL MOVED that the Senate reconsider the action whereby it failed to override the Governor's veto of enrolled HB 1108, which motion prevailed on a verification vote.

CONSIDERATION OF VETOED MEASURE

HB 1108: A BILL for an ACT to create and enact five new sections to chapter 57-34 of the North Dakota Century Code, relating to the audit and assessment of telecommunications carriers, deficiency notice, protest and appeal procedure, claim for credit or refund of the tax on telecommunications carriers, preservation of records, and resale certificates; to amend and reenact sections 57-34-01, 57-34-02, 57-34-03, 57-34-06, and 57-34-10 of the North Dakota Century Code, relating to definitions, identification of taxable resellers and pay telephone operators, elimination of tentative assessments, allocation of revenue, filing extensions, tax liabilities of less than five dollars, and interest and lien provisions; to provide for retroactive application; to provide an effective date; and to provide an expiration date.

ROLL CALL

The question being on the final passage of the enrolled bill over the Governor's veto, which has been read, the roll was called and there were 32 YEAS, 15 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Christmann; DeMers; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Kringstad; Kroeplin; Lindaas; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Solberg; St. Aubyn; Thompson; Tomac; Traynor; Urlacher; Wardner

NAYS: Bowman; Cook; Fischer; Flakoll; Krebsbach; Lee; Lyson; Naaden; Sand; Schobinger; Stenehjem, B.; Stenehjem, W.; Thane; Wanzek; Watne

ABSENT AND NOT VOTING: Bercier; Tallackson

The Senate has sustained the Governor's veto of HB 1108, as enrolled.

REPORT OF CONFERENCE COMMITTEE

SB 2013, as engrossed: Your conference committee (Sens. Holmberg, Naaden, Robinson and Reps. Carlson, Monson, Nichols) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1130-1138, adopt amendments as follows, and place SB 2013 on the Seventh order:

That the House recede from its amendments as printed on pages 1130-1138 of the Senate Journal and pages 1239-1246 of the House Journal and that Engrossed Senate Bill No. 2013 be amended as follows:

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

Page 1, line 3, replace "section" with "sections" and after "15-21-02" insert "and 15-21-03"

Page 1, line 4, replace "section" with "sections" and after "15.1-02-02" insert "and 15.1-02-03"

Page 1, line 5, replace "; to repeal section 2 of Senate Bill No. 2381, as" with "and the appointment of a deputy superintendent; and to amend and reenact sections 15-59-06, 15-59-06.2, 15-59-07, 44-03-01, and 54-44.1-12 of the North Dakota Century Code, relating to special education, the appointment of deputies, and executive budget allotments."

Page 1, remove line 6

Page 1, line 17, replace "11,706,777" with "11,152,952"

Page 1, line 18, replace "10,107,032" with "9,809,720"

Page 1, line 19, replace "591,036" with "491,036"

Page 1, line 20, replace "481,006,259" with "479,006,259"

Page 1, line 23, replace "44,600,000" with "46,600,000"

Page 1, line 24, replace "132,695,566" with "143,318,663"

Page 2, line 4, replace "737,951,556" with "747,623,516"

Page 2, line 5, replace "199,247,247" with "204,137,871"

Page 2, line 6, replace "538,704,309" with "543,485,645"

Page 2, line 21, replace "136,327" with "36,327"

Page 2, line 22, replace "5,502,539" with "5,402,539"

Page 2, line 23, replace "657,369" with "720,903"

Page 2, line 24, replace "4,845,170" with "4,681,636"

Page 3, line 1, replace "863,400" with "1,002,577"

Page 3, line 2, replace "2,328,405" with "2,189,228"

Page 3, line 3, replace "548,840,795" with "553,319,420"

Page 3, line 4, replace "202,361,835" with "207,455,170"

Page 3, line 5, replace "751,202,630" with "760,774,590"

Page 3, line 25, replace "Ten" with "Eleven"

Page 3, line 27, after "reimbursements" insert ", as provided in sections 15-40.2-08, 15-59-06, 15-59-06.2, 15-59-07, and 15-59-07.2. Of this amount, \$5,500,000 must be distributed during the fiscal year ending June 30, 2000, and \$6,000,000 must be distributed during the fiscal year ending June 30, 2001. Any funds remaining after distributions pursuant to sections 15-40.2-08, 15-59-06, 15-59-06.2, 15-59-07, and 15-59-07.2 for either year must be distributed to school districts and special education units to proportionately reduce school district and special education unit liability for costs in excess of 2.5 times the state average per student cost, as provided in sections 15-59-06, 15-59-06.2, 15-59-07, and 15-59-07.2"

Page 4, line 14, replace "\$1,000,000" with "\$6,000,000"

Page 4, line 20, after the period insert "Prior to the distribution of grants pursuant to this section, the educational telecommunications council may establish a minimum grant amount of \$5,000. A school district is not eligible to receive a grant under this section unless the administrative office of the district is connected to the internet."

Page 4, remove lines 21 through 25

Page 6, after line 15, insert:

"SECTION 17. CREDENTIALING PROCESS FOR SPECIAL EDUCATION TEACHERS. The superintendent of public instruction may not change the credentialing process for special education teachers as it is in effect on March 1, 1999, without first convening a meeting to include representatives of the North Dakota council of education leaders, the council of exceptional children, the North Dakota education association, and the North Dakota school boards association. The purpose of the meeting is to receive comments regarding the proposed changes, the applicability of the proposed changes, including the scheduling, the manner of implementation, associated costs, and the short-term and long-term effects of the proposed changes. If, within thirty days after the date of the meeting, members of any two representative groups present at the meeting object in writing to the proposed changes, the superintendent may not implement the change prior to July 1, 2001.

SECTION 18. SCHOOL DISTRICT FINANCIAL DATA - REPORTING - REQUIREMENTS. The superintendent of public instruction shall develop standardized reporting forms, in both hard copy and electronic format, prescribing the manner in

which school district superintendents and business managers must account for and report financial data. The superintendent of public instruction shall report to the interim education finance committee of the legislative council regarding the content of the reports and specific actions taken to account for transfers from school district general funds, to eliminate or reduce variations in the reporting of data, and to ensure that the financial data is available in a form that allows for accurate and consistent comparisons.

SECTION 19. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS TESTING. The department of public instruction shall participate in the national assessment of educational progress (NAEP) testing program for the 1999-2001 biennium.

SECTION 20. FEDERAL FUNDING FOR SPECIAL EDUCATION URGED. The fifty-sixth legislative assembly urges the Congress of the United States and the President to increase federal funding for special education to achieve, within the next three years, the statutory goal of the federal government providing funding for special education students equal to 40 percent of the national average per student educational expenditure. The secretary of state shall send copies of this section to the President, the members of the North Dakota congressional delegation, the national conference of state legislatures, and the state superintendent of public instruction.

SECTION 21. LAND BOARD DISTRIBUTIONS. Notwithstanding the provisions of section 15-03-05.2, during the 1999-2001 biennium, the board of university and school lands shall distribute to the school for the deaf and the school for the blind all income from permanent funds managed for the benefit of those institutions.

SECTION 22. LEGISLATIVE COUNCIL STUDY - DIVISION OF INDEPENDENT STUDY. The legislative council shall consider studying, during the 1999-2001 interim, the role, mission, operation, and privatization of the division of independent study, including educational services provided by the division to out-of-state students. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-seventh legislative assembly.

SECTION 23. LEGISLATIVE INTENT - POSITION TRANSFERS - DIVISION OF INDEPENDENT STUDY. It is the intent of the fifty-sixth legislative assembly that for the 1999-2001 biennium, the department of public instruction be authorized to have no more than 131.95 full-time equivalent positions and that no more than 38.7 of these positions be in the division of independent study. It is the intent of the fifty-sixth legislative assembly that if, during the 1999-2001 biennium, the superintendent of public instruction transfers any positions to the division of independent study from other divisions of the department of public instruction, the transfers be reported to the budget section of the legislative council at its next meeting.

SECTION 24. CLASS SIZE REDUCTION GRANTS - REPORT TO BUDGET SECTION. During the 1999-2001 biennium, the department of public instruction shall present a report to the budget section on the distribution of federal class size reduction initiative grants."

Page 7, replace lines 3 through 7 with:

"SECTION 27. AMENDMENT. If House Bill No. 1034 does not become effective, Section 15-21-03 of the North Dakota Century Code is amended and reenacted as follows:

15-21-03. Appointment of ~~deputy~~ Assistant assistant - Clerks. The superintendent of public instruction may appoint a ~~deputy for whose official acts he is responsible, and~~ an assistant whose duty it is to assist the superintendent of public instruction in visiting schools and institutes, to attend school officers' meetings, and to perform such other duties as may be required of him. The superintendent also may employ such clerks as are necessary in carrying on the work of the department.

SECTION 28. AMENDMENT. Section 15.1-02-03 of the North Dakota Century Code as created by House Bill No. 1034, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

15.1-02-03. Appointment of ~~deputy~~ assistant - Employment of personnel. The superintendent of public instruction may appoint a ~~deputy superintendent and~~ an assistant. The superintendent may also hire personnel or contract with other persons to perform the work of the department of public instruction.

SECTION 29. AMENDMENT. Section 15-59-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-59-06. State cooperation in special education. Students with disabilities who are receiving special education services must be deemed to be regularly enrolled in the school district of residence and must be included in the determination of payments from the state foundation aid program whether or not the students regularly attend school in the school or school district receiving the payments. A prorated state foundation aid payment for a student to attend a public school program for students with disabilities, approved by the superintendent of public instruction, may be made if the individualized education program for the student is written during the last quarter of the school term and specifically requires that the student attend a summer special education program. In the case of a student who is enrolled in a nonpublic school but who attends a public school special education program, payments must be made to the appropriate public school district for the portion of a normal schoolday the student participates in special education. For the purposes of this section, a normal schoolday consists of six hours. The amount the school district is required to expend must be reduced proportionately if a student attends the school for less than an entire year. If any school district within a special education unit has a student with disabilities who, in the opinion of the student's multidisciplinary team, is unable to attend the public schools in the special education unit because of a disability, the school district shall contract with an in-state public school located outside the special education unit in which the student is a legal resident, if the school will accept the student and has proper services for the student's education. No school district may enter into a contract with any in-state public school for the education of any student because of a disability, unless the services provided by the school and the contract have been approved in advance by the superintendent of public instruction. The contract must provide that the school district agrees to pay to the in-state public school as part of the cost of educating the student an amount for the school year equal to two and one-half times the state average per student elementary or high school cost, depending upon the student's level of enrollment. The payment may not exceed the actual per student cost incurred by the in-state public school. The school district's liability must be reduced proportionately if the student attends the in-state public school for less than an entire year. The superintendent of public instruction, upon notification by the admitting district and upon verification by the superintendent that tuition payments are due the admitting district and are unpaid, shall withhold ~~all payments from the state for foundation aid payments~~ to the district of residence an amount equal to the unpaid tuition until the tuition due that amount has been paid. The transportation must be furnished as provided by rules of the superintendent of public instruction. The superintendent of public instruction shall reimburse school districts eighty percent of the remainder of the actual cost of educating the student with disabilities not covered by other payments or credits ~~must be paid from funds,~~ within the limits of legislative appropriations for that purpose.

SECTION 30. AMENDMENT. Section 15-59-06.2 of the North Dakota Century Code is amended and reenacted as follows:

15-59-06.2. Cost of special education - Liability of school district. If allowable costs for special education and related services for a child with disabilities in a special education program, as determined by the superintendent of public instruction, exceed the reimbursement provided by the state, the school district is liable to pay for each such student an amount over the state reimbursement up to a maximum each school year of two and one-half times the state average ~~per pupil per student~~ elementary or high school cost, depending on whether the enrollment would be in a grade or high school department, and twenty percent of all remaining costs. The two and one-half times amount includes the amount the school district is required to pay in section 15-59-06. The state is liable for ~~one hundred eighty~~ percent of the remainder of the cost of education and related services for each such student with disabilities within the limits of legislative appropriations for that purpose.

SECTION 31. AMENDMENT. Section 15-59-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-59-07. Contracts for students with disabilities to attend private or out-of-state public schools. If any school district in this state has a student with disabilities who in the opinion of the student's multidisciplinary team is unable to attend the public schools in the district because of a physical or mental disability or because of a learning disability, the school district shall contract with any accredited private nonsectarian nonprofit corporation within or outside the state or an out-of-state public school which has proper facilities for the education of the student, if there is no public

school in the state which has the necessary services and which will accept the student. No school district may enter a contract with any private nonsectarian nonprofit corporation or out-of-state public school for the education of any student having a physical or learning disability, unless the services provided by the school and the contract have been approved in advance by the superintendent of public instruction. The contract must provide that the school district agrees to pay to the private nonsectarian nonprofit corporation or the out-of-state public school as part of the cost of educating the student an amount for the school year equal to two and one-half times the state average per student elementary or high school cost, depending upon the student's level of enrollment and twenty percent of all remaining costs. The payment may not exceed the actual per student cost incurred by the private nonsectarian nonprofit corporation or out-of-state public school. The transportation must be furnished and reimbursed as provided by rules of the superintendent of public instruction. ~~The remainder of the actual cost of educating the student with disabilities not covered by other payments or credits must be paid from funds appropriated by the legislative assembly for special education notwithstanding limitations cited in section 15-59-06. The superintendent of public instruction shall reimburse school districts eighty percent of the remainder of the actual cost of educating each student with disabilities not covered by other payments or credits within the limits of legislative appropriations for that purpose.~~ The district of residence is entitled to the per student foundation payment.

SECTION 32. AMENDMENT. Section 44-03-01 of the North Dakota Century Code is amended and reenacted as follows:

44-03-01. Deputies may be appointed by certain officers. The secretary of state, state auditor, state treasurer, ~~superintendent of public instruction,~~ commissioner of insurance, commissioner of agriculture, commissioner of labor, district assessor, and city assessor each may appoint a deputy for whose acts as such ~~he~~ the officer shall be responsible. Each officer required to give a bond may require a bond from any deputy appointed by ~~him~~ the officer. Any such bond must be in the penal sum of not more than half the penal sum of the appointing officer's own bond and may be retained by the officer for ~~his~~ the officer's own protection. Such appointment must be in writing and is revocable in writing at the pleasure of the principal, and such appointment and revocation must be filed as the bond and oath of the principal are filed.

SECTION 33. AMENDMENT. Section 54-44.1-12 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.1-12. Control over rate of expenditures. The director of the budget shall exercise continual control over the execution of the budget affecting the departments and agencies of state government, with the exception of the legislative and judicial branches. Execution means the analysis and approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of allotments. The allotment must be made by specific fund and all departments and agencies that receive moneys from that fund must be allotted on a uniform percentage basis, except that appropriations to the department of public instruction for foundation aid, transportation aid, and special education aid may only be allotted to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund. Before an allotment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director shall find one or more of the following circumstances to exist:

1. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropriations from the fund.
2. The payment or the obligation incurred is not authorized by law.
3. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, including:
 - a. Statements of legislative intent expressed in enacted appropriation measures or other measures enacted by the legislative assembly; and
 - b. Statements of purpose of amendment explaining amendments to enacted appropriation measures, as recorded in the journals of the legislative assembly.

4. Circumstances or availability of facts not previously known or foreseen by the legislative assembly which make possible the accomplishment of the purpose of the appropriation at a lesser amount than that appropriated."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 201 - DEPARTMENT OF PUBLIC INSTRUCTION

CONFERENCE COMMITTEE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMPARISON TO HOUSE VERSION
Salaries and wages	\$11,825,653	\$11,706,777	(\$553,825)	\$11,152,952	\$10,977,979	\$174,973
Operating expenses	10,457,032	10,107,032	(297,312)	9,809,720	9,709,720	100,000
Equipment	591,036	591,036	(100,000)	491,036	491,036	
Grants - Foundation aid and transportation	475,906,259	481,006,259	(2,000,000)	479,006,259	479,006,259	
Grants - Revenue supplement	3,100,000	3,100,000		3,100,000	3,100,000	
Grants - Tuition apportionment	53,528,217	53,528,217		53,528,217	53,528,217	
Grants - Special education	44,600,000	44,600,000	2,000,000	46,600,000	46,100,000	500,000
Grants - Special education critical needs					500,000	(500,000)
Grants - Other grants	132,007,469	132,695,566	10,623,097	143,318,663	143,318,663	
Geographic education	50,000	50,000		50,000	50,000	
SENDIT network	546,669	546,669		546,669	546,669	
National board certification	398,000	20,000		20,000	20,000	
Total all funds	\$733,010,335	\$737,951,556	\$9,671,960	\$747,623,516	\$747,348,543	\$274,973
Less special funds	193,694,209	199,247,247	4,890,624	204,137,871	204,206,898	(69,027)
General fund	\$539,316,126	\$538,704,309	\$4,781,336	\$543,485,645	\$543,141,645	\$344,000
FTE	137.95	137.95	(6.00)	131.95	129.95	2.00

Detail of Conference Committee changes to the Senate version:

	REMOVE POSITIONS	REDUCE OPERATING EXPENSES	REDUCE EQUIPMENT	REMOVE FUNDING FOR SALARY MARKET INCREASE FOR DEPUTY SUPERINTENDENT	REDUCE TEMPORARY SALARIES	TRANSFER FUNDING FROM FOUNDATION AID TO TECHNOLOGY GRANTS
Salaries and wages	(\$501,973) ¹			(\$2,676) ⁴	(\$49,176) ⁵	
Operating expenses		(\$300,000) ²				
Equipment			(\$100,000) ³			
Grants - Foundation aid and transportation						(\$5,000,000) ⁶
Grants - Revenue supplement						
Grants - Tuition apportionment						
Grants - Special education						
Grants - Special education critical needs						
Grants - Other grants						5,000,000 ⁶
Geographic education						
SENDIT network						
National board certification						
Total all funds	(\$501,973)	(\$300,000)	(\$100,000)	(\$2,676)	(\$49,176)	\$0
Less special funds	(271,445)	(243,000)	(74,000)		(46,716)	
General fund	(\$230,528)	(\$57,000)	(\$26,000)	(\$2,676)	(\$2,460)	\$0
FTE	(6.00)	0.00	0.00	0.00	0.00	0.00

	INCREASE FOUNDATION AID	INCREASE SPECIAL EDUCATION GRANTS	ADD FEDERAL FUNDS FOR CLASS SIZE REDUCTION GRANTS	REDUCE OPERATING EXPENSES FOR EARLY CHILDHOOD TRACKING	INCREASE OPERATING EXPENSES FOR NAEP TESTING	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages						(\$553,825)
Operating expenses				(\$97,312) ¹⁰	\$100,000 ¹¹	(297,312)
Equipment						(100,000)
Grants - Foundation aid and transportation	\$3,000,000 ⁷					(2,000,000)
Grants - Revenue supplement						
Grants - Tuition apportionment						
Grants - Special education		\$2,000,000 ⁸				2,000,000
Grants - Special education critical needs						
Grants - Other grants			\$5,623,097 ⁹			10,623,097
Geographic education						
SENDIT network						
National board certification						
Total all funds	\$3,000,000	\$2,000,000	\$5,623,097	(\$97,312)	\$100,000	\$9,671,960
Less special funds			5,623,097	(97,312)		4,890,624
General fund	\$3,000,000	\$2,000,000	\$0	\$0	\$100,000	\$4,781,336

FTE	0.00	0.00	0.00	0.00	0.00	(6.00)
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Conference Committee changes narrative:

This amendment makes the following changes:

- Provides in Section 6 of the engrossed bill that the Educational Telecommunications Council may establish a minimum grant amount of \$5,000 and provides that for a school district to be eligible to receive a grant, the school district administrative office must be connected to the Internet.
- Removes Section 7, which provided legislative intent regarding the use of grants distributed by the Educational Telecommunications Council.
- Adds a new Section 17, which provides that prior to implementing any change in the credentialing process for special education teachers, the Superintendent of Public Instruction must obtain the approval of certain education-related groups.
- Adds a new Section 18, which directs the Superintendent of Public Instruction to develop standardized reporting forms for the reporting of financial data.
- Adds a new Section 19, which directs the department to participate in the national assessment of educational progress (NAEP) testing program.
- Adds a new Section 20, which urges Congress and the President to provide funding for special education students equal to 40 percent of the national average educational expenditure per student.
- Adds a new Section 21, which directs the Board of University and School Lands to distribute all available trust fund income for the 1999-2001 biennium.
- Adds a new Section 22, which provides that the Legislative Council shall consider studying the Division of Independent Study during the 1999-2001 biennium.
- Adds a new Section 23, which provides that if the department transfers any FTE positions to the Division of Independent Study during the 1999-2001 biennium, the transfers must be reported to the Budget Section.
- Adds a new Section 24, which provides that the department shall present a report to the Budget Section on the distribution of federal class size reduction initiative grants.
- Amends North Dakota Century Code (NDCC) Sections 15-21-03, 15.1-02-03, and 44-03-01 to remove statutory references to the Deputy Superintendent of Public Instruction.
- Amends NDCC Sections 15-59-06, 15-59-06.2, and 15-59-07 to increase the amount school districts are liable to pay for extraordinary special education costs from 2.5 times the state average educational expenditure per student to 2.5 times the state average, plus 20 percent of any additional costs.
- Amends North Dakota Century Code Section 54-44.1-12 to provide that an executive budget allotment can only reduce legislative appropriations for foundation aid, transportation aid, and special education aid by the amount that the allotment can be offset by transfers from the foundation aid stabilization fund.
- Increases from \$10.5 million to \$11.5 million (Section 5 of the bill) the amount of the special education appropriation to be used for reimbursing districts for special education contract costs. This results in a corresponding \$500,000 decrease in the amount to be distributed on a per student basis pursuant to subsection 3 of Section 5. Section 5, as amended, provides that the \$46.6 million special education grants line item will be distributed as follows:
 - \$11.5 million for special education contract costs.
 - \$400,000 for gifted and talented programs.
 - \$34.7 million for per student special education payments.

- Removes Section 20 of the engrossed bill, which repealed Section 2 of Senate Bill No. 2381. Section 2 of Senate Bill No. 2381 provided a \$400,000 appropriation for payments to schools with students with limited English proficiency. The foundation aid line item of this bill contains the required \$400,000 appropriation for these payments.

- 1 Removes the following FTE positions:

POSITION TITLE	POSITION NUMBER	FTE	GENERAL FUND	OTHER FUNDS	TOTAL FUNDS
Deputy superintendent	3100	1.00	\$122,816		\$122,816
Training officer I	3205	1.00		59,718	59,718
Assistant director	3401	1.00	107,712		107,712
Special education regional coordinator	3834	1.00		95,992	95,992
Teacher I	9999-2	1.00		67,449	67,449
Computer operator II	9999-3	1.00		48,286	48,286
Total		6.00	\$230,528	\$271,445	\$501,973

- 2 Removes \$300,000 (\$57,000 from the general fund and \$243,000 from other funds) for operating expenses for travel (\$100,000) and professional services (\$200,000).
- 3 Removes \$100,000 for equipment (\$26,000 from the general fund and \$74,000 from other funds), reducing the line item from \$591,036 to \$491,036.
- 4 Removes general fund spending authority of \$2,676 added by the Senate for a salary market increase for the deputy superintendent position. This amendment removes the deputy superintendent position.
- 5 Reduces salaries and wages by \$49,176 (\$2,460 from the general fund, \$46,716 from other funds) for temporary salaries, reducing the total amount for temporary salaries from \$319,176 to \$270,000.
- 6 Transfers \$5 million of general fund appropriation authority from the foundation aid line item to the other grants line item to restore the \$6 million included in the executive recommendation for grants to schools for technology or teacher professional development.
- 7 Increases the foundation aid line item by \$3 million.
- 8 Increases funding for special education grants by \$2 million.
- 9 Increases the other grants line item by \$5,623,097 to reflect federal funds anticipated to be available for grants to schools to reduce class size.
- 10 Reduces the operating expenses line item by \$97,312 to reflect an anticipated reduction in federal funds available for the early childhood tracking program. The total amount provided for the program is reduced from \$847,312 to \$750,000.
- 11 Increases the operating expenses line item by \$100,000 from the general fund for the national assessment of educational progress (NAEP) testing program.

DEPARTMENT 252 - SCHOOL FOR THE DEAF

Conference Committee - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMPARISON TO HOUSE VERSION
Salaries and wages	\$4,347,330	\$4,275,930		\$4,275,930	\$4,275,930	
Operating expenses	1,015,458	1,015,458		1,015,458	1,015,458	
Equipment	39,224	74,824		74,824	74,824	
Capital improvements	136,327	136,327	(\$100,000)	36,327	36,327	
Total all funds	\$5,538,339	\$5,502,539	(\$100,000)	\$5,402,539	\$5,402,539	\$0
Less special funds	658,177	657,369	63,534	720,903	657,369	63,534
General fund	\$4,880,162	\$4,845,170	(\$163,534)	\$4,681,636	\$4,745,170	(\$63,534)
FTE	53.93	53.93	0.00	53.93	53.93	0.00

Detail of Conference Committee changes to the Senate version includes:

	REMOVE FUNDING FOR INDEPENDENT LIVING COTTAGE	INCREASE LAND DEPARTMENT DISTRIBUTIONS	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages			
Operating expenses			
Equipment			
Capital improvements	<u>(\$100,000)</u>		<u>(\$100,000)</u>
Total all funds	(\$100,000)	\$0	(\$100,000)
Less special funds		<u>63,534</u>	<u>63,534</u>
General fund	(\$100,000)	(\$63,534)	(\$163,534)

DEPARTMENT 253 - SCHOOL FOR THE BLIND

Conference Committee - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMPARISON TO HOUSE VERSION
Salaries and wages	\$2,415,801	\$2,391,456		\$2,391,456	\$2,391,456	
Operating expenses	678,059	678,059		678,059	678,059	
Equipment	70,500	70,500		70,500	70,500	
Capital improvements	<u>51,790</u>	<u>51,790</u>		<u>51,790</u>	<u>51,790</u>	
Total all funds	\$3,216,150	\$3,191,805	\$0	\$3,191,805	\$3,191,805	\$0
Less special funds	<u>863,400</u>	<u>863,400</u>	<u>139,177</u>	<u>1,002,577</u>	<u>950,276</u>	<u>52,301</u>
General fund	\$2,352,750	\$2,328,405	(\$139,177)	\$2,189,228	\$2,241,529	(\$52,301)
FTE	28.00	28.00	0.00	28.00	28.00	0.00

Detail of Conference Committee changes to the Senate version includes:

	FUNDING SOURCE CHANGE	INCREASE LAND DEPARTMENT DISTRIBUTIONS	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages			
Operating expenses			
Equipment			
Capital improvements			
Total all funds	\$0	\$0	\$0
Less special funds	<u>86,876</u> ¹	<u>52,301</u>	<u>139,177</u>
General fund	(\$86,876) ¹	(\$52,301)	(\$139,177)

Conference Committee changes narrative:

¹ Increases other funds spending authority and decreases general fund spending authority by \$86,876 anticipated to be available from the School for the Blind fund. The funding source changes includes the following:

- \$34,076 for operating expenses.
- \$52,800 for temporary salaries relating to the compensatory skills training program.

Engrossed SB 2013 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SEN. HOLMBERG MOVED that the conference committee report on Engrossed SB 2013 be adopted.

REQUEST

SEN. KRAUTER REQUESTED a recorded roll call vote on the motion to adopt the conference committee report on SB 2013, which request was granted.

ROLL CALL

The question being on the motion to adopt the conference committee report on SB 2013, the roll was called and there were 31 YEAS, 16 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee; Lyson; Mutch; Naaden; Nelson, G.; Nething; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Traynor; Urlacher; Wanzek; Wardner; Watne

NAYS: DeMers; Heitkamp; Kelsh; Kinnoin; Krauter; Kroeplin; Lindaas; Mathern, D.; Mathern, T.; Mutzenberger; Nelson, C.; O'Connell; Redlin; Robinson; Thompson; Tomac

ABSENT AND NOT VOTING: Bercier; Tallackson

The conference committee report on SB 2013 was adopted. Engrossed SB 2013, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2013: A BILL for an Act to provide an appropriation for defraying the expenses of the department of public instruction, the school for the deaf, the school for the blind, and the state library; to provide for a legislative council study; to amend and reenact sections 15-21-02 and 15-21-03 of the North Dakota Century Code or in the alternative to amend and reenact sections 15.1-02-02 and 15.1-02-03 of the North Dakota Century Code, relating to the salary of the superintendent of public instruction and the appointment of a deputy superintendent; and to amend and reenact sections 15-59-06, 15-59-06.2, 15-59-07, 44-03-01, and 54-44.1-12 of the North Dakota Century Code, relating to special education, the appointment of deputies, and executive budget allotments.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 36 YEAS, 11 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Lee; Lyson; Mathern, D.; Mutch; Naaden; Nelson, G.; Nething; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

NAYS: DeMers; Heitkamp; Kelsh; Kroeplin; Lindaas; Mathern, T.; Mutzenberger; Nelson, C.; O'Connell; Redlin; Thompson

ABSENT AND NOT VOTING: Bercier; Tallackson

Engrossed SB 2013, as amended, passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SB 2020, as engrossed: Your conference committee (Sens. Andrist, Grindberg, Lindaas and Reps. Dalrymple, Boehm, Aarsvold) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 907-908, adopt amendments as follows, and place SB 2020 on the Seventh order:

That the House recede from its amendments as printed on pages 907 and 908 of the Senate Journal and pages 1007 and 1008 of the House Journal and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 2, after "society" insert "; to provide for line item transfers for the 1997-99 biennium; to authorize line item transfers for the 1999-2001 biennium; and to declare an emergency"

Page 1, line 16, replace "1,117,011" with "931,345"

Page 1, line 17, replace "7,678,768" with "7,493,102"

Page 1, line 19, replace "6,646,330" with "6,460,664"

Page 1, after line 19, insert:

"SECTION 2. LINE ITEM TRANSFERS - 1999-2001 BIENNIUM.

Notwithstanding section 54-16-04, the director of the office of management and budget and the state treasurer shall make transfers of funds between the capital improvements line item and the Lewis and Clark bicentennial line item in section 1 of this Act as may

be requested by the state historical board for the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION 3. LINE ITEM TRANSFERS - 1997-99 BIENNIUM. Notwithstanding section 54-16-04, the director of the office of management and budget and the state treasurer, at the request of the superintendent of the state historical society, shall transfer \$34,886 from the equipment line item contained in subdivision 1 of section 1 of chapter 22 of the 1997 Session Laws to the operating expenses line item contained in subdivision 1 of section 1 of chapter 22 of the 1997 Session Laws. The authority to make this transfer begins with the effective date of this Act and ends on June 30, 1999.

SECTION 4. APPROPRIATION. There is hereby appropriated the sum of \$4,900 of federal funds available to the state historical society for the purpose of purchasing equipment for the period beginning with the effective date of this Act and ending June 30, 1999.

SECTION 5. EMERGENCY. Sections 3 and 4 of this Act are declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 701 - STATE HISTORICAL SOCIETY

CONFERENCE COMMITTEE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMPARISON TO HOUSE VERSION
Salaries and wages	\$4,337,656	\$4,299,169		\$4,299,169	\$4,299,169	
Operating expenses	908,323	908,323		908,323	908,323	
Equipment	81,244	81,244		81,244	81,244	
Major improvements	1,130,735	782,735		782,735	782,735	
Grants	485,559	485,559		485,559	485,559	
Yellow-Missouri- Ft. Union Comm.	4,727	4,727		4,727	4,727	
Lewis and Clark bicentennial	1,117,011	1,117,011	(\$185,666)	931,345	641,345	\$290,000
Total all funds	\$8,065,255	\$7,678,768	(\$185,666)	\$7,493,102	\$7,203,102	\$290,000
Less special funds	1,032,438	1,032,438		1,032,438	1,032,438	
General fund	\$7,032,817	\$6,646,330	(\$185,666)	\$6,460,664	\$6,170,664	\$290,000
FTE	54.00	54.00	0.00	54.00	54.00	0.00

Detail of Conference Committee changes to the Senate version includes:

	REDUCE FUNDING FOR LEWIS AND CLARK	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages		
Operating expenses		
Equipment		
Major improvements		
Grants		
Yellow-Missouri- Ft. Union Comm.		
Lewis and Clark bicentennial	(\$185,666) ¹	(\$185,666)
Total all funds	(\$185,666)	(\$185,666)
Less special funds		
General fund	(\$185,666)	(\$185,666)
FTE	0.00	0.00

Conference Committee changes narrative:

¹ Reduces funding for the Lewis and Clark bicentennial line item by \$185,666. The State Historical Society may determine the specific areas of reduction. The House had reduced this line item by \$475,666.

A section is added authorizing the State Historical Society to transfer funds between the capital improvements line item and the Lewis and Clark bicentennial line item without Emergency Commission approval.

Sections added by the House are included. These sections affect the State Historical Society's 1997-99 appropriation by:

1. Appropriating an additional \$4,900 of federal funds for equipment.
2. Authorizing a line item transfer of \$34,886 from the equipment line item to the operating expenses line item to provide additional funding for installing the collect records management system and to reduce funding available for equipment related to this project.

Engrossed SB 2020 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SEN. ANDRIST MOVED that the conference committee report on Engrossed SB 2020 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2020, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2020: A BILL for an Act to provide an appropriation for defraying the expenses of the state historical society; to provide for line item transfers for the 1997-99 biennium; to authorize line item transfers for the 1999-2001 biennium; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

ABSENT AND NOT VOTING: Bercier; Tallackson

Engrossed SB 2020, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2043, SB 2044, SB 2180, SB 2188, SB 2307, SB 2441.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2013.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2020.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has sustained the Governor's veto on HB 1108. The vote was 32 YEAS, 15 NAYS, 2 ABSENT AND NOT VOTING.

MOTION

SEN. ST. AUBYN MOVED that the absent member be excused, which motion prevailed.

MOTION

SEN. ST. AUBYN MOVED that the Senate be on the Seventh and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Friday, April 16, 1999, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SB 2162, as reengrossed: Your conference committee (Sens. Freborg, Wanzek, O'Connell and Reps. R. Kelsch, Monson, Grumbo) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1102-1104, adopt amendments as follows, and place SB 2162 on the Seventh order:

That the House recede from its amendments as printed on pages 1102-1104 of the Senate Journal and pages 1162-1164 of the House Journal and that Reengrossed Senate Bill No. 2162 be amended as follows:

Page 1, line 2, after "enact" insert "a new section to chapter 15-29 of the North Dakota Century Code, or in the alternative to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to the joint employment of school district superintendents; to create and enact"

Page 1, line 3, replace "contingent per student payments" with "nonoperating schools"

Page 1, line 4, after "sections" insert "15-35-01.1,"

Page 1, line 5, after "to" insert "school construction approval,"

Page 1, line 6, after "student" insert a comma and after the second semicolon insert "to provide for a legislative council study;"

Page 1, after line 8, insert:

"SECTION 1. If House Bill No. 1034 does not become effective, a new section to chapter 15-29 of the North Dakota Century Code is created and enacted as follows:

School district superintendent - Joint employment - Accreditation. The superintendent of public instruction may not impose through the accreditation process any penalties or sanctions on a school district for employing a superintendent jointly with one or more other districts. The superintendent may not require, through the accreditation process, that an employee of a school district having fewer than one hundred students in high school spend more than thirty-three percent of the employee's time performing the duties of a school principal if the school district employs a superintendent jointly with one or more other districts.

SECTION 2. AMENDMENT. Section 15-35-01.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-35-01.1. Approval required for certain school district construction projects.

1. Notwithstanding the powers and duties of school boards ~~of public school districts otherwise~~ provided by law, all construction, purchase, repair, improvement, renovation, or modernization of any school building or facility within a school district estimated by the school boards to cost in excess of twenty-five thousand dollars may not be commenced unless approved by the superintendent of public instruction.
2. ~~No such~~ The superintendent of public instruction may not approve the construction, purchase, repair, improvement, renovation, or modernization of any school building or facility ~~may be approved~~ unless the school district proposing the project ~~demonstrates~~:
 - a. Demonstrates the need for the project, the educational utility of the project, ~~fiscal need,~~ and the ability to sustain a stable or increasing student enrollment for a period of time at least equal to the anticipated usable life of the project, or demonstrates potential utilization of the project by a future reorganized school district; and
 - b. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32 after receiving input from the state board of public school education.
3. In the event of disagreement between the superintendent of public instruction and the school board applying for approval of a construction project under this section, the school board may appeal the application to the state board of public school education and the decision of the state board approving or disapproving the application is final.
2. 4. For purposes of this section, "facility" includes a parking lot, athletic complex, or any other improvement to real property owned by the school district.

3. 5. This section does not apply to any construction, purchase, repair, improvement, renovation, or modernization required as part of a plan of correction approved by the state fire marshal under section 15-35-01.2, unless the cost of the improvements exceeds seventy-five thousand dollars."

Page 1, line 15, overstrike "based on the educational cost"

Page 1, line 16, overstrike "per student"

Page 1, line 18, after the second underscored comma insert "transportation aid,"

Page 1, line 20, after the underscored period insert "For purposes of distributing state funds, the superintendent of public instruction shall determine the educational cost per student." and overstrike "following criteria" and insert immediately thereafter "superintendent"

Page 1, line 21, overstrike "be used" and insert immediately thereafter "use"

Page 2, line 3, replace "thirty-nine" with "forty-five"

Page 2, line 5, replace "ten" with "thirty"

Page 2, line 8, remove "The superintendent of public instruction shall monitor student enrollments. If"

Page 2, remove lines 9 through 14

Page 2, line 15, remove "c."

Page 2, line 20, remove the overstrike over "e." and remove "d."

Page 3, line 5, remove the overstrike over "d." and remove "e."

Page 11, remove lines 29 and 30

Page 12, remove lines 1 through 5

Page 12, after line 27 insert:

"SECTION 8. A new section to chapter 15-40.1 of the North Dakota Century Code is created and enacted as follows:

Nonoperating school districts - Education of students - State payments.

1. Notwithstanding the provisions of any other law, a school district operating on the effective date of this Act may become a nonoperating district, provided:
 - a. The board of the district terminates the operation of all public schools in the district;
 - b. The board provides for the education in other school districts of all kindergarten, elementary, and secondary school students residing in the district; and
 - c. The board pays to other school districts educating its students the full per student cost of education in the receiving district.
2. The board of a nonoperating school district shall continue to employ, on a full-time or a part-time basis, one person qualified to manage the finances of the district.
3. The board of a nonoperating school district is governed by all laws applicable to the board of an operating school district.
4. In lieu of all other state payments, a nonoperating school district under this section is entitled to receive an amount equal to the per student payment determined under section 15-40.1-06 and multiplied by the number of students ages six through seventeen who reside in the district, as

established by the latest available school district census, less the product of thirty-two mills times the latest available net assessed and equalized valuation of property of the school district.

5. A school district may be nonoperational for no more than three school years.
6. At or before the conclusion of the three-year period, the nonoperating school district must become, through reorganization or dissolution, part of one or more operating school districts.
7. A school district that has become a nonoperating district and has accepted state payments, as provided for by this section, may not revert to an independent operating district.

SECTION 9. A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

School district superintendent - Joint employment - Accreditation. The superintendent of public instruction may not impose through the accreditation process any penalties or sanctions on a school district for employing a superintendent jointly with one or more other districts. The superintendent may not require, through the accreditation process, that an employee of a school district having fewer than one hundred students in high school spend more than thirty-three percent of the employee's time performing the duties of a school principal if the school district employs a superintendent jointly with one or more other districts.

Page 15, line 20, replace "the effective date of" with "July 1, 1999,"

Page 15, line 21, remove "sections 1 through 8 of this Act"

Page 15, replace lines 24 through 31 with:

"SECTION 13. LEGISLATIVE COUNCIL STUDY OF EDUCATIONAL EQUITY AND FUTURE EDUCATIONAL DELIVERY. The legislative council shall study the provision of education to public school students in this state and shall examine the manner in which education to public school students will be delivered in the ensuing five, ten, and twenty years. Within this study, the council shall address demographic changes as they affect equity of educational opportunities with respect to courses, facilities, and extracurricular activities; equity with respect to teacher availability and qualifications; equity with respect to the organization and administration of school districts; and taxpayer equity in both rural and urban school districts. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the fifty-seventh legislative assembly.

SECTION 14. APPROPRIATION - CONTINGENT DISTRIBUTIONS.

1. a. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,500,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing supplemental payments to school districts, for the biennium beginning July 1, 1999, and ending June 30, 2001.
- b. During the first year of the biennium, the superintendent shall distribute \$1,750,000 of the appropriated amount as supplemental per student payments to each school district in the state on the basis of average daily membership and \$1,000,000 of the appropriated amount to assist school districts whose 1999-2000 fall enrollment is less than the district's 1994-1995 fall enrollment. The superintendent shall base the latter payments on each eligible school district's proportionate share of the total statewide decline during the five-year period, provided that no school district is eligible to receive payments for declining enrollments in excess of five hundred students.
- c. During the second year of the biennium, the superintendent shall distribute the remaining \$750,000 as supplemental per student payments to each school district in the state on the basis of average daily membership.

2. a. If any funds appropriated by the legislative assembly to the grants - foundation aid and transportation line item remain after completion of all statutory obligations, to the extent of legislative appropriations, the superintendent of public instruction shall distribute the first \$1,000,000 of such contingent funds as supplemental per student payments to each school district in the state on the basis of average daily membership.
- b. The superintendent shall distribute the next \$1,000,000 of such contingent funds to assist school districts experiencing declines in student enrollment under the terms provided for by subdivision b of subsection 1.
- c. The superintendent shall distribute the next \$2,000,000 of such contingent funds to school districts eligible to receive reorganization bonuses, as provided for by Senate Bill No. 2441, as approved by the fifty-sixth legislative assembly, and shall distribute any remaining funds as supplemental per student payments to each school district in the state on the basis of average daily membership.

SECTION 15. REORGANIZATION BONUSES - LEGISLATIVE INTENT. If insufficient funds exist to fully reimburse all school districts eligible for reorganization bonuses, as provided for by Senate Bill No. 2441, as approved by the fifty-sixth legislative assembly, the fifty-seventh legislative assembly shall consider introduction of an emergency measure to adopt a deficiency appropriation in an amount necessary to provide the full reimbursement."

Page 16, remove lines 1 through 13

Page 16, line 14, replace "Section 9" with "Sections 2, 7, and 12" and replace "is" with "are"

Renumber accordingly

Reengrossed SB 2162 was placed on the Seventh order of business on the calendar.

The Senate stood adjourned pursuant to Senator St. Aubyn's motion.

WILLIAM C. PARKER, Secretary