

**JOURNAL OF THE SENATE**

**Fifty-sixth Legislative Assembly**

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**Bismarck, April 16, 1999**

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

The prayer was offered by Senator Nething.

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: SB 2013, SB 2020.

**REPORT OF CONFERENCE COMMITTEE**

**SEN. FREBORG MOVED** that the conference committee report on Reengrossed SB 2162 as printed on SJ pages 1337-1340 be adopted, which motion prevailed on a voice vote.

Reengrossed SB 2162, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2162:** A BILL for an Act to provide for the reimbursement of certain reorganized districts; to create and enact 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 two new sections to chapter 15-40.1 of the North Dakota Century Code, relating to nonoperating schools and proportionate payments for summer school programs; to amend and reenact sections 15-35-01.1, 15-40.1-06, 15-40.1-07, 15-40.1-07.3, 15-40.1-08, subsection 1 of section 57-15-14.2, and section 57-15-17.1 of the North Dakota Century Code, relating to school construction approval, educational support per student, and payment factors; to provide an appropriation; to provide for a legislative council study; 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; 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

Reengrossed SB 2162, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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**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 2162.

**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 2162.

**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 2012, as engrossed:** Your conference committee (Sens. St. Aubyn, Bowman, Krauter and Reps. Svedjan, Delzer, Kerzman) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1116-1124, adopt amendments as follows, and place SB 2012 on the Seventh order.

That the House recede from its amendments as printed on pages 1116-1124 of the Senate Journal and pages 1221-1229 of the House Journal and that Engrossed Senate Bill No. 2012 be amended as follows:

Page 1, line 2, after "enact" insert "a new section to chapter 25-03.2,"

Page 1, line 3, replace "50-24.3" with "50-11, a new chapter to title 50," and after the second "to" insert "a moratorium on residential treatment center and residential child care facility beds, the children's health insurance program,"

Page 1, line 4, remove "the duty of nursing facilities to assure preadmission"

Page 1, line 5, remove "assessment of medicaid recipients,"

Page 1, line 6, replace "sections" with "section" and replace "50-24.3-01, 50-24.3-03" with "subsection 3 of section 50-01.2-03.2"

Page 1, line 8, replace "the provision of targeted case management, preadmission assessments" with "human services financing in exceptional circumstances"

Page 1, line 16, remove "regarding basic care rates" and after the second semicolon insert "to provide a contingent appropriation; to provide for land board distributions; to provide an effective date; to provide an expiration date;"

Page 2, line 2, replace "10,573,612" with "11,171,996"

Page 2, line 3, replace "39,387,796" with "39,431,599"

Page 2, line 4, replace "2,780,785" with "1,782,707"

Page 2, after line 4, insert:

"Capital improvements

493"

Page 2, line 5, replace "727,369" with "1,055,889"

Page 2, line 7, replace "55,310,518" with "55,283,640"

Page 2, line 8, replace "40,813,727" with "40,478,356"

Page 2, line 9, replace "14,496,791" with "14,805,284"

Page 2, line 12, replace "8,786,134" with "8,914,445"

Page 2, line 13, replace "12,162,839" with "11,855,427"

Page 2, line 16, replace "118,918,381" with "118,748,623"

Page 2, line 17, replace "678,805,038" with "668,673,150"

Page 2, line 18, replace "818,700,935" with "808,220,188"

Page 2, line 19, replace "618,743,557" with "612,275,533"

Page 2, line 20, replace "199,957,378" with "195,944,655"

Page 2, line 23, replace "9,771,984" with "9,971,172"

Page 2, line 24, replace "12,604,936" with "12,561,478"

Page 2, line 27, replace "126,451,941" with "125,218,183"

Page 2, line 28, replace "148,996,805" with "147,918,777"

Page 2, line 29, replace "105,625,287" with "110,838,978"

Page 2, line 30, replace "43,371,518" with "37,079,799"

Page 3, line 2, replace "7,738,383" with "7,656,098"

Page 3, line 3, replace "3,449,360" with "3,554,087"

Page 3, line 4, replace "4,289,023" with "4,102,011"

Page 3, line 6, replace "14,342,296" with "14,352,172"

Page 3, line 7, replace "6,876,846" with "7,030,328"

Page 3, line 8, replace "7,465,450" with "7,321,844"

Page 3, line 10, replace "7,353,203" with "7,383,028"

Page 3, line 11, replace "2,983,149" with "3,086,833"

Page 3, line 12, replace "4,370,054" with "4,296,195"

Page 3, remove lines 14 and 15

Page 3, line 16, replace "18,852,241" with "17,265,256"

Page 3, line 17, replace "10,423,054" with "10,589,332"

Page 3, line 18, replace "8,429,187" with "6,675,924"

Page 3, line 20, replace "151,825" with "151,332"

Page 3, line 21, replace "18,365,509" with "18,485,400"

Page 3, line 22, replace "18,517,334" with "18,636,732"

Page 3, line 23, replace "10,672,110" with "10,922,681"

Page 3, line 24, replace "7,845,224" with "7,714,051"

Page 3, line 26, replace "9,332,090" with "9,386,728"

Page 3, line 27, replace "4,209,971" with "4,341,654"

Page 3, line 28, replace "5,122,119" with "5,045,074"

Page 4, line 1, replace "17,996,234" with "17,918,416"

Page 4, line 2, replace "10,507,579" with "10,680,615"

Page 4, line 3, replace "7,488,655" with "7,237,801"

Page 4, line 5, replace "8,803,927" with "8,900,485"

Page 4, line 6, replace "4,502,332" with "4,626,639"

Page 4, line 7, replace "4,301,595" with "4,273,846"

Page 4, line 10, replace "48,609,561" with "49,170,289"

Page 4, line 11, replace "50,309,226" with "50,869,954"

Page 4, line 12, replace "15,767,334" with "15,717,017"

Page 4, line 13, replace "34,541,892" with "35,152,937"

Page 4, line 16, replace "39,281,922" with "39,031,377"

Page 4, line 17, replace "39,477,312" with "39,226,767"

Page 4, line 18, replace "30,018,365" with "29,840,448"

Page 4, line 19, replace "9,458,947" with "9,386,319"

Page 4, line 20, replace "192,722,246" with "191,595,636"

Page 4, line 21, replace "99,410,100" with "100,389,634"

Page 4, line 22, replace "93,312,146" with "91,206,002"

Page 4, line 23, replace "S.B. 2012" with "section 1" and replace "351,137,833" with "339,035,740"

Page 4, line 24, replace "S.B. 2012" with "section 1" and replace "864,792,671" with "863,982,501"

Page 4, line 25, replace "S.B. 2012" with "section 1" and replace "1,215,930,504" with "1,203,018,241"

Page 6, after line 13, insert:

**"SECTION 8.** A new section to chapter 25-03.2 of the North Dakota Century Code is created and enacted as follows:

**Moratorium on expansion of residential treatment center for children bed capacity.** Notwithstanding sections 25-03.2-03 and 25-03.2-08, the department may not issue a license under this chapter for any additional bed capacity for a residential treatment center for children above the state's gross number of beds licensed as of June 30, 1999.

**SECTION 9. AMENDMENT.** Subsection 3 of section 50-01.2-03.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. ~~The Notwithstanding any other provisions of law, the department shall seek appropriations for the purpose of providing additional financial assistance to reimburse county social service boards for human service program costs and local expenses of administering human service locally administered economic assistance programs in counties in which the presence of an Indian reservation substantially reduces the amount of property subject to taxation more than twenty percent of the caseload for these programs consists of people who reside on a federally recognized Indian reservation or property tax-exempt tribal trust lands. The reimbursement must be such that:~~
  - a. An affected county's expenses for locally administered economic assistance programs in excess of the statewide average of such costs, expressed in mills, for all other counties will be reimbursed at one hundred percent;
  - b. Each calendar year the affected counties will receive quarterly allocations based on the actual county expenses for the state fiscal year ending the previous June thirtieth and the most recent taxable valuations published pursuant to section 57-13-07 available on that date;
  - c. The reimbursement will be calculated for each county and reported to the county social service board prior to August first of the year preceding the allocation; and
  - d. For calendar year 2000, up to fifteen percent of the social service block grant funds available to all counties during that calendar year or general fund equivalents of social service block grant funds must be used for part of this reimbursement. For the first six months of calendar year 2001, up to seven and one-half percent of the social service block grant funds available to all counties during that calendar year or general fund equivalents of social service block grant funds must be used for part of this reimbursement."

Page 6, after line 30, insert:

"**SECTION 11.** A new section to chapter 50-11 of the North Dakota Century Code is created and enacted as follows:

**Moratorium on expansion of residential child care facility bed capacity.** Notwithstanding sections 50-11-02 and 50-11-09, the department may not issue a license under this chapter for any additional bed capacity for a residential child care facility above the state's gross number of beds licensed as of June 30, 1999.

**SECTION 12.** A new chapter to title 50 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** As used in this chapter:

1. "Children's health insurance program" means a program to provide health assistance to low-income children funded through title XXI of the federal Social Security Act [42 U.S.C. 1397aa, et seq.].
2. "County agency" means the county social service board.
3. "Department" means the department of human services.
4. "Plan" means the children's health insurance program state plan.
5. "Poverty line" means the official income poverty line as defined by the United States office of management and budget and revised annually in accordance with 42 U.S.C. 9902(2), applicable to a family of the size involved.

**Duties of the department.** The department shall:

1. Prepare, submit, and implement the plan that includes eligibility determinations for self-employed applicants based on the average of the previous three years of adjusted gross income, which means the adjusted gross income as computed for an individual for federal income tax purposes under the Internal Revenue Code;
2. Supervise the administration of the children's health insurance program throughout this state;
3. Take action, give directions, and adopt rules as may be necessary or desirable to carry out the provisions of this chapter;
4. After federal approval of the plan, apply for a federal waiver allowing plan coverage for a family through an employer-based insurance policy if an employer-based family insurance policy is more cost-effective than the traditional plan coverage for the children;
5. Report annually to the legislative council and describe enrollment statistics and costs associated with the plan;
6. Reimburse counties for expenses incurred in the administration of the children's health insurance program at rates based upon all counties' total administrative costs; and
7. Administer all funds appropriated or made available to the department for the purpose of carrying out the provisions of this chapter.

**Duties of county agency.** In the administration of the plan, unless the department otherwise establishes eligibility, the county agency shall:

1. Administer the plan under the direction and supervision of the department; and
2. Make an investigation and record the circumstances of each applicant, obtaining information as may be required by the department.

**Plan requirements.** The plan:

1. Must be provided through private contracts with insurance carriers;
2. Must allow conversion to another health insurance policy;
3. Must be based on an actuarial equivalent of a benchmark plan;
4. Must incorporate every state-required waiver approved by the federal government;
5. Must include community-based eligibility outreach services; and
6. Must provide:
  - a. An income eligibility limit of one hundred forty percent of the poverty line;
  - b. A copayment requirement for each pharmaceutical prescription and for each emergency room visit;
  - c. A deductible for each inpatient hospital visit;
  - d. Coverage for:
    - (1) Inpatient hospital, medical, and surgical services;
    - (2) Outpatient hospital and medical services;
    - (3) Psychiatric and substance abuse services;
    - (4) Prescription medications;
    - (5) Preventive screening services;
    - (6) Preventive dental and vision services; and
    - (7) Prenatal services; and
  - e. A coverage effective date that is the first day of the month, following the date of application and determination of eligibility.

**Limitations of chapter.** Health assistance provided under this chapter is not an entitlement. A person does not have a property interest in any health assistance sought or provided under this chapter. If the department estimates that available funds are insufficient to allow participation by additional applicants, the department may take any action appropriate to avoid commitment of funds in excess of available funds, including denying applications and establishing waiting lists, that is not forbidden by title XXI of the federal Social Security Act [42 U.S.C. 1397aa, et seq.] or regulations adopted thereunder. If federal children's health insurance program funding decreases, the department may decrease the income eligibility limit to accommodate the decrease in federal funding, notwithstanding any other provisions of this chapter."

Page 7, remove lines 1 through 31

Page 8, remove lines 1 through 19

Page 10, replace lines 4 through 6 with:

**"SECTION 18. NORTHEAST HUMAN SERVICE CENTER BUDGET SAVINGS - BUDGET SECTION REPORT.** The department of human services shall identify savings in the budget to be requested for the northeast human service center for the 2001-03 biennium totaling five hundred thousand dollars from the general fund through efficiencies and related to the collocation of service delivery. The department of human services shall present a report regarding the planned reductions to the budget section prior to the submission of the department's budget request for the 2001-03 biennium."

Page 10, after line 28, insert:

**"SECTION 24. LEGISLATIVE INTENT - SOCIAL SERVICES BLOCK GRANT FUNDING.** It is the intent of the legislative assembly that the department of human services in presenting the department's budget request for the 2001-03 biennium to the

fifty-seventh legislative assembly identify the use of social services block grant funds, including information on any proposed federal changes in the block grant funding, and identify specific areas where an appropriation from the state general fund is requested to replace reduced social services block grant funds.

**SECTION 25. LEGISLATIVE INTENT - DEPARTMENT OF HUMAN SERVICES PROGRAMS - PROGRAM EFFICIENCIES - APPROPRIATE USE OF FEDERAL FUNDS - REPORTS TO THE LEGISLATIVE COUNCIL.** It is the intent of the legislative assembly that the department of human services review departmental program funding issues during the 1999-2000 interim, including the appropriateness of maximizing the use of federal funds, the opportunities to reduce general fund program expenditures, the appropriate methods to provide detailed justification prior to the expansion of programs, the appropriateness of the state replacing reductions in federal funds with state resources, the coordination of programs to avoid duplication in program delivery, and the cost/benefit of programs. The department of human services shall report its findings and recommendations as a result of reviewing these issues to the legislative council, or an appropriate committee of the legislative council during the 1999-2000 interim.

**SECTION 26. LEGISLATIVE INTENT - NURSING HOME LIMITATIONS - BUDGET SECTION APPROVAL.** It is the intent of the legislative assembly that the department of human services not reduce the nursing home limitations for direct, other direct, and indirect cost categories from the levels anticipated in the executive budget and contained in section 1 of this Act during the biennium beginning July 1, 1999, and ending June 30, 2001, unless receiving prior budget section approval.

**SECTION 27. LEGISLATIVE INTENT - WAGE INCREASES FOR DIRECT CONTACT AND PROFESSIONAL STAFF OF COMMUNITY DEVELOPMENTAL DISABILITIES PROVIDER AGENCIES.** It is the intent of the legislative assembly that funding increases provided community developmental disabilities provider agencies in subdivision 2 of section 1 of this Act specifically for salaries and wages adjustments be allocated by the department of human services specifically to the salaries and wages line item for the individual provider agencies and those funds be used only for that purpose by the provider agencies.

**SECTION 28. LEGISLATIVE COUNCIL STUDY - HUMAN SERVICE CENTER SERVICES.** The legislative council shall consider studying during the 1999-2000 interim the services provided by human service centers, including the appropriateness of and justification for continuing human service center programs, the cost/benefit of human service programs, methods for evaluating the effectiveness and outcomes of human service center programs, and the need to establish priorities relating to human service center programs.

**SECTION 29. LEGISLATIVE COUNCIL STUDY - NURSING HOME REGULATIONS - IMPACT ON COST OF CARE.** The legislative council shall consider studying during the 1999-2000 interim the state and federal regulations relating to nursing homes, the impact of those regulations on the cost of care at North Dakota nursing homes, and state options for reducing regulations and the related reductions in cost of care.

**SECTION 30. LEGISLATIVE COUNCIL STUDY - NURSING HOME RATE EQUALIZATION.** The legislative council shall consider studying during the 1999-2000 interim the appropriateness of the state continuing rate equalization for private pay and public pay residents in nursing homes, including the fiscal impact on private pay and public pay residents of the repeal of rate equalization.

**SECTION 31. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying, during the 1999-2000 interim, the feasibility and desirability of collocating the developmental center and the state hospital at one location and the feasibility and desirability of transferring additional buildings on the state hospital grounds to the department of corrections and rehabilitation."

Page 11, after line 6, insert:

**"SECTION 34. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - NETWORK TECHNICAL SUPPORT.** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, and federal funds of \$50,000 to the department of human services for the purpose of providing network technical

support to county social service boards, for the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 35. CONTINGENT APPROPRIATION - TRAUMATIC BRAIN-INJURED FACILITY.** There is hereby appropriated a total of \$200,000, including \$140,000 of federal funds and \$60,000 from the general fund in the state treasury, not otherwise appropriated, or so much of the funds as may be necessary, for the biennium beginning July 1, 1999, and ending June 30, 2001. This money may be spent by the department of human services only if additional beds for traumatic brain-injured persons are established in western North Dakota and after receiving emergency commission and budget section approval.

**SECTION 36. LEGISLATIVE INTENT - COMPREHENSIVE CHILD WELFARE INFORMATION AND PAYMENT SYSTEM.** It is the intent of the legislative assembly that the funding provided in subdivision 1 of section 1 of this Act for the comprehensive child welfare information and payment system is for the completion of the project during the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 37. CONTINGENT GENERAL FUND APPROPRIATION - SPED PROGRAM.** The estimated income line item in subdivision 3 of section 1 of this bill includes \$4,262,410 from special funds derived from the health care trust fund created pursuant to Senate Bill No. 2168. In the event that moneys in the health care trust fund are less than anticipated resulting in a reduction of funds available for the SPED program there is hereby appropriated up to \$4,262,410, or so much of the funds as may be necessary, from the general fund in the state treasury, not otherwise appropriated, for the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 38. 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 state hospital all income from a permanent fund managed for this institution."

Page 11, after line 8, insert:

"**SECTION 40. EFFECTIVE DATE.** Section 9 of this Act becomes effective on January 1, 2000, and section 12 of this Act becomes effective on October 1, 1999.

**SECTION 41. EXPIRATION DATE.** Sections 8 and 11 of this Act are effective through June 30, 2001, and after that date are ineffective."

Page 11, line 12, replace "16" with "17"

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 325 - DEPARTMENT OF HUMAN SERVICES

CONFERENCE COMMITTEE - This amendment makes the following changes:

DESCRIPTION	FTE CHANGE	FUNDING		
		TOTAL	GENERAL FUND	OTHER FUNDS
Subdivision 1 - Management and Councils - Engrossed SB 2012	123.60	\$55,310,518	\$14,496,791	\$40,813,727
Conference Committee changes:				
Correct Senate amendments - Proper line items for computer projects				
Transfer 8 technology support FTE from human service centers	8.00	777,738	701,767	75,971
Add funds to reduce vacant position savings		196,088	61,067	135,021
Reduce operating expenses by 1 percent (37 percent general fund)		(383,593)	(141,929)	(241,664)
Reduce operating expenses - Office supplies (37 percent general fund)		(150,000)	(55,500)	(94,500)
Reduce equipment by 10 percent (55 percent general fund)		(198,078)	(108,943)	(89,135)
Remove funding for MMIS decision support project manager	(1.00)	(77,850)	(42,818)	(35,032)
Remove funding for project manager	(1.00)	(77,850)	(42,818)	(35,032)
Remove funding for 2 unidentified new computer-related FTE positions	(2.00)	(113,333)	(62,333)	(51,000)
Changes to Subdivision 1	<u>4.00</u>	<u>(26,878)</u>	<u>308,493</u>	<u>(335,371)</u>
SUBDIVISION 1 TOTAL	127.60	\$55,283,640	\$14,805,284	\$40,478,356

DESCRIPTION	FTE CHANGE	FUNDING		
		TOTAL	GENERAL FUND	OTHER FUNDS
Subdivision 2 - Economic Assistance - Engrossed SB 2012	111.80	\$818,700,935	\$199,957,378	\$618,743,557
Conference Committee changes:				
Add funds to reduce vacant position savings		128,311	39,960	88,351
Remove funding for welfare fraud units added by Senate		(562,412)	(212,729)	(349,683)
Add additional funding for Indian counties - Also related statutory changes to provide a total of \$1,776,420		118,564	118,564	
Reduce funding for basic care and reduce general fund by "retained"		(288,322)	(288,322)	

funds saved				
Medical assistance grants:				
Drugs - Allow a total of \$50,354,267	3,150,000	945,000	2,205,000	
Physicians - Reflect reprojction decrease - Allow a total of \$37,420,671	(755,021)	(226,506)	(528,515)	
Outpatient hospital - Allow 30 percent of reprojction increase - Allow a total of \$33,671,184	600,000	180,000	420,000	
Indian Health Service - Allow reprojction increase - Allow a total of \$14,269,180	453,551		453,551	
Dental - Allow reprojction decrease - Allow a total of \$9,888,492	(59,519)	(17,856)	(41,663)	
Premiums Social Security - Allow reprojction decrease - Allow a total of \$4,687,464	(255,352)	(76,606)	(178,746)	
Rural health clinics - Reflect reprojction decrease - Allow \$4,021,989	(98,850)	(29,655)	(69,195)	
Treatment services - Children in private facilities - Reduce to \$5,400,000	(1,350,665)	(405,200)	(945,465)	
Durable medical equipment - Reduce to \$4,199,096	(400,000)	(120,000)	(280,000)	
Home health services - Increase to \$4,034,500	350,000	105,000	245,000	
Health maintenance organization premiums - Reduce to allow reprojction of \$3,028,860	(54,828)	(16,449)	(38,379)	
Optometric services - Reduce to \$1,512,318 - 1997-99 projected level	(129,984)	(38,995)	(90,989)	
Qualified Medicaid beneficiary premiums - Reduce to allow reprojction of \$1,757,315	(21,786)	(6,536)	(15,250)	
Speech and hearing services - Reduce to allow reprojction of \$1,625,667	(236,152)	(70,846)	(165,306)	
Refugee assistance - Increase to allow reprojction of \$1,512,348	81,828		81,828	
Hospice services - Reduce to allow reprojction of \$1,719,019	(238,223)	(71,467)	(166,756)	
Psychological services - Reduce to allow \$700,383	(38,649)	(11,595)	(27,054)	
Ambulance services - Increase to allow \$1,119,068	276,000	82,800	193,200	
Targeted case management - Pregnant women and infants - Reduce to \$104,904	(300,000)	(90,000)	(210,000)	
Special low income Medicare beneficiary premiums - Reduce to \$550,000	(87,168)	(26,150)	(61,018)	
Chiropractic services - Reduce to \$382,749	(29,733)	(8,920)	(20,813)	
Group health insurance premiums - Reduce to \$324,840	(15,264)	(4,579)	(10,685)	
Reduce operating funding for the Medicaid division	(75,000)	(21,750)	(53,250)	
Long-term care - Rebase on 96 data - Reflect updated CPI(2.0/2.2) and DRI	(2,707,342)	(812,203)	(1,895,139)	
Long-term care - Reduce number of beds - 100	(6,048,000)	(1,814,400)	(4,233,600)	
Targeted case management remove Senate addition, transfer \$273,677 to SPED	(994,000)	(273,677)	(720,323)	
CHIP program fund administrative costs	330,000	69,300	260,700	
Medical assistance/developmental disabilities grants:				
Reduce DD grants - Allow 36 cents per hour	(1,222,731)	(408,906)	(813,825)	
Reduce general fund increase special funds to reflect parent contributions		(500,000)	500,000	
Changes to Subdivision 2		<u>(10,480,747)</u>	<u>(4,012,723)</u>	<u>(6,468,024)</u>
SUBDIVISION 2 TOTAL	111.80	\$808,220,188	\$195,944,655	\$612,275,533

DESCRIPTION	FTE CHANGE	FUNDING		
		TOTAL	GENERAL FUND	OTHER FUNDS
Subdivision 3 - Program and Policy - Engrossed SB 2012	118.70	\$148,996,805	\$43,371,518	\$105,625,287
Conference Committee changes:				
Use additional available TANF dollars to replace general fund dollars in excess of maintenance of effort requirements - Funding source change			(1,115,851)	1,115,851
Add funds to reduce vacant position savings		172,532	53,731	118,801
Aging services changes:				
Restore Senate transfer to Subdivision 2 to SPED		273,677	273,677	
Recognize SPED funding from SB 2168, contingent general fund appropriation			(4,262,410)	4,262,410
Reduce funding for operating - General reduction		(50,000)	(26,500)	(23,500)
Children and family services changes:				
Reduce funding for foster care grants - Residential child care facility to 4.5%		(288,313)	(172,855)	(115,458)
Reduce funding for foster care grants - Family home care to 2.25%		(49,140)	(22,010)	(27,130)
Reduce funding for foster care grants - Subsidized adoption to 2.5%		(13,806)	(5,358)	(8,448)
Adjust line items for Senate reduction for multicounty child protection assessment				
Reduce funding for foster care grants - Savings from additional therapeutic beds		(419,180)	(185,662)	(233,518)
Reduce funding for early childhood grants		(561,000)	(561,000)	
Add additional funding for Adoption and Safe Families Act:				
Background checks - Administrative staff	0.50	26,656	13,328	13,328
Court costs - Operating		650,000	325,000	325,000
Guardianship grants		(66,533)	(104,703)	38,170
Family focus grants transfer from operating, add \$19,458 of special funds		19,458		19,458
Review teams - Operating		20,371	5,088	15,283
Mental health services changes:				
Remove increased funding for compulsive gambling		(50,000)	(50,000)	
Substance abuse services changes:				
Reduce funding for operating - General reduction		(15,000)	(15,000)	
Developmental disabilities services changes:				
Reduce funding for operating - Assist computer project for providers		(653,000)	(394,494)	(258,506)
Reduce funding for operating - General reduction		(42,500)	(14,450)	(28,050)
Vocational rehabilitation services changes:				
Reduce funding for operating - General reduction		(2,250)	(2,250)	
Reduce funding for grants - Extended services		<u>(30,000)</u>	<u>(30,000)</u>	
Changes to Subdivision 3	<u>0.50</u>	<u>(1,078,028)</u>	<u>(6,291,719)</u>	<u>5,213,691</u>
SUBDIVISION 3 TOTAL	119.20	\$147,918,777	\$37,079,799	\$110,838,978
Subdivision 4 - Human Service Centers and Institutions - Engrossed SB 2012	1,918.50	\$192,722,246	\$93,312,146	\$99,410,100
Conference Committee changes:				
Transfer 8 technology support FTE to Information Services Division includes \$493 of capital improvements for Southeast HSC	(8.00)	(777,738)	(701,767)	(75,971)
Northeast Human Service Center - Remove Senate Amendments:				
Remove purchase of building		(895,000)	(895,000)	
Remove related maintenance costs of \$3/sq. ft. @ 39,433 sq. ft.		(236,598)	(125,400)	(111,198)
Remove building improvements		(376,335)	(376,335)	
Remove additional rent from unused space		(75,000)	94,032	(169,032)
Restore facility rent		945,226	504,905	440,321
Reduce facility rent increase		(63,654)	(34,002)	(29,652)

Reduce operating expenses		(100,000)	(100,000)	
Northeast Human Service Center - Other changes:				
Add funds to reduce vacant position savings		307,034	95,618	211,416
Restore funding for Harvest Home services removed by Senate		150,000	67,000	83,000
Remove funding additional advisory council meetings - OAR 301		(7,709)	(7,044)	(665)
Delay funding for CD adolescent treatment facility 3 months - OAR 204		(128,934)	(128,934)	
Delay State Hospital alternative by 6 months and reduce by one-fourth - OAR 209	(3.50)	(479,934)	(329,943)	(149,991)
General fund savings are from Title XX funding available from reduction				
Recognize funding available from Title XX funding nurse FTE removed - OAR 210			(17,127)	17,127
Remove funding for targeted case management - OAR 217	(2.00)	(235,781)	(168,639)	(67,142)
Remove funding for DD case manager - OAR 227	(0.50)	(41,462)	(30,694)	(10,768)
Reduce funding for SMI work activity - Operating - OAR 234		(20,000)	(20,000)	
Reduce funding for operating - Telecommunications - OAR 292		(26,040)	(23,793)	(2,247)
Reduce funding for operating - Training - OAR 293		(13,930)	(13,930)	
Reduce funding for operating - Rhinelander project OAR 311		(63,636)	(63,636)	
Reduce funding for operating - General reduction		(65,000)	(29,250)	(35,750)
Reduce funding for grants - General reduction		(54,327)	(54,327)	
Northwest Human Service Center changes:				
Add funds to reduce vacant position savings		187,845	58,500	129,345
Reduce funding for salaries - Information proc.II - OAR 283	(1.00)	(48,604)	(43,896)	(4,708)
Reduce funding for salaries - Psychologist II - OAR 247	(1.00)	(66,818)	(66,818)	
Reduce funding for operating - OAR 294 and 286		(27,650)	(27,650)	
Reduce funding for operating - General reduction		(22,350)	(12,292)	(10,058)
Reduce funding for grants - General reduction		(10,000)	(10,000)	
North Central Human Service Center changes:				
Add funds to reduce vacant position savings		275,774	85,883	189,891
Reduce funding for salaries - Social worker II - Position 2057	(0.30)	(16,520)	(3,259)	(13,261)
Reduce funding for operating - Rhinelander project		(60,721)	(60,721)	
Reduce funding for operating - General reduction		(26,000)	(13,040)	(12,960)
Reduce funding for equipment - General reduction		(1,000)	(1,000)	
Reduce funding for grants - General reduction		(65,000)	(65,000)	
Lake Region Human Service Center changes:				
Add funds to reduce vacant position savings		184,211	57,368	126,843
Reduce funding for operating - General reduction		(29,050)	(16,340)	(12,710)
Reduce funding for equipment - General reduction		(1,950)	(1,950)	
Reduce funding for grants - General reduction		(12,500)	(12,500)	
Southeast Human Service Center changes:				
Add funds to reduce vacant position savings		375,335	116,889	258,446
Change funding for salaries - Sexual abuse treatment social worker			(35,673)	35,673
Reduce funding for operating - Rhinelander project		(36,500)	(36,500)	
Reduce funding for operating - General reduction		(55,000)	(20,200)	(34,800)
Reduce funding for equipment - General reduction		(5,000)	(5,000)	
Reduce funding for grants - General reduction		(60,000)	(60,000)	
South Central Human Service Center changes:				
Add funds to reduce vacant position savings		225,139	70,114	155,025
Reduce funding for operating - OAR 251		(40,265)	(35,957)	(4,308)
Reduce funding for operating - Work activity OAR 236		(22,579)	(22,579)	
Reduce funding for operating - General reduction		(22,000)	(12,100)	(9,900)
West Central Human Service Center changes:				
Add funds to reduce vacant position savings		283,894	88,412	195,482
Reduce funding for grants - Peer youth contract - SED - OAR 241		(10,800)	(10,800)	
Reduce funding for grants - Partnership evaluation component - OAR 252		(40,000)	(40,000)	
Reduce funding for grants - Contracted case mgmt - Penitentiary - OAR 302		(70,000)	(70,000)	
Reduce funding for grants - Contracted case mgmt - SMI - OAR 237		(24,745)	(24,745)	
Reduce funding for grants - Reduce Decotah Foundation inflation - OAR 273		(17,500)	(17,500)	
Reduce funding for operating - General reduction		(22,000)	(9,240)	(12,760)
Reduce funding for grants - General reduction		(75,000)	(75,000)	
Badlands Human Service Center changes:				
Add funds to reduce vacant position savings		204,379	63,649	140,730
Reduce funding for grants - Respite care contract - OAR 249		(10,000)	(10,000)	
Reduce funding for operating - General reduction		(15,000)	(7,350)	(7,650)
State Hospital changes:				
Add funds to reduce vacant position savings		1,118,198	520,379	597,819
Reduce funding for salaries - Unspecified		(250,000)	(250,000)	
Reduce funding for operating - Travel		(50,000)	(50,000)	
Reduce funding for operating - Utilities		(87,842)	(87,842)	
Reduce funding for operating - Postage		(6,533)	(6,533)	
Reduce funding for operating - Lease/rental equipment		(3,095)	(3,095)	
Reduce funding for operating - Professional development		(35,000)	(35,000)	
Reduce funding for operating - Professional services		(100,000)	(100,000)	
Reduce funding for operating - Professional supplies and materials		(15,000)	(15,000)	
Reduce funding for equipment - Office equipment and furniture		(10,000)	(10,000)	
Recognize additional land department income			(73,926)	73,926
Replace revenue loss with general fund			722,062	(722,062)
Developmental Center changes:				
Add funds to reduce vacant position savings		221,951	69,121	152,830
Reduce funding for operating - Travel		(30,000)	(9,000)	(21,000)
Reduce funding for operating - Utilities		(50,000)	(15,000)	(35,000)
Reduce funding for operating - Lease/rental equipment		(25,000)	(7,500)	(17,500)
Reduce funding for operating - Operating fees and services		(50,000)	(15,000)	(35,000)
Reduce funding for operating - Repairs		(13,050)	(3,915)	(9,135)
Reduce funding for operating - Office supplies		(3,000)	(900)	(2,100)
Reduce funding for operating - Printing		(20,000)	(6,000)	(14,000)
Reduce funding for operating - Food and clothing		(125,825)	(37,747)	(88,078)
Reduce funding for operating - Medical, dental, and optical		(62,499)	(18,750)	(43,749)
Reduce funding for operating - Buildings, grounds, and vehicle maintenance supplies		(37,743)	(11,323)	(26,420)
Reduce funding for operating - Miscellaneous supplies		(55,379)	(16,614)	(38,765)
Changes to Subdivision 4	(16.30)	(\$1,126,610)	(\$2,106,144)	\$979,534
SUBDIVISION 4 TOTAL	1,902.20	\$191,595,636	\$91,206,002	\$100,389,634
Grand Total Section 1 Senate Bill No. 2012		\$1,203,018,241	\$339,035,740	\$863,982,501
Section - Network technical support		100,000	50,000	50,000
Section - lands and minerals trust fund Developmental Center		200,000		200,000
Section - contingency appropriation		200,000	60,000	140,000

TBI program			
Section - contingency appropriation SPED	4,262,410	4,262,410	
Grand Total Senate Bill No. 2012	\$1,207,780,651	\$343,408,150	\$864,372,501

## FUNDING COMPARISON

	TOTAL	GENERAL FUND	OTHER FUNDS
TOTAL DEPARTMENT OF HUMAN SERVICES - EXECUTIVE BUDGET	\$1,215,667,318	\$355,165,387	\$860,501,931
SENATE CHANGES	263,186	(4,027,554)	4,290,740
ENGROSSED SENATE BILL NO. 2012	\$1,215,930,504	\$351,137,833	\$864,792,671
CONFERENCE COMMITTEE CHANGES (INCLUDING CONTINGENCY APPROPRIATIONS)	(8,149,853)	(7,729,683)	(420,170)
SENATE BILL NO. 2012	\$1,207,780,651	\$343,408,150	\$864,372,501
HOUSE VERSION SENATE BILL NO. 2012 (INCLUDING CONTINGENCY APPROPRIATIONS)	1,200,613,265	339,668,012	860,945,253

This amendment includes:

A contingency appropriation section traumatic brain injured \$200,000, of which \$60,000 is from the general fund.

A contingency appropriation section SPED program of \$4,262,410 from the general fund.

- Adds Section 9 to make the statutory changes related to state assistance for Indian counties by making up to 15 percent of social service block grant funds available for calendar year 2000 and up to 7.5 percent for calendar year 2001. In addition, \$118,564 from the general fund is added to provide a total of \$1,776,420 from the general fund for the 1999-2001 biennium.
- Adds Sections 8 and 11 to provide a moratorium on residential child care and treatment facilities through June 30, 2001.
- Provides Section 12 regarding the Children's Health Insurance Program.
- Provides legislative intent that the Department of Human Services provide in the 2001-03 biennium budget process information regarding the use of social services block grant moneys including any pending reductions and any Department of Human Services requests for moneys from the state general fund to replace reductions in the social services block grant funding; regarding use of federal funds; and regarding nursing home limitations regarding wage increases for the developmentally disabled providers.
- Provides for an interim Legislative Council study of the feasibility and desirability of collocating the Developmental Center and the State Hospital at one location and the feasibility and desirability of transferring additional buildings on the State Hospital grounds to the Department of Corrections and Rehabilitation, of human service center services, of nursing home regulations, and of nursing home rate equalization.
- Provides an appropriation for network technical support of \$100,000, \$50,000 from the general fund.
- Provides a contingent appropriation of \$200,000, \$60,000 from the general fund for traumatic brain injury beds.
- Provides a contingent general fund appropriation of \$4,262,410 for the SPED program.
- Provides a section requiring the Department of Human Services to identify budget reductions at the Northeast Human Service Center for the 2001-03 biennium relating to the collocation of service delivery.

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

#### REPORT OF CONFERENCE COMMITTEE

**SEN. ST. AUBYN MOVED** that the conference committee report on Engrossed SB 2012 be adopted.

#### REQUEST

**SEN. KRAUTER REQUESTED** a recorded roll call vote on the motion to adopt the conference committee report on Engrossed SB 2012, which request was granted.

#### ROLL CALL

The question being on the motion to adopt the conference committee report on Engrossed SB 2012, the roll was called and there were 32 YEAS, 16 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Kinnoin; 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; Krauter; Kroeplin; Lindaas; Mathern, D.; Mathern, T.; Mutzenberger; Nelson, C.; O'Connell; Redlin; Robinson; Tallackson; Thompson; Tomac

**ABSENT AND NOT VOTING:** Bercier

The conference committee report on Engrossed SB 2012 was adopted. Engrossed SB 2012, as amended, was placed on the Eleventh order.

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

**SB 2012:** A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; to create and enact a new section to chapter 25-03.2, a new section to chapter 50-09, a new section to chapter 50-11, a new chapter to title 50, and a new section to chapter 50-24.4 of the North Dakota Century Code, relating to a moratorium on residential treatment center and residential child care facility beds, the children's health insurance program, the county share of foster care costs, and the limits on geropsychiatric nursing facilities; to amend and reenact section 25-03.1-04, subsection 3 of section 50-01.2-03.2, subsection 5 of section 50-24.4-10, and section 50-24.4-13 of the North Dakota Century Code, relating to public treatment facilities, human services financing in exceptional circumstances, operating cost limits for nursing homes, and to exceptions to case mix nursing home rates; to amend and reenact section 4 of chapter 561 of the 1991 Session Laws, as amended by section 18 of chapter 2 of the 1993 Session Laws, section 9 of chapter 34 of the 1995 Session Laws, and section 16 of chapter 12 of the 1997 Session Laws, relating to appropriation for projects at westwood park; to repeal section 25-04-20 of the North Dakota Century Code, relating to the westwood park assets management committee; to provide for the transfer of appropriations between agencies and institutions; to provide for reports to the budget section; to provide for a legislative council study; to provide legislative intent; to provide a contingent appropriation; to provide for land board distributions; to provide an effective date; to provide an expiration date; 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 SB 2012, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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#### **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 2012.

#### **MOTION**

**SEN. ST. AUBYN MOVED** that the Senate stand in recess until 2:30 p.m., which motion prevailed.

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

#### **MOTION**

**SEN. ST. AUBYN MOVED** that the Senate stand in recess until 2:45 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 President has signed and your signature is respectfully requested on: SB 2013, SB 2020, SB 2162.

**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 1183.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1183, as reengrossed:** Your conference committee (Sens. Urlacher, Christmann, Kinnoin and Reps. Keiser, Dalrymple, Huether) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1093-1095, adopt amendments as follows, and place HB 1183 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1093-1095 of the House Journal and pages 956 and 957 of the Senate Journal and that Reengrossed House Bill No. 1183 be amended as follows:

Page 1, line 1, remove "to create and enact a new section to chapter 57-43.1 and a new section to"

Page 1, remove line 2

Page 1, line 3, remove "taxes and special fuel taxes;"

Page 1, line 5, after the first semicolon insert "to provide for a legislative council study; and" and remove "; and to provide an"

Page 1, line 6, remove "expiration date"

Page 2, replace lines 2 through 9 with:

"Less than 3,200	<del>\$49.00</del> <u>50.00</u>	<del>\$44.00</del> <u>42.00</u>	<del>\$33.00</del> <u>34.00</u>	<del>\$25.00</del> <u>26.00</u>
3,200-4,499	<del>69.00</del> <u>70.00</u>	<del>57.00</del> <u>58.00</u>	<del>45.00</del> <u>46.00</u>	<del>33.00</del> <u>34.00</u>
4,500-4,999	<del>87.00</del> <u>88.00</u>	<del>70.00</del> <u>71.00</u>	<del>55.00</del> <u>56.00</u>	<del>39.00</del> <u>40.00</u>
5,000-5,999	<del>118.00</del> <u>119.00</u>	<del>96.00</del> <u>97.00</u>	<del>74.00</del> <u>75.00</u>	<del>52.00</del> <u>53.00</u>
6,000-6,999	<del>151.00</del> <u>152.00</u>	<del>122.00</del> <u>123.00</u>	<del>93.00</del> <u>94.00</u>	<del>65.00</del> <u>66.00</u>
7,000-7,999	<del>184.00</del> <u>185.00</u>	<del>148.00</del> <u>149.00</u>	<del>113.00</del> <u>114.00</u>	<del>78.00</del> <u>79.00</u>
8,000-8,999	<del>217.00</del> <u>218.00</u>	<del>175.00</del> <u>176.00</u>	<del>133.00</del> <u>134.00</u>	<del>91.00</del> <u>92.00</u>
9,000 and over	<del>250.00</del> <u>251.00</u>	<del>201.00</del> <u>202.00</u>	<del>153.00</del> <u>154.00</u>	<del>104.00</del> <u>105.00</u>

Page 2, replace lines 21 through 30 with:

"Gross Weights	1st-2nd, 3rd, 4th, 5th, and through 6th Years	7th and 8th through 9th Years	9th and 10th through 12th Years	11th and Subsequent 13th through 19th Years	20th and Subsequent Years
Not over 4,000	<del>\$47.00</del> <u>48.00</u>	<del>\$34.00</del> <u>35.00</u>	<del>\$29.00</del> <u>30.00</u>	<del>\$26.00</del> <u>27.00</u>	<del>\$26.00</del> <u>27.00</u>
4,001- 6,000	<del>52.00</del> <u>53.00</u>	<del>39.00</del> <u>40.00</u>	<del>33.00</del> <u>34.00</u>	<del>27.00</del> <u>28.00</u>	<del>27.00</del> <u>28.00</u>
6,001- 8,000	<del>57.00</del> <u>58.00</u>	<del>44.00</del> <u>45.00</u>	<del>37.00</del> <u>38.00</u>	<del>28.00</del> <u>29.00</u>	<del>28.00</del> <u>29.00</u>
8,001-10,000	<del>62.00</del> <u>63.00</u>	<del>49.00</del> <u>50.00</u>	<del>41.00</del> <u>42.00</u>	<del>30.00</del> <u>31.00</u>	<del>30.00</del> <u>31.00</u>
10,001-12,000	<del>67.00</del> <u>68.00</u>	<del>54.00</del> <u>55.00</u>	<del>45.00</del> <u>46.00</u>	<del>32.00</del> <u>33.00</u>	<del>32.00</del> <u>33.00</u>
12,001-14,000	<del>72.00</del> <u>73.00</u>	<del>59.00</del> <u>60.00</u>	<del>49.00</del> <u>50.00</u>	<del>35.00</del> <u>36.00</u>	<del>35.00</del> <u>36.00</u>
14,001-16,000	<del>77.00</del> <u>78.00</u>	<del>64.00</del> <u>65.00</u>	<del>53.00</del> <u>54.00</u>	<del>38.00</del> <u>39.00</u>	<del>38.00</del> <u>39.00</u>
16,001-18,000	<del>82.00</del> <u>83.00</u>	<del>69.00</del> <u>70.00</u>	<del>57.00</del> <u>58.00</u>	<del>40.00</del> <u>41.00</u>	<del>40.00</del> <u>41.00</u>
18,001-20,000	<del>85.00</del> <u>86.00</u>	<del>72.00</del> <u>73.00</u>	<del>59.00</del> <u>60.00</u>	<del>41.00</del> <u>42.00</u>	<del>41.00</del> <u>42.00</u>

Page 3, remove lines 1 and 2

Page 3, replace lines 7 through 28 with:

"20,001- 22,000	<del>\$115.00</del> <u>116.00</u>	<del>\$89.00</del> <u>90.00</u>	<del>\$76.00</del> <u>77.00</u>
22,001- 26,000	<del>167.00</del> <u>168.00</u>	<del>137.00</del> <u>138.00</u>	<del>124.00</del> <u>122.00</u>
26,001- 30,000	<del>228.00</del> <u>229.00</u>	<del>186.00</del> <u>187.00</u>	<del>164.00</del> <u>165.00</u>
30,001- 34,000	<del>294.00</del> <u>295.00</u>	<del>239.00</del> <u>240.00</u>	<del>211.00</del> <u>212.00</u>
34,001- 38,000	<del>355.00</del> <u>356.00</u>	<del>288.00</del> <u>289.00</u>	<del>254.00</del> <u>255.00</u>
38,001- 42,000	<del>416.00</del> <u>417.00</u>	<del>337.00</del> <u>338.00</u>	<del>296.00</del> <u>297.00</u>
42,001- 46,000	<del>477.00</del> <u>478.00</u>	<del>385.00</del> <u>386.00</u>	<del>339.00</del> <u>340.00</u>
46,001- 50,000	<del>538.00</del> <u>539.00</u>	<del>434.00</del> <u>435.00</u>	<del>382.00</del> <u>383.00</u>
50,001- 54,000	<del>599.00</del> <u>609.00</u>	<del>492.00</del> <u>493.00</u>	<del>433.00</del> <u>434.00</u>
54,001- 58,000	<del>660.00</del> <u>670.00</u>	<del>541.00</del> <u>542.00</u>	<del>476.00</del> <u>477.00</u>
58,001- 62,000	<del>720.00</del> <u>731.00</u>	<del>590.00</del> <u>591.00</u>	<del>519.00</del> <u>520.00</u>
62,001- 66,000	<del>781.00</del> <u>792.00</u>	<del>638.00</del> <u>639.00</u>	<del>562.00</del> <u>563.00</u>
66,001- 70,000	<del>842.00</del> <u>853.00</u>	<del>687.00</del> <u>688.00</u>	<del>604.00</del> <u>605.00</u>

70,001- 74,000	<del>943.00</del> 914.00	<del>736.00</del> 737.00	<del>647.00</del> 648.00
74,001- 78,000	<del>974.00</del> 975.00	<del>786.00</del> 786.00	<del>690.00</del> 691.00
78,001- 82,000	<del>1,036.00</del> 1,036.00	<del>834.00</del> 835.00	<del>733.00</del> 734.00
82,001- 86,000	<del>1,158.00</del> 1,159.00	<del>930.00</del> 940.00	<del>820.00</del> 821.00
86,001- 90,000	<del>1,280.00</del> 1,281.00	<del>1,043.00</del> 1,044.00	<del>907.00</del> 908.00
90,001- 94,000	<del>1,402.00</del> 1,403.00	<del>1,148.00</del> 1,149.00	<del>994.00</del> 995.00
94,001- 98,000	<del>1,524.00</del> 1,525.00	<del>1,253.00</del> 1,254.00	<del>1,082.00</del> 1,083.00
98,001-102,000	<del>1,646.00</del> 1,647.00	<del>1,357.00</del> 1,358.00	<del>1,160.00</del> 1,170.00
102,001-105,500	<del>1,768.00</del> 1,769.00	<del>1,462.00</del> 1,463.00	<del>1,256.00</del> 1,257.00

Page 11, line 20, overstrike "twenty" and insert immediately thereafter "twenty-one"

Page 12, remove lines 4 through 9

Page 12, line 13, overstrike "twenty" and insert immediately thereafter "twenty-one"

Page 12, replace lines 30 and 31 with:

**"SECTION 4. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying during the 1999-2000 interim the various sources of revenues for highway funding and comparisons with other states' highway funding systems to develop an optimum blend of reliable funding sources for highway purposes. If the legislative council conducts this study, the council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the fifty-seventh legislative assembly."

Page 13, remove lines 1 through 4

Page 13, line 5, remove "- **EXPIRATION DATE**", after the second period insert "Section 1 of this Act is effective for registration fees due after July 31, 1999.", and replace "through 5" with "and 3"

Page 13, line 7, remove "Sections 3 and 5 of this Act become ineffective for sale, use, or delivery of motor vehicle"

Page 13, remove lines 8 through 11

Re-number accordingly

Reengrossed HB 1183 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**SEN. URLACHER MOVED** that the conference committee report on Reengrossed HB 1183 be adopted, which motion prevailed, on a voice vote.

Reengrossed HB 1183, as amended, was placed on the Fourteenth order.

#### SECOND READING OF HOUSE BILL

**HB 1183:** A BILL for an Act to amend and reenact sections 39-04-19, 57-43.1-02, and 57-43.2-02 of the North Dakota Century Code, relating to motor vehicle registration fees, motor vehicle fuel taxes, and special fuel 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 35 YEAS, 12 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Fischer; Freborg; Grindberg; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutzenberger; Naaden; Nelson, G.; Nething; Redlin; Robinson; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**NAYS:** Bowman; Christmann; Cook; DeMers; Flakoll; Heitkamp; Krauter; Mutch; Nelson, C.; O'Connell; Sand; Schobinger

**ABSENT AND NOT VOTING:** Bercier; Tallackson

Reengrossed HB 1183, as amended, passed and the title was agreed to.

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**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 1183.

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

**MADAM PRESIDENT:** The Speaker has signed: SB 2008, SB 2009, SB 2013, SB 2020, SB 2023, SB 2043, SB 2044, SB 2162, SB 2168, SB 2180, SB 2188, SB 2242, SB 2307, SB 2344, SB 2355, SB 2410, SB 2441, SCR 4033.

**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 1003, HB 1011, HB 1012, HB 1016, HB 1019, HB 1022, HB 1038, HB 1131, HB 1135, HB 1462, HB 1475.

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

**MR. SPEAKER:** The President has signed: HB 1003, HB 1011, HB 1012, HB 1016, HB 1019, HB 1022, HB 1038, HB 1131, HB 1135, HB 1462, HB 1475.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolution was delivered to the Secretary of State for his filing on April 16, 1999: SCR 4033.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for his approval on April 16, 1999: SB 2008, SB 2009, SB 2013, SB 2020, SB 2023, SB 2043, SB 2044, SB 2162, SB 2168, SB 2180, SB 2188, SB 2242, SB 2307, SB 2344, SB 2355, SB 2410, SB 2441.

**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 2012.

**COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER**

This is to inform you that on April 16, 1999, I have signed the following: SB 2003, SB 2004, SB 2010, SB 2017, SB 2022, SB 2025, SB 2038, SB 2127, SB 2148, SB 2202, SB 2267, SB 2381, and SB 2419.

**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 2012.

**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.

**MOTION**

**SEN. ST. AUBYN MOVED** that the Senate stand in recess until 6:30 p.m., which motion prevailed.

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

**REPORT OF CONFERENCE COMMITTEE**

**SB 2015, as engrossed:** Your conference committee (Sens. Nething, G. Nelson, T. Mathern and Reps. Dorso, Dalrymple, Boucher) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1124-1128, adopt amendments as follows, and place SB 2015 on the Seventh order:

That the House recede from its amendments as printed on pages 1124-1128 of the Senate Journal and pages 1254-1258 of the House Journal and that Engrossed Senate Bill No. 2015 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation for defraying the expenses of the various divisions under the supervision of the director of the office of management and budget; to provide other appropriations; to provide for various transfers and financial transactions; to provide an exemption from the provisions of section 54-44.1-11 of the North Dakota Century Code; to provide statements of legislative intent; to provide for a legislative council study; to create and enact a new section to chapter 54-06, a new section to chapter 54-11, a new section to chapter 54-23.2, five new sections to chapter 57-34, and a new section to chapter 65-02

of the North Dakota Century Code, relating to the collection and receipt of public funds, mobile data terminal and 911 service fees, 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, and payments in lieu of taxes on workers compensation bureau property; to amend and reenact subsection 2 of section 4-14.1-07, section 15-39.1-26, subsection 2 of section 32-12.2-07, sections 34-15-07, 39-12-20, subdivision g of subsection 3 of section 49-23-04, sections 54-16-04.1, 54-16-04.2, 54-27.2-02, 54-44-04.6, 57-34-01, 57-34-02, 57-34-03, 57-34-06, and 57-34-10 of the North Dakota Century Code, relating to ethanol plants, the collection, investment, and deposit of state funds, time periods under the one-call excavation notice system, the risk management fund, emergency commission approvals, the budget stabilization fund, and telecommunications carriers gross receipts tax revenues; to provide a penalty; to provide a continuing appropriation; to provide an effective date; to provide an expiration date; to provide for retroactive application; to provide for application; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the various divisions under the supervision of the director of the office of management and budget for the purpose of defraying their expenses, for the biennium beginning July 1, 1999, and ending June 30, 2001, as follows:

Subdivision 1.

OFFICE OF MANAGEMENT AND BUDGET

Administration	\$2,982,026
Fiscal management	3,875,828
Facility management	8,074,694
Central personnel	1,212,300
Division of community services	42,035,197
Risk management	959,911
Statewide compensation plan	5,400,000
Total all funds	\$64,539,956
Less estimated income	<u>46,088,243</u>
Total general fund appropriation	\$18,451,713

Subdivision 2.

INFORMATION SERVICES DIVISION

Information resource management	\$49,659,295
Total all funds	\$49,659,295
Less estimated income	<u>49,409,295</u>
Total general fund appropriation	\$250,000

Subdivision 3.

CENTRAL SERVICES

Central services	\$5,454,471
Total all funds	\$5,454,471
Less estimated income	<u>4,774,332</u>
Total general fund appropriation	\$680,139

Subdivision 4.

STATE RADIO COMMUNICATIONS

Salaries and wages	\$2,468,120
Operating expenses	1,788,580
Equipment	<u>160,000</u>
Total all funds	\$4,416,700
Less estimated income	<u>514,990</u>
Total general fund appropriation	\$3,901,710
Grand total general fund appropriation section 1	\$23,283,562
Grand total special funds appropriation section 1	\$100,786,860
Grand total all funds appropriation section 1	\$124,070,422

**SECTION 2. APPROPRIATION.** There is hereby appropriated from federal funds \$6,000,000, or so much of the sum as may be necessary, to the director of the

office of management and budget for the division of community services for flood-related disasters and the weatherization of low-income homes, for the period beginning with the effective date of this Act and ending June 30, 1999.

**SECTION 3. APPROPRIATION.** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$360,000, or so much of the sum as may be necessary, to the emergency commission for the purpose of paying costs associated with Americans with Disabilities Act litigation to which the department of transportation is a party for the biennium beginning July 1, 1999, and ending June 30, 2001. The emergency commission may use the funds to make payments to the plaintiffs in the event a judgement is entered against the state in Miller v. State of North Dakota.

**SECTION 4. APPROPRIATION - UNIVERSITY SYSTEM - GRANT TO PRAIRIE PUBLIC BROADCASTING.** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$415,000, or so much of the sum as may be necessary, to the university system office for the purpose of providing a grant to be used as matching funds by prairie public broadcasting for phase I of the project to convert to digital television broadcasting.

**SECTION 5. ATTORNEY GENERAL - GAMING ENFORCEMENT GRANTS - LINE ITEM TRANSFERS.** Notwithstanding section 54-16-04 and section 5 of Senate Bill No. 2003, as approved by the fifty-sixth legislative assembly, the emergency commission may authorize the attorney general to make transfers between the line items in section 1 of Senate Bill No. 2003 of up to the sum of \$310,086 for the purpose of providing additional local gaming enforcement grants in accordance with the provisions of section 6 of Senate Bill No. 2003, for the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 6. APPROPRIATION.** The amount of \$25,000, or so much of that amount as may be necessary, is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the council on the arts for the purpose of providing a grant to the plains art museum for the Lewis and Clark bicentennial event, for the biennium beginning July 1, 1999, and ending June 30, 2001. The council on the arts may provide the grant only after the plains art museum has raised \$25,000 of other funds to be used to match the general fund moneys appropriated in this section.

**SECTION 7. LINE ITEM TRANSFERS - EMERGENCY COMMISSION AND BUDGET SECTION APPROVAL.** Upon approval of the emergency commission, the director of the office of management and budget may transfer between various line items in subdivisions 1, 2, and 3 of section 1 of this Act appropriation authority of up to ten percent of a given line item to adjust for changing circumstances in meeting established performance measures. Any further transfers must be approved by the budget section.

**SECTION 8. CAPITOL BUILDING FUND.** The amount of \$225,000, or so much of the sum as is necessary, included in the estimated income line item in subdivision 1 of section 1 of this Act, is to be spent by the facility management division from the capitol building fund during the biennium beginning July 1, 1999, and ending June 30, 2001. The amount of \$25,000, or so much of the sum as is necessary, included in the estimated income line item in subdivision 1 of section 1 of this Act, is to be spent by the administration division from the capitol building fund for capitol grounds planning during the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 9. EXEMPTION.** The fiscal management appropriation contained in subdivision 1 of section 1 of chapter 15 of the 1997 Session Laws is not subject to the provisions of section 54-44.1-11 for up to an amount of \$750,000 and any unexpended funds from this appropriation are available for continued development and operating costs of the accounting, management, and payroll systems during the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 10. SPECIAL COMPENSATION ADJUSTMENTS FOR CLASSIFIED STATE EMPLOYEES.** It is the intent of the fifty-sixth legislative assembly that the statewide compensation plan appropriation included in subdivision 1 of section 1 of this Act be used for market equity compensation adjustments for classified state employees. The special market equity adjustments are to begin with the month of July 1999, to be paid in August 1999. The special market equity adjustments are to be independent of any general salary increase provided by this legislative assembly.

The special market equity increases are to be prioritized based on equity for employees whose salaries are furthest from their respective salary range midpoints effective July 1, 1999. Special market equity increases may not be given to employees whose salary exceeds the midpoints of their assigned salary range effective July 1, 1999.

Probationary employees are eligible for the special market equity increases. Employees whose documented performance levels do not meet standards are not eligible for the special market equity increases.

The central personnel division shall provide a model base plan to each agency. Agencies may adopt the model plan, adopt the model plan with exceptions, or offer an alternative plan that meets the intent outlined in this section.

Upon adoption of an appropriate plan and application to the central personnel division, the division shall transfer appropriated general funds or special fund spending authority for the increases to the agencies.

**SECTION 11. INTENT - STATE EMPLOYEE COMPENSATION ADJUSTMENTS - GUIDELINES.** It is the intent of the fifty-sixth legislative assembly that 1999-2001 compensation adjustments for permanent state employees are to be increases of a minimum of \$35 per month, beginning with the month of July 1999, to be paid in August 1999, and a minimum of \$35 per month, beginning with the month of July 2000, to be paid in August 2000. Any increases greater than \$35 per month may not be given across-the-board and must be based on merit and equity. Each agency appropriation is increased by 2.0 percent per year.

Probationary employees and employees whose documented performance levels do not meet standards are not eligible for the general or additional increases.

During the biennium, no salary increase other than the \$35 per month in July 1999 and \$35 per month in July 2000 may be given to an employee whose salary exceeds or would exceed the salary range maximum.

It is the intent of the fifty-sixth legislative assembly that the workers compensation bureau provide pay raises based on merit and performance throughout the 1999-2001 biennium.

An agency may provide average salary increases of up to 3.0 percent for the second year of the 1999-2001 biennium only to the extent that the increase can be paid without an increase in the agency's appropriation. State agencies and institutions shall report to the office of management and budget on the amounts provided for salary increases for the second year of the biennium, any amounts transferred between line items pursuant to section 12 of this Act, the source of funding, and the impact on the provision of agency services. The office of management and budget shall report to the budget section at its December 2000 meeting concerning the amounts provided by state agencies and institutions for salary increases for the second year of the biennium, line item transfers relating to the increases, the source of the funding, and the impact on the provision of agency services.

**SECTION 12. STATE AGENCIES - LINE ITEM TRANSFER AUTHORITY.** Notwithstanding the provisions of chapter 54-16, the director of the office of management and budget and the state treasurer shall make transfers of funds between line items of an agency or institution upon the request of the agency or institution in order to provide for an average of 3.0 percent employee salary increases for the second year of the 1999-2001 biennium as provided in section 11 of this Act.

**SECTION 13. INTENT.** Within the authority included in subdivision 1 of section 1 of this Act, are the following grants and special items:

Boys and girls clubworks	\$53,000
State contingencies	600,000
State memberships and related expenses	317,000
Firemen's association	63,000
Unemployment insurance	1,200,000
Capitol grounds planning commission	25,000
State lobbyist	120,000

**SECTION 14. TRANSFER.** During the biennium beginning July 1, 1999, and ending June 30, 2001, the director of the office of management and budget is authorized to transfer special funds to the general fund as follows:

Lands and minerals trust fund	\$3,000,000
Public employees life insurance program	1,500,000
Financial institutions regulatory fund	200,000

**SECTION 15. DEVELOPMENTAL DISABILITIES REVOLVING LOAN FUND - AUTHORITY TO SELL LOANS - TRANSFERS.** Between January 1 and June 30, 2001, at the request of the director of the office of management and budget, the executive director of the department of human services shall sell such loans in the developmental disabilities revolving loan fund created under North Dakota Century Code section 6-09.6-01, as may be necessary to the Bank of North Dakota to provide \$2,150,000, or so much thereof as may be necessary, with the proceeds to be deposited in the general fund. The loans may only be sold to the extent necessary to achieve the June 30, 2001, ending general fund balance as estimated by the fifty-sixth legislative assembly.

**SECTION 16. FIRE AND TORNADO FUND.** The amount of \$63,000, or so much of the amount as is necessary, included in the estimated income line item in subdivision 1 of section 1 of this Act, is from the fire and tornado fund.

**SECTION 17. BANK OF NORTH DAKOTA TRANSFERS TO STATE GENERAL FUND.** During the biennium ending June 30, 2001, the industrial commission shall transfer to the state general fund up to \$50,000,000 from the current earnings and the accumulated undivided profits of the Bank of North Dakota. No more than \$15,000,000 of the amount transferred may come from accumulated undivided profits. The moneys must be transferred in the amounts and at such times as requested by the director of the office of management and budget.

No transfers may be made that would reduce the Bank's capital structure below \$100,000,000.

**SECTION 18. CONTINGENT BANK OF NORTH DAKOTA TRANSFERS TO STATE GENERAL FUND - BUDGET SECTION APPROVAL.** If, during the biennium ending June 30, 2001, the director of the office of management and budget determines via revised projections that general fund revenue collections will not meet the revenues as forecast in the March 1999 legislative forecast, then the industrial commission shall transfer to the state general fund an additional amount, as determined by the director of the office of management and budget and as approved by the budget section, from the earnings and accumulated and undivided profits of the Bank of North Dakota. Transfers made under the provisions of this section may not be made before July 1, 2000, and may only be made to the extent that the transfer is necessary to achieve a projected June 30, 2001, general fund balance of \$10,000,000. The moneys must be transferred in amounts and at such times as requested by the director of the office of management and budget. The additional amount transferred may not exceed the lesser of \$40,000,000 or the revenue shortfall of actual collections compared to the March 1999 legislative forecast.

No transfers may be made that would reduce the Bank's capital structure below \$100,000,000.

**SECTION 19. FEDERAL PROGRAM TERMINATIONS - BLOCK GRANT - FUNDING REDUCTIONS - RELATED PROGRAM REDUCTIONS - REPORTS TO THE BUDGET SECTION.** If the federal government during the 1999-2001 biennium terminates funding for any program administered by an agency, department, or institution of the state of North Dakota, the agency, department, or institution, subject to budget section approval, may terminate the program and not replace the reduction in federal funds with state funds, notwithstanding any other provision of law. If the federal government combines funding for separate programs in a block grant resulting in a reduction of total federal funds available for those programs, the administering agency, department, or institution may, subject to budget section approval, prioritize or reprioritize programs as necessary in making programmatic reductions. The agency, department, or institution may administer funds available under a new federal block grant or similar measure, consistent with the terms of that measure, notwithstanding any other provisions of law intended to conform to or implement the provisions of the repealed federal Act, and shall report any program terminations, reductions, or changes resulting from this section to the budget section of the legislative council for its approval.

**SECTION 20. PROGRAM-BASED PERFORMANCE BUDGETING.** The office of management and budget shall discontinue the program-based performance budgeting pilot project when preparing the 2001-03 biennium budget documents and accompanying appropriation bills. Budget documents for the 2001-03 biennium are to be based on the standard line items and are not to contain agency performance measures.

**SECTION 21. LEGISLATIVE COUNCIL INTERIM STUDY OF PERFORMANCE INCENTIVE PILOT PROGRAMS.** The legislative council shall consider studying the establishment of agency performance incentive pilot programs. If conducted, the study should address how agencies could develop, implement, administer, maintain, and evaluate performance incentive pilot programs. The study should also address the development of personnel policies and procedure manuals and how pay raises which may not be across the board are to be awarded as a reward and incentive for superior performance and the length of time they may be in effect. 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 22. UNIVERSITY OF NORTH DAKOTA WINTER SPORTS FACILITY MAINTENANCE FUND.** The university of North Dakota shall establish a reserve fund to be used to provide for future repair and maintenance costs related to the winter sports facility to be constructed at the university of North Dakota. The university shall establish a reserve fund for this purpose from building operating profits, donations, or other funds.

**SECTION 23. AMENDMENT.** Subsection 2 of section 4-14.1-07 of the 1997 Supplement to the North Dakota Century Code as amended by section 11 of House Bill No. 1019, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

2. An ethanol plant that was in operation before July 1, 1995, and which ~~produced~~ has a production capacity of fewer than fifteen million gallons [56781000 liters] of ethanol ~~in the previous fiscal year~~ may receive up to seven hundred fifty thousand dollars in production incentives from the state for production in a fiscal year. An ethanol plant that was in operation before July 1, 1995, and which has a production capacity of fifteen million gallons [56781000 liters] or more of ethanol per year is not eligible for production incentives from the state.

**SECTION 24. AMENDMENT.** Section 15-39.1-26 of the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-26. Investment of moneys in fund - Interest and earnings attributable to fund.** Investment of the fund ~~shall be~~ is under the supervision of the state investment board in accordance with chapter 21-10. ~~Such~~ The moneys must be placed for investment only with a firm or firms whose endeavor is money management, and only after a trust agreement or contract has been executed. Investment costs may be paid directly from the fund, and are hereby appropriated for that purpose, in accordance with section 21-10-06.2. All interest and earnings on funds administered by the board must be credited to the fund.

**SECTION 25. AMENDMENT.** Subsection 2 of section 32-12.2-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The state risk management fund is a special fund in the state treasury administered by the director of the office of management and budget. The fund is a revolving fund consisting of contributions from participating state entities, all payments received by the fund from its activities, and other appropriations by the legislative assembly. The state investment board shall invest the fund in accordance with chapter 21-10. Funds received as contributions from state entities, all other payments deposited in the fund, and interest and income received on investments are hereby appropriated on a continuing basis for the purposes of the fund. Section 54-44.1-11 does not apply to the fund.

**SECTION 26. AMENDMENT.** Section 34-15-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**34-15-07. Disposition of civil money penalties.** A civil money penalty collected under this chapter must be paid into the state treasury for deposit in the general fund ~~after the costs of recovering the civil money penalty are deducted therefrom.~~

**SECTION 27. AMENDMENT.** Section 39-12-20 of the North Dakota Century Code is amended and reenacted as follows:

**39-12-20. Proceeds of sale - Continuing appropriation.** The proceeds of sale must be ~~applied first to the payment of~~ deposited with the state treasurer. ~~The state treasurer shall deposit in the highway fund an amount equal to the amount of the charges assessed pursuant to section 39-12-17 after paying the costs to the county. An amount equal to the costs of the proceedings, including attorneys and witness fees and costs, and next to the payment of the charges assessed. Such charges must be remitted to the state treasurer to be credited to the highways fund is appropriated on a continuing basis out of the funds collected to the county in which the prosecution took place for the purpose of defraying the costs of prosecution. The balance of the proceeds of any sale after the payment of costs and charges must be appropriated on a continuing basis out of the funds collected to be paid over by the sheriff to the person entitled thereto as determined by the court or must be deposited with the clerk of court for such payment.~~

**SECTION 28. AMENDMENT.** Subdivision g of subsection 3 of section 49-23-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- g. An excavator may not use a location more than ~~seventy-two hours~~ ten days, or any extension of that period, after the planned excavation date unless the excavator has made previous arrangements with the operators affected.

**SECTION 29.** A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

**Expenses incurred to collect funds owed the state - Continuing appropriation.** If a state agency enters a contract with a collection or credit agency to collect money due the state, the fees for services, reimbursement, or other remuneration to the collection or credit agency must be based on the amount of money actually collected. All funds collected on behalf of a state agency by a collection or credit agency must be deposited with the state treasurer. An amount equal to the amount of fees for services, reimbursement, or any other remuneration to the collection or credit agency as set forth in the contract is appropriated from the fund into which the money collected was deposited to the state agency for which the funds were collected for the payment of fees due under the contract.

**SECTION 30.** A new section to chapter 54-11 of the North Dakota Century Code is created and enacted as follows:

**Appointment of agents.** The treasurer may appoint agents for the purpose of receiving public funds as required by section 12 of article X of the Constitution of North Dakota. If appointed by the state treasurer, the Bank of North Dakota shall serve as an agent of the state treasurer for the purpose of receiving public funds, including funds that must be deposited in higher education institution special revenue funds.

**SECTION 31. AMENDMENT.** Section 54-16-04.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-16-04.1. May authorize acceptance and disbursement of federal funds.** The emergency commission with the advice and counsel of the executive office of the budget may authorize the state treasurer to receive any moneys not appropriated by the legislative assembly which are made available by any federal agency and which the legislative assembly has not indicated an intent to reject. The emergency commission may authorize pass-through federal funds from one state agency to another state agency. The emergency commission, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, may authorize any state officer to expend federal moneys from the date such moneys become available until June thirtieth following the next regular legislative session. The expenditures must be consistent with state law and with the terms of the grant and the program may not commit the legislative assembly for matching funds in the future unless the program has first been approved by the legislative assembly. A state officer

may not expend funds received from the federal government which have not been specifically appropriated by the legislative assembly except as provided in this chapter. A state officer shall submit an expenditure plan with a request for approval under this section of expenditure of federal funds combined with or as part of a block grant for a new or existing program.

**SECTION 32. AMENDMENT.** Section 54-16-04.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-16-04.2. Commission may authorize acceptance and expenditure of moneys.** The emergency commission, upon the advice of the office of management and budget, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, may authorize a state officer to receive moneys from gifts, grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys or the program. The emergency commission may authorize the state officer to expend money received under this section from the date the money becomes available until June thirtieth following the next regular legislative session.

**SECTION 33.** A new section to chapter 54-23.2 of the North Dakota Century Code is created and enacted as follows:

**Mobile data terminal and 911 service fees.** State radio communications shall establish and charge fees to provide mobile data terminal service to interested local law enforcement agencies. The fees must be based on actual costs incurred by state radio communications for providing the service.

State radio communications shall charge at least twenty cents per telephone for 911 services provided to political subdivisions. Each county currently receiving 911 services from state radio communications shall abide by the standards established by the governor's emergency services advisory committee.

**SECTION 34. AMENDMENT.** Section 54-27.2-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-27.2-02. ~~(Effective through June 30, 1999) Certain general fund revenues to be deposited in the budget stabilization fund.~~** Notwithstanding any other provision of law except section 54-27.2-01, any amount in the state general fund in excess of sixty-five million dollars at the end of any biennium must be transferred by the state treasurer to the budget stabilization fund. For purposes of this section, "at the end of any biennium" means after cancellation of unexpended appropriations under section 54-44.1-11.

~~**(Effective July 1, 1999) Certain general fund revenues to be deposited in the budget stabilization fund.** Notwithstanding any other provision of law except section 54-27.2-01, any amount in the state general fund in excess of forty million dollars at the end of any biennium must be transferred by the state treasurer to the budget stabilization fund. For purposes of this section, "at the end of any biennium" means after cancellation of unexpended appropriations under section 54-44.1-11.~~

**SECTION 35. AMENDMENT.** Section 54-44-04.6 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-44-04.6. State surplus property - Department heads to inform director - Disposition of property - Proceeds - Exchange of property.**

1. The person in charge of any department, agency, or institution of the state shall inform the director of the office of management and budget or the director's designee whenever that department, agency, or institution possesses property surplus to its needs, whether originally obtained with state or other funds.
2. State surplus property must be transferred at fair market value to state agencies, political subdivisions, and nonprofit organizations eligible to receive federal surplus property under the Federal Property Administrative Services Act of 1949, as amended. Eligible organizations must be notified of the availability of property on a regular basis.

3. If not disposed of under subsection 2, then by sale on sealed bids or at public auction to the highest and best bidder for property valued at more than three thousand dollars, with no money deposit required prior to sale, or by sealed bids, public auction, or negotiation at fair value for property valued at less than three thousand dollars.
4. All proceeds received from the transfer or sale of state surplus property must be deposited ~~into the fund from which the property was originally purchased, less administrative expenses~~ with the state treasurer for deposit in the surplus property operating fund. For each piece of property, the office of management and budget shall transfer to the agency from which the property was received an amount equal to the proceeds of the sale less the administrative expenses of the sale. The agency shall deposit the proceeds into the fund from which the property was originally purchased.
5. No department, agency, or institution may exchange items as part of a purchase price of new items until a detailed statement of the value of the items to be exchanged and request for approval have been submitted to the director of the office of management and budget. The director shall approve the exchange only if the director has determined that the item has been valued at fair value.

**SECTION 36.** A new section to chapter 57-34 of the North Dakota Century Code is created and enacted as follows:

**Tax commissioner to audit returns and state board of equalization to assess tax.** The tax commissioner shall proceed to audit the returns of telecommunications carriers not later than three years after the due date of the return, or three years after the return was filed, whichever period expires later. The state board of equalization shall assess the tax and, if any additional tax is found due, the tax commissioner shall notify the taxpayer in detail as to the reason for the increase.

**SECTION 37.** A new section to chapter 57-34 of the North Dakota Century Code is created and enacted as follows:

**Deficiency, protest, and appeal.**

1. When tax is understated on a return because of a mathematical or clerical error, the tax commissioner shall notify the telecommunications carrier of the error and the amount of additional tax due. This notice is not a notice of deficiency and the telecommunications carrier has no right to protest.
2. If upon audit the tax commissioner finds additional tax due, the tax commissioner shall notify the telecommunications carrier and the state board of equalization of the deficiency in the tax amount. A notice of deficiency must be sent to the telecommunications carrier by first-class mail and must state the amount of additional tax due and set forth the reasons for the increase.
3. A telecommunications carrier has thirty days from the date of mailing of the notice of deficiency to file a written protest with the state board of equalization objecting to the assessment of additional tax due. The protest must set forth the basis for the protest and any other information that may be required by the state board of equalization. If a telecommunications carrier fails to file a written protest within the time provided, the amount of additional tax stated in the notice of deficiency becomes finally and irrevocably fixed. If a telecommunications carrier protests only a portion of the tax commissioner's finding, the portion that is not protested becomes finally and irrevocably fixed.
4. If a protest is filed, the state board of equalization shall reconsider the assessment of additional tax due.
5. Within six months after the protest is filed, the state board of equalization shall mail to the telecommunications carrier a notice of reconsideration and assessment which must respond to the telecommunications carrier's protest and assess the amount of any additional tax due. The amount set forth in that notice becomes finally and irrevocably fixed unless the telecommunications carrier brings an action against the state in district

court within six months of the mailing of the notice of reconsideration and assessment.

**SECTION 38.** A new section to chapter 57-34 of the North Dakota Century Code is created and enacted as follows:

**Claims for credit or refund.**

1. A telecommunications carrier may file a claim for credit or refund of an overpayment of any tax imposed by this chapter within three years after the due date of the return or within three years after the return was filed, whichever period expires later.
2. A claim for credit or refund must be made by filing with the tax commissioner an amended return, or other report as prescribed by the tax commissioner, accompanied by a statement outlining the specific grounds upon which the claim for credit or refund is based.
3. The tax commissioner shall notify the telecommunications carrier if the state board of equalization disallows all or part of a claim for credit or refund. The decision of the state board of equalization denying a claim for credit or refund is final and irrevocable unless the telecommunications carrier brings an action against the state in district court within six months of the mailing of the notice denying the claim for credit or refund.

**SECTION 39.** A new section to chapter 57-34 of the North Dakota Century Code is created and enacted as follows:

**Preservation of records.** Every telecommunications carrier required to make a return and pay any tax under this chapter shall preserve records of the gross proceeds of sale as the commissioner may require and every carrier shall preserve for a period of three years and three months all invoices and other records of telecommunications services purchased for resale. All of these books, invoices, and other records must be open to examination at any time by the commissioner or any duly authorized agent of the commissioner.

**SECTION 40.** A new section to chapter 57-34 of the North Dakota Century Code is created and enacted as follows:

**Resale certificates.** A telecommunications carrier who receives a resale certificate certifying that another telecommunications carrier holds a North Dakota sales and use tax permit for sales or use tax purposes under section 57-39.2-14 is relieved from submitting the telecommunications gross receipts tax upon the sale of telecommunications services to be resold by the telecommunications carrier submitting the certificate. When a telecommunications carrier submits a false resale certificate to another telecommunications carrier, the telecommunications carrier that submitted the certificate is liable for the telecommunications gross receipts tax on the sale. A hospital, hotel, motel, or similar place of temporary accommodation selling telecommunications service to its patients or guests is not a telecommunications carrier under this section.

**SECTION 41. AMENDMENT.** Section 57-34-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-34-01. Definitions.** The definitions in this section may not be construed to subject a telecommunications carrier or telecommunications service to the provisions of title 49. As used in this chapter, unless the context or subject matter otherwise clearly requires:

1. "Adjusted gross receipts" means telecommunications carrier gross receipts less all amounts paid by the reporting telecommunications carrier on telecommunications service that is taxable under this chapter in state and local sales and use taxes and federal excise taxes and less amounts paid by the reporting telecommunications carrier to another telecommunications carrier for directory assistance originated by a caller in this state.
2. "Company" includes any individual, copartnership, business trust, corporation, limited liability company, joint-stock company, association, or any other organization.

2. 3. "Gross receipts" means all telecommunications carrier ~~retail~~ revenues from telecommunications service charges billed to any station in this state and from charges to another telecommunications carrier for directory assistance originated by a caller in this state.
3. 4. "Station" means a subscriber service address located in this state with a distinct call number designation or distinct extension number designation. If this is not a defined location, "station" means the location of the primary use of telecommunications equipment as determined by telephone number, authorization code, or billing address.
4. 5. "Telecommunications carrier" means a ~~person~~ company that is engaged in the business of furnishing telecommunications service within this state. The term includes a reseller of telecommunications service.
5. 6. "Telecommunications service" means transmitting for consideration of two-way communication by wire, cable, fiber optics, radio, lightwave, microwave, satellite, or other means. The term includes:
- a. Essential telecommunications service and nonessential telecommunications service as defined in section 49-21-01;
  - b. Telecommunications service that originates and terminates in this state and is billed to a station in this state;
  - c. Interstate telecommunications service that originates or terminates in this state and is billed to a station in this state; and
  - d. ~~A hospital, hotel, motel, or similar place of temporary accommodation selling telecommunications service to its patients or guests, if there is a separately stated charge for the service; and~~
  - e. Telegraph service.
6. 7. "Telecommunications service charges" means the value of all consideration received by a telecommunications carrier for provision of telecommunications service and recovery within the year of telecommunications service charges written off in a prior year as uncollectible. For a telecommunications carrier operating on any form of mutual basis, the term includes all amounts assessed against the members for the operation and maintenance of the business. The term does not include revenue from merchandising, jobbing and contract work, maintenance or repair of customer premises equipment including equipment leased or rented by the customer from any source, operations not directly related to provision of telecommunications service, amounts charged for billing and collection on behalf of another telecommunications carrier, proceeds from transfer of capital stock, or transfer, sale, or lease of property not directly related to telecommunications service. The term does not include amounts collected for or amounts collected from federal and state mechanisms to preserve and advance universal service.

**SECTION 42. AMENDMENT.** Section 57-34-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-34-02. Reports of telecommunications carriers - Penalty.**

1. Each telecommunications carrier that received intercarrier telecommunications revenue in the preceding calendar year shall make and file with the tax commissioner, on or before January fifteenth of each year, a list containing the name and mailing address of each telecommunications carrier from which the reporting telecommunications carrier received intercarrier telecommunications revenue in the preceding calendar year. This list is to be filed in addition to the report required by subsection 3.
2. Each telecommunications carrier that provided telecommunications service in the preceding calendar year to one or more pay telephones owned by another company shall make and file with the tax commissioner, on or before January fifteenth of each year, a list containing the name and mailing address for each company that owned a pay telephone served by

the reporting telecommunications carrier in the preceding calendar year. This list is to be filed in addition to the report required by subsection 3.

3. Each telecommunications carrier subject to gross receipts taxes under this chapter shall make and file with the tax commissioner, on or before May first of each year, on the form as the tax commissioner may prescribe, a report containing a statement of its gross receipts in this state during the preceding calendar year, amounts paid by the carrier on telecommunications service that is taxable under this chapter during the preceding calendar year in state and local sales and use taxes and federal excise taxes, amounts received from or paid to another telecommunications carrier for directory assistance, and any other information as the tax commissioner may require. The form must include a notice of a telecommunications carrier's right to appeal its assessment to the state board of equalization prior to or at the August meeting of the state board of equalization. Each report must be signed, subject to section 12.1-11-02, by the president, secretary, or other official of the telecommunications carrier.

**SECTION 43. AMENDMENT.** Section 57-34-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-34-03. Computation of taxes by tax commissioner - Exemption for high-volume customers - Continuing appropriation.**

1. On or before July fifteenth of each year, the tax commissioner shall review the report under subsection 3 of section 57-34-02 and compute the ~~tentative~~ total tax to be assessed against each telecommunications carrier in this state at a rate of two and one-half percent of adjusted gross receipts. ~~The~~ If the tax commissioner's computation of the total tax differs from the amount computed by a telecommunications carrier, the tax commissioner shall give ~~ten days'~~ notice of the change by mail to ~~each~~ that telecommunications carrier ~~of its tentative total tax under this section and of its right to contest the determination before the state board of equalization at its August meeting on or before July fifteenth.~~ The state board of equalization shall assess the tax under this section after consideration of any contest presented.
2. A telecommunications carrier's retail customer in this state is entitled to a refund equal to two and one-half percent of the amount of telecommunications service charges paid to telecommunications carriers by that customer in excess of eight hundred thousand dollars in a calendar year. A refund claim under this subsection must be filed with the tax commissioner before July first of the year following the calendar year for which the refund is claimed. A claim for refund must be made in the manner prescribed by the tax commissioner. Refunds under this subsection must be paid by the tax commissioner from tax collections under this chapter and are appropriated as a standing and continuing appropriation to the tax commissioner for that purpose.

**SECTION 44. AMENDMENT.** Section 57-34-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-34-06. Duties of county treasurer.** The county treasurer shall allocate taxes received under this chapter to the state, the county, and the various taxing districts within the county according to the proportion that taxes paid by telecommunications carriers in locally assessed property taxes and taxes assessed under chapter 57-06 and this chapter in 1997 and received by the state, the county, and each currently existing taxing district in the county bears to all taxes paid by telecommunications carriers in locally assessed property taxes and taxes assessed under chapter 57-06 and this chapter in 1997 and received by the state, the county, and all taxing districts in the county.

**SECTION 45. AMENDMENT.** Section 57-34-10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-34-10. Penalties - Interest - Lien for tax.**

1. If a telecommunications carrier refuses or neglects to make the reports required by this chapter, or refuses or neglects to furnish any information

requested, the tax commissioner shall use the best available facts and estimates to determine taxation of the gross receipts of that carrier. The tax must be imposed upon the basis of that information, ~~and~~. If any company fails to make the report required under this chapter on or before the first day of May of any year, the state board of equalization shall add a penalty of one-quarter of the tax due for failure to make the required report which must be collected as a part of the tax, but the tax commissioner, upon application, may grant extensions of time within which the returns must be filed.

2. Taxes levied under this chapter are due and payable to the tax commissioner on January first following the year in which the taxes were assessed. The unpaid principal balance of taxes on the following March first is subject to a penalty of three percent, on the following May first an additional penalty of three percent, on the following July first an additional penalty of three percent, and on the following October fifteenth an additional penalty of three percent. Beginning January first of the year following the year the taxes became due, simple interest at the rate of twelve percent per annum applies to the unpaid principal balance until the taxes and penalties are paid. Interest penalties must be prorated to the nearest full month for a fractional year of delinquency. A remittance of tax need not be made and any assessment or collection of tax may not be made unless the amount is at least five dollars, including penalty and interest.
3. If any amount of tax imposed by this chapter is not paid on or before March first, or if upon audit an additional tax is found to be due, there must be added to the tax remaining due interest at the rate of one percent of the additional tax for each month or fraction of a month during which the tax remains unpaid, computed from March first to the date paid.
3. 4. Taxes under this chapter constitute a first and paramount lien in favor of the state upon all property and rights to property of the taxpayer. The lien may be foreclosed in the same manner provided by law for mortgages on real or personal property. Whenever any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the liability, the amount, including any interest, penalty, or addition to the tax, and the additional costs that may accrue are a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to the taxpayer. The lien attaches at the time the tax becomes due and payable and continues until the liability for the amount is satisfied.
5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the tax commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in subsection 4, takes free of, or has priority over, the lien. The tax commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The tax identification number or social security number of the taxpayer.
  - c. The name "State of North Dakota" as claimant.
  - d. The date and time the notice of lien was indexed.
  - e. The amount of the lien.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. The tax commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

6. Upon payment of the tax, and any accrued penalties and interest, as to which the tax commissioner has filed a notice of lien, the tax commissioner shall index a satisfaction of the lien in the central indexing system without fees or costs.

**SECTION 46.** A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Payments in lieu of taxes by bureau. If a building and associated real property is purchased by the workers compensation bureau pursuant to a legislative grant of authority, the bureau shall make payments in lieu of property taxes in the manner and according to the conditions and procedures that would apply if the building and property were privately owned.

**SECTION 47. RETROACTIVE APPLICATION.** Section 25 of this Act is effective for all funds received and deposited into the risk management fund on or after July 1, 1997.

**SECTION 48. RETROACTIVE APPLICATION - EFFECTIVE DATE - EXPIRATION DATE.** Sections 36 through 45 of this Act apply retroactively to all tax years beginning after December 31, 1997. The amendments to subsections 1 and 3 of section 57-34-01 as amended by section 41 of this Act are effective for taxable years beginning after December 31, 1998. The amendments to subsections 1 and 2 of section 57-34-02 as amended by section 42 of this Act are effective for the first two taxable years beginning after December 31, 1999, and are thereafter ineffective.

**SECTION 49. APPLICATION.** North Dakota Century Code sections 54-16-04 and 54-44.1-11 do not apply to chapter 30 of the 1997 Session Laws.

**SECTION 50. EMERGENCY.** Sections 2, 24, 26, 27, 28, 29, 30, and 35 of this Act are declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

DEPARTMENT 110 - OFFICE OF MANAGEMENT AND BUDGET

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
Administration	\$3,086,844	\$3,082,026	(\$100,000)	\$2,982,026	\$2,982,026	
Fiscal management	3,998,308	3,875,828		3,875,828	3,875,828	
Facility management	8,203,213	8,174,694	(100,000)	8,074,694	7,854,694	\$220,000
Central personnel	1,226,846	1,212,300		1,212,300	1,212,300	
Division of community services	42,055,293	42,035,197		42,035,197	42,035,197	
Risk managemnet	964,173	959,911		959,911	959,911	
Statewide compensation plan	5,400,000	5,400,000		5,400,000	5,400,000	
<b>Total all funds</b>	<b>\$64,934,677</b>	<b>\$64,739,956</b>	<b>(\$200,000)</b>	<b>\$64,539,956</b>	<b>\$64,319,956</b>	<b>\$220,000</b>
Less special funds	46,105,926	46,088,243		46,088,243	46,088,243	
<b>General fund</b>	<b>\$18,828,751</b>	<b>\$18,651,713</b>	<b>(\$200,000)</b>	<b>\$18,451,713</b>	<b>\$18,231,713</b>	<b>\$220,000</b>
FTE	122.00	121.00	1.00	122.00	120.60	1.40

Detail of Conference Committee changes to Senate version includes:

	REDUCE STATE CONTINGENCIES FUNDING	DECREASE FUNDING FOR SECURITY SYSTEM	RESTORE BUDGET ANALYST FTE POSITION WITHOUT FUNDING	TOTAL CONFERENCE COMMITTEE CHANGES
Administration	(\$100,000)			(\$100,000)
Fiscal management				
Facility management		(\$100,000)		(100,000)
Central personnel				
Division of community services				
Risk management				
Statewide compensation plan				
<b>Total all funds</b>	<b>(\$100,000)</b>	<b>(\$100,000)</b>	<b>\$0</b>	<b>(\$200,000)</b>
Less special funds				
<b>General fund</b>	<b>(\$100,000)</b>	<b>(\$100,000)</b>	<b>\$0</b>	<b>(\$200,000)</b>
FTE	0.00	0.00	1.00	1.00

The amendment also makes the following changes:

- Adds a new section appropriating \$6,000,000 of federal funds to the Division of Community Services for flood-related disasters (\$3,000,000) and weatherization of low-income homes (\$3,000,000). The amendment also adds a section making the \$6,000,000 appropriation an emergency measure.
- Provides a general fund appropriation of \$360,000 to the Emergency Commission for costs resulting from the settlement of a lawsuit relating to fees charged for handicapped parking permits.
- Provides a general fund appropriation of \$415,000 to the University System office for a grant to Prairie Public Broadcasting to be used as matching funds for Phase I of the conversion to digital broadcasting.
- Provides authority for the Attorney General to distribute an additional \$310,086 for local gaming enforcement grants if the funding is available within the Attorney General's appropriation. This amount is in addition to \$221,877 contained in Senate Bill No. 2003 for this purpose.
- Provides a general fund appropriation of \$25,000 to the Council on the Arts for a grant to the Plains Art Museum for the Lewis and Clark bicentennial event. The grant will not be distributed until the museum has raised \$25,000 of other funds as a match for the general fund grant.
- Changes compensation guidelines to 2 percent for the first year and 3 percent for the second year, if the additional 1 percent the second year is available from within agency appropriations.
- Adds a section limiting the incentives to only the Grafton plant.
- Authorizes the director of the Office of Management and Budget to sell up to \$2,150,000 of developmentally disabled facility loans to the Bank of North Dakota. The director shall sell such amount as may be necessary to reach the legislative estimate for the June 30, 2001, general fund balance.
- Adds a new section providing that if federal funding for a program is terminated during the 1999-2001 biennium, the administering state agency, department, or institution shall terminate the program. It also provides that if the federal government reduces federal funding by combining the funding for separate programs into a block grant, the agency, department, or institution shall prioritize or reprioritize programs as necessary.
- Adds a new section directing the Office of Management and Budget to discontinue the program-based performance budgeting pilot program.
- Adds a new section providing for a Legislative Council interim study of performance incentive pilot programs.
- Requires the University of North Dakota to establish a fund, which is to be used for repair and maintenance costs related to the proposed winter sports facility.
- Provides statutory changes to address potential problems with statutes authorizing public moneys to be deposited other than with the State Treasurer.
- Adds a new section clarifying that all deposits into the risk management fund may be spent for the purpose of the fund. The amendment also adds a section making this change retroactive to deposits after July 1, 1997.
- Amends Section 49-23-04, relating to time periods under the one-call excavation notice system and provides that this is an emergency measure.
- Adds two new sections clarifying which Emergency Commission approvals also need Budget Section approval.
- Adds sections relating to the audit and assessment of telecommunications carriers and telecommunications taxes.
- Requires the Workers Compensation Bureau to make payments in lieu of property taxes if the Bureau purchases a building.
- Provides that Sections 54-16-04 and 54-44.1-11, relating to the cancellation of unexpended appropriations, do not apply to the 1997-99 biennium appropriation for the legislative branch.

- Provides for special fund transfers to the general fund of \$200,000 from the financial institutions regulatory fund and \$1,500,000 from the Public Employees Retirement System life insurance program.
- Reduces Bank of North Dakota transfers to the general fund by \$10,000,000, from \$60,000,000 to \$50,000,000 and increases the contingent transfers by \$17,000,000, from \$23,000,000 to \$40,000,000. The amendment also adds language providing that contingent transfers can be made only after July 1, 2000, and then only to the extent necessary to achieve a June 30, 2001, general fund balance of \$10,000,000.
- Reduces the fiscal management division's carryover from the 1997-99 biennium by \$250,000, from \$950,000 to \$700,000.
- Removes the section appropriating \$100,000, \$50,000 of which was general fund moneys and \$50,000 of special funds, to the Department of Human Services for the purpose of providing network technical support to county social service boards.

## DEPARTMENT 112 - INFORMATION SERVICES DIVISION

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
Information resource management	\$46,282,960	\$45,709,295	\$3,950,000	\$49,659,295	\$49,409,295	\$250,000
Total all funds	\$46,282,960	\$45,709,295	\$3,950,000	\$49,659,295	\$49,409,295	\$250,000
Less special funds	<u>46,082,960</u>	<u>45,709,295</u>	<u>3,700,000</u>	<u>49,409,295</u>	<u>49,409,295</u>	
General fund	\$200,000	\$0	\$250,000	\$250,000	\$0	\$250,000
FTE	170.00	168.00	0.00	168.00	168.00	0.00

Detail of Conference Committee changes to Senate version includes:

	CONTRACT FUNDING FOR DHS MEDICAID/ TANF PROJECT	ADD FUNDING TO IMPLEMENT THE PROVISIONS OF 1999 SENATE BILL NO. 2043	TOTAL CONFERENCE COMMITTEE CHANGES
Information resource management	\$3,700,000	\$250,000	\$3,950,000
Total all funds	\$3,700,000	\$250,000	\$3,950,000
Less special funds	<u>3,700,000</u>		<u>3,700,000</u>
General fund	\$0	\$250,000	\$250,000
FTE	0.00	0.00	0.00

Engrossed SB 2015 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE****SEN. NETHING MOVED** that the conference committee report on Engrossed SB 2015 be adopted.**REQUEST****SEN. MUTCH REQUESTED** a recorded roll call vote on the motion to adopt the conference committee report on Engrossed SB 2015, which request was granted.**ROLL CALL**

The question being on the motion to adopt the conference committee report on Engrossed SB 2015, the roll was called and there were 21 YEAS, 27 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Bercier

The conference committee report on Engrossed SB 2015 was rejected.

**MOTION**

**SEN. ST. AUBYN MOVED** that the Senate stand in recess until 8:15 p.m., which motion prevailed.

**THE SENATE RECONVENED** at 9:50 p.m., with President Myrdal presiding.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2015, as engrossed:** Your conference committee (Sens. Nething, G. Nelson, T. Mathern and Reps. Dorso, Dalrymple, Boucher) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1124-1128, adopt amendments as follows, and place SB 2015 on the Seventh order:

That the House recede from its amendments as printed on pages 1124-1128 of the Senate Journal and pages 1254-1258 of the House Journal and that Engrossed Senate Bill No. 2015 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation for defraying the expenses of the various divisions under the supervision of the director of the office of management and budget; to provide other appropriations; to provide for various transfers and financial transactions; to provide an exemption from the provisions of section 54-44.1-11 of the North Dakota Century Code; to provide statements of legislative intent; to provide for a legislative council study; to create and enact a new section to chapter 54-06, a new section to chapter 54-11, a new section to chapter 54-23.2, five new sections to chapter 57-34, and a new section to chapter 65-02 of the North Dakota Century Code, relating to the collection and receipt of public funds, mobile data terminal and 911 service fees, 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, and payments in lieu of taxes on workers compensation bureau property; to amend and reenact subsection 2 of section 4-14.1-07, section 15-39.1-26, subsection 2 of section 32-12.2-07, sections 34-15-07, 39-12-20, subdivision g of subsection 3 of section 49-23-04, sections 54-16-04.1, 54-16-04.2, 54-27.2-02, 54-44-04.6, 57-34-01, 57-34-02, 57-34-03, 57-34-06, and 57-34-10 of the North Dakota Century Code, relating to ethanol plants, the collection, investment, and deposit of state funds, time periods under the one-call excavation notice system, the risk management fund, emergency commission approvals, the budget stabilization fund, and telecommunications carriers gross receipts tax revenues; to provide a penalty; to provide a continuing appropriation; to provide an effective date; to provide an expiration date; to provide for retroactive application; to provide for application; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the various divisions under the supervision of the director of the office of management and budget for the purpose of defraying their expenses, for the biennium beginning July 1, 1999, and ending June 30, 2001, as follows:

Subdivision 1.

OFFICE OF MANAGEMENT AND BUDGET

Administration	\$2,982,026
Fiscal management	3,875,828
Facility management	8,074,694
Central personnel	1,212,300
Division of community services	42,035,197
Risk management	959,911
Statewide compensation plan	5,400,000
Total all funds	\$64,539,956
Less estimated income	46,088,243
Total general fund appropriation	\$18,451,713

Subdivision 2.		
	INFORMATION SERVICES DIVISION	
Information resource management		\$49,659,295
Total all funds		\$49,659,295
Less estimated income		<u>49,409,295</u>
Total general fund appropriation		\$250,000
Subdivision 3.		
	CENTRAL SERVICES	
Central services		\$5,454,471
Total all funds		\$5,454,471
Less estimated income		<u>4,774,332</u>
Total general fund appropriation		\$680,139
Subdivision 4.		
	STATE RADIO COMMUNICATIONS	
Salaries and wages		\$2,468,120
Operating expenses		1,788,580
Equipment		160,000
Total all funds		\$4,416,700
Less estimated income		<u>514,990</u>
Total general fund appropriation		\$3,901,710
Grand total general fund appropriation section 1		\$23,283,562
Grand total special funds appropriation section 1		\$100,786,860
Grand total all funds appropriation section 1		\$124,070,422

**SECTION 2. APPROPRIATION.** There is hereby appropriated from federal funds \$6,000,000, or so much of the sum as may be necessary, to the director of the office of management and budget for the division of community services for flood-related disasters and the weatherization of low-income homes, for the period beginning with the effective date of this Act and ending June 30, 1999.

**SECTION 3. APPROPRIATION.** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$360,000, or so much of the sum as may be necessary, to the emergency commission for the purpose of paying costs associated with Americans with Disabilities Act litigation to which the department of transportation is a party for the biennium beginning July 1, 1999, and ending June 30, 2001. The emergency commission may use the funds to make payments to the plaintiffs in the event a judgement is entered against the state in Miller v. State of North Dakota.

**SECTION 4. APPROPRIATION - UNIVERSITY SYSTEM - GRANT TO PRAIRIE PUBLIC BROADCASTING.** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$415,000, or so much of the sum as may be necessary, to the university system office for the purpose of providing a grant to be used as matching funds by prairie public broadcasting for phase I of the project to convert to digital television broadcasting.

**SECTION 5. ATTORNEY GENERAL - GAMING ENFORCEMENT GRANTS - LINE ITEM TRANSFERS.** Notwithstanding section 54-16-04 and section 5 of Senate Bill No. 2003, as approved by the fifty-sixth legislative assembly, the emergency commission may authorize the attorney general to make transfers between the line items in section 1 of Senate Bill No. 2003 of up to the sum of \$310,086 for the purpose of providing additional local gaming enforcement grants in accordance with the provisions of section 6 of Senate Bill No. 2003, for the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 6. APPROPRIATION.** The amount of \$25,000, or so much of that amount as may be necessary, is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the council on the arts for the purpose of providing a grant to the plains art museum for the Lewis and Clark bicentennial event, for the biennium beginning July 1, 1999, and ending June 30, 2001. The council on the arts may provide the grant only after the plains art museum has raised \$25,000 of other funds to be used to match the general fund moneys appropriated in this section.

**SECTION 7. LINE ITEM TRANSFERS - EMERGENCY COMMISSION AND BUDGET SECTION APPROVAL.** Upon approval of the emergency commission, the director of the office of management and budget may transfer between various line items in subdivisions 1, 2, and 3 of section 1 of this Act appropriation authority of up to

ten percent of a given line item to adjust for changing circumstances in meeting established performance measures. Any further transfers must be approved by the budget section.

**SECTION 8. CAPITOL BUILDING FUND.** The amount of \$225,000, or so much of the sum as is necessary, included in the estimated income line item in subdivision 1 of section 1 of this Act, is to be spent by the facility management division from the capitol building fund during the biennium beginning July 1, 1999, and ending June 30, 2001. The amount of \$25,000, or so much of the sum as is necessary, included in the estimated income line item in subdivision 1 of section 1 of this Act, is to be spent by the administration division from the capitol building fund for capitol grounds planning during the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 9. EXEMPTION.** The fiscal management appropriation contained in subdivision 1 of section 1 of chapter 15 of the 1997 Session Laws is not subject to the provisions of section 54-44.1-11 for up to an amount of \$750,000 and any unexpended funds from this appropriation are available for continued development and operating costs of the accounting, management, and payroll systems during the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 10. SPECIAL COMPENSATION ADJUSTMENTS FOR CLASSIFIED STATE EMPLOYEES.** It is the intent of the fifty-sixth legislative assembly that the statewide compensation plan appropriation included in subdivision 1 of section 1 of this Act be used for market equity compensation adjustments for classified state employees. The special market equity adjustments are to begin with the month of July 1999, to be paid in August 1999. The special market equity adjustments are to be independent of any general salary increase provided by this legislative assembly.

The special market equity increases are to be prioritized based on equity for employees whose salaries are furthest from their respective salary range midpoints effective July 1, 1999. Special market equity increases may not be given to employees whose salary exceeds the midpoints of their assigned salary range effective July 1, 1999.

Probationary employees are eligible for the special market equity increases. Employees whose documented performance levels do not meet standards are not eligible for the special market equity increases.

The central personnel division shall provide a model base plan to each agency. Agencies may adopt the model plan, adopt the model plan with exceptions, or offer an alternative plan that meets the intent outlined in this section.

Upon adoption of an appropriate plan and application to the central personnel division, the division shall transfer appropriated general funds or special fund spending authority for the increases to the agencies.

**SECTION 11. INTENT - STATE EMPLOYEE COMPENSATION ADJUSTMENTS - GUIDELINES.** It is the intent of the fifty-sixth legislative assembly that 1999-2001 compensation adjustments for permanent state employees are to be increases of a minimum of \$35 per month, beginning with the month of July 1999, to be paid in August 1999, and a minimum of \$35 per month, beginning with the month of July 2000, to be paid in August 2000. Any increases greater than \$35 per month may not be given across-the-board and must be based on merit and equity. Each agency appropriation is increased by 2.0 percent per year.

Probationary employees and employees whose documented performance levels do not meet standards are not eligible for the general or additional increases.

During the biennium, no salary increase other than the \$35 per month in July 1999 and \$35 per month in July 2000 may be given to an employee whose salary exceeds or would exceed the salary range maximum.

It is the intent of the fifty-sixth legislative assembly that the workers compensation bureau provide pay raises based on merit and performance throughout the 1999-2001 biennium.

An agency may provide average salary increases of up to 3.0 percent for the second year of the 1999-2001 biennium only to the extent that the increase can be paid without an increase in the agency's appropriation. State agencies and institutions shall

report to the office of management and budget on the amounts provided for salary increases for the second year of the biennium, any amounts transferred between line items pursuant to section 12 of this Act, the source of funding, and the impact on the provision of agency services. The office of management and budget shall report to the budget section at its December 2000 meeting concerning the amounts provided by state agencies and institutions for salary increases for the second year of the biennium, line item transfers relating to the increases, the source of the funding, and the impact on the provision of agency services.

**SECTION 12. STATE AGENCIES - LINE ITEM TRANSFER AUTHORITY.**

Notwithstanding the provisions of chapter 54-16, the director of the office of management and budget and the state treasurer shall make transfers of funds between line items of an agency or institution upon the request of the agency or institution in order to provide for an average of 3.0 percent employee salary increases for the second year of the 1999-2001 biennium as provided in section 11 of this Act.

**SECTION 13. INTENT.** Within the authority included in subdivision 1 of section 1 of this Act, are the following grants and special items:

Boys and girls clubworks	\$53,000
State contingencies	600,000
State memberships and related expenses	317,000
Firemen's association	63,000
Unemployment insurance	1,200,000
Capitol grounds planning commission	25,000
State lobbyist	120,000

**SECTION 14. TRANSFER.** During the biennium beginning July 1, 1999, and ending June 30, 2001, the director of the office of management and budget is authorized to transfer special funds to the general fund as follows:

Lands and minerals trust fund	\$3,000,000
Public employees life insurance program	1,500,000
Financial institutions regulatory fund	200,000

**SECTION 15. DEVELOPMENTAL DISABILITIES REVOLVING LOAN FUND - AUTHORITY TO SELL LOANS - TRANSFERS.** Between January 1 and June 30, 2001, at the request of the director of the office of management and budget, the executive director of the department of human services shall sell such loans in the developmental disabilities revolving loan fund created under North Dakota Century Code section 6-09.6-01, as may be necessary to the Bank of North Dakota to provide \$2,150,000, or so much thereof as may be necessary, with the proceeds to be deposited in the general fund. The loans may only be sold to the extent necessary to achieve the June 30, 2001, ending general fund balance as estimated by the fifty-sixth legislative assembly.

**SECTION 16. FIRE AND TORNADO FUND.** The amount of \$63,000, or so much of the amount as is necessary, included in the estimated income line item in subdivision 1 of section 1 of this Act, is from the fire and tornado fund.

**SECTION 17. BANK OF NORTH DAKOTA TRANSFERS TO STATE GENERAL FUND.** During the biennium ending June 30, 2001, the industrial commission shall transfer to the state general fund up to \$50,000,000 from the current earnings and the accumulated undivided profits of the Bank of North Dakota. No more than \$15,000,000 of the amount transferred may come from accumulated undivided profits. The moneys must be transferred in the amounts and at such times as requested by the director of the office of management and budget.

No transfers may be made that would reduce the Bank's capital structure below \$100,000,000.

**SECTION 18. CONTINGENT BANK OF NORTH DAKOTA TRANSFERS TO STATE GENERAL FUND - BUDGET SECTION APPROVAL.** If, during the biennium ending June 30, 2001, the director of the office of management and budget determines via revised projections that general fund revenue collections will not meet the revenues as forecast in the March 1999 legislative forecast, then the industrial commission shall transfer to the state general fund an additional amount, as determined by the director of the office of management and budget and as approved by the budget section, from the earnings and accumulated and undivided profits of the Bank of North Dakota. Transfers made under the provisions of this section may not be made before July 1, 2000, and

may only be made to the extent that the transfer is necessary to achieve a projected June 30, 2001, general fund balance of \$10,000,000. The moneys must be transferred in amounts and at such times as requested by the director of the office of management and budget. The additional amount transferred may not exceed the lesser of \$40,000,000 or the revenue shortfall of actual collections compared to the March 1999 legislative forecast.

No transfers may be made that would reduce the Bank's capital structure below \$100,000,000.

**SECTION 19. FEDERAL PROGRAM TERMINATIONS - BLOCK GRANT - FUNDING REDUCTIONS - RELATED PROGRAM REDUCTIONS - REPORTS TO THE BUDGET SECTION.** If the federal government during the 1999-2001 biennium terminates funding for any program administered by an agency, department, or institution of the state of North Dakota, the agency, department, or institution, subject to budget section approval, may terminate the program and not replace the reduction in federal funds with state funds, notwithstanding any other provision of law. If the federal government combines funding for separate programs in a block grant resulting in a reduction of total federal funds available for those programs, the administering agency, department, or institution may, subject to budget section approval, prioritize or reprioritize programs as necessary in making programmatic reductions. The agency, department, or institution may administer funds available under a new federal block grant or similar measure, consistent with the terms of that measure, notwithstanding any other provisions of law intended to conform to or implement the provisions of the repealed federal Act, and shall report any program terminations, reductions, or changes resulting from this section to the budget section of the legislative council for its approval.

**SECTION 20. PROGRAM-BASED PERFORMANCE BUDGETING.** The office of management and budget shall discontinue the program-based performance budgeting pilot project when preparing the 2001-03 biennium budget documents and accompanying appropriation bills. Budget documents for the 2001-03 biennium are to be based on the standard line items and are not to contain agency performance measures.

**SECTION 21. LEGISLATIVE COUNCIL INTERIM STUDY OF PERFORMANCE INCENTIVE PILOT PROGRAMS.** The legislative council shall consider studying the establishment of agency performance incentive pilot programs. If conducted, the study should address how agencies could develop, implement, administer, maintain, and evaluate performance incentive pilot programs. The study should also address the development of personnel policies and procedure manuals and how pay raises which may not be across the board are to be awarded as a reward and incentive for superior performance and the length of time they may be in effect. 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 22. UNIVERSITY OF NORTH DAKOTA WINTER SPORTS FACILITY MAINTENANCE FUND.** The university of North Dakota shall establish a reserve fund to be used to provide for future repair and maintenance costs related to the winter sports facility to be constructed at the university of North Dakota. The university shall establish a reserve fund for this purpose from building operating profits, donations, or other funds.

**SECTION 23. AMENDMENT.** Subsection 2 of section 4-14.1-07 of the 1997 Supplement to the North Dakota Century Code as amended by section 11 of House Bill No. 1019, as approved by the fifty-sixth legislative assembly, is amended and reenacted as follows:

2. An ethanol plant that was in operation before July 1, 1995, and which ~~produced~~ has a production capacity of fewer than fifteen million gallons [56781000 liters] of ethanol ~~in the previous fiscal year~~ may receive up to seven hundred fifty thousand dollars in production incentives from the state for production in a fiscal year. An ethanol plant that was in operation before July 1, 1995, and which has a production capacity of fifteen million gallons [56781000 liters] or more of ethanol per year is not eligible for production incentives from the state.

**SECTION 24. AMENDMENT.** Section 15-39.1-26 of the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-26. Investment of moneys in fund - Interest and earnings attributable to fund.** Investment of the fund ~~shall be~~ is under the supervision of the state investment board in accordance with chapter 21-10. ~~Such~~ The moneys must be placed for investment only with a firm or firms whose endeavor is money management, and only after a trust agreement or contract has been executed. Investment costs may be paid directly from the fund, and are hereby appropriated for that purpose, in accordance with section 21-10-06.2. All interest and earnings on funds administered by the board must be credited to the fund.

**SECTION 25. AMENDMENT.** Subsection 2 of section 32-12.2-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The state risk management fund is a special fund in the state treasury administered by the director of the office of management and budget. The fund is a revolving fund consisting of contributions from participating state entities, all payments received by the fund from its activities, and other appropriations by the legislative assembly. The state investment board shall invest the fund in accordance with chapter 21-10. Funds received as contributions from state entities, all other payments deposited in the fund, and interest and income received on investments are hereby appropriated on a continuing basis for the purposes of the fund. Section 54-44.1-11 does not apply to the fund.

**SECTION 26. AMENDMENT.** Section 34-15-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**34-15-07. Disposition of civil money penalties.** A civil money penalty collected under this chapter must be paid into the state treasury for deposit in the general fund ~~after the costs of recovering the civil money penalty are deducted therefrom.~~

**SECTION 27. AMENDMENT.** Section 39-12-20 of the North Dakota Century Code is amended and reenacted as follows:

**39-12-20. Proceeds of sale - Continuing appropriation.** The proceeds of sale must be ~~applied first to the payment of~~ deposited with the state treasurer. The state treasurer shall deposit in the highway fund an amount equal to the amount of the charges assessed pursuant to section 39-12-17 after paying the costs to the county. An amount equal to the costs of the proceedings, including attorneys and witness fees and costs, and next to the payment of the charges assessed. ~~Such charges must be remitted to the state treasurer to be credited to the highways fund~~ is appropriated on a continuing basis out of the funds collected to the county in which the prosecution took place for the purpose of defraying the costs of prosecution. The balance of the proceeds of any sale after the payment of costs and charges ~~must~~ is appropriated on a continuing basis out of the funds collected to be paid ~~over by the sheriff~~ to the person entitled thereto as determined by the court or must be deposited with the clerk of court for such payment.

**SECTION 28. AMENDMENT.** Subdivision g of subsection 3 of section 49-23-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- g. An excavator may not use a location more than ~~seventy-two hours~~ ten days, or any extension of that period, after the planned excavation date unless the excavator has made previous arrangements with the operators affected.

**SECTION 29.** A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

**Expenses incurred to collect funds owed the state - Continuing appropriation.** If a state agency enters a contract with a collection or credit agency to collect money due the state, the fees for services, reimbursement, or other remuneration to the collection or credit agency must be based on the amount of money actually collected. All funds collected on behalf of a state agency by a collection or credit agency must be deposited with the state treasurer. An amount equal to the amount of fees for services, reimbursement, or any other remuneration to the collection or credit agency as set forth in the contract is appropriated from the fund into which the money collected was deposited to the state agency for which the funds were collected for the payment of fees due under the contract.

**SECTION 30.** A new section to chapter 54-11 of the North Dakota Century Code is created and enacted as follows:

**Appointment of agents.** The treasurer may appoint agents for the purpose of receiving public funds as required by section 12 of article X of the Constitution of North Dakota. If appointed by the state treasurer, the Bank of North Dakota shall serve as an agent of the state treasurer for the purpose of receiving public funds, including funds that must be deposited in higher education institution special revenue funds.

**SECTION 31. AMENDMENT.** Section 54-16-04.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-16-04.1. May authorize acceptance and disbursement of federal funds.**

The emergency commission with the advice and counsel of the executive office of the budget may authorize the state treasurer to receive any moneys not appropriated by the legislative assembly which are made available by any federal agency and which the legislative assembly has not indicated an intent to reject. The emergency commission may authorize pass-through federal funds from one state agency to another state agency. The emergency commission, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, may authorize any state officer to expend federal moneys from the date such moneys become available until June thirtieth following the next regular legislative session. The expenditures must be consistent with state law and with the terms of the grant and the program may not commit the legislative assembly for matching funds in the future unless the program has first been approved by the legislative assembly. A state officer may not expend funds received from the federal government which have not been specifically appropriated by the legislative assembly except as provided in this chapter. A state officer shall submit an expenditure plan with a request for approval under this section of expenditure of federal funds combined with or as part of a block grant for a new or existing program.

**SECTION 32. AMENDMENT.** Section 54-16-04.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-16-04.2. Commission may authorize acceptance and expenditure of moneys.** The emergency commission, upon the advice of the office of management and budget, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, may authorize a state officer to receive moneys from gifts, grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys or the program. The emergency commission may authorize the state officer to expend money received under this section from the date the money becomes available until June thirtieth following the next regular legislative session.

**SECTION 33.** A new section to chapter 54-23.2 of the North Dakota Century Code is created and enacted as follows:

**Mobile data terminal and 911 service fees.** State radio communications shall establish and charge fees to provide mobile data terminal service to interested local law enforcement agencies. The fees must be based on actual costs incurred by state radio communications for providing the service.

State radio communications shall charge at least twenty cents per telephone for 911 services provided to political subdivisions. Each county currently receiving 911 services from state radio communications shall abide by the standards established by the governor's emergency services advisory committee.

**SECTION 34. AMENDMENT.** Section 54-27.2-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-27.2-02. ~~(Effective through June 30, 1999)~~ Certain general fund revenues to be deposited in the budget stabilization fund.** Notwithstanding any other provision of law except section 54-27.2-01, any amount in the state general fund in excess of sixty-five million dollars at the end of any biennium must be transferred by the state treasurer to the budget stabilization fund. For purposes of this section, "at the end of any biennium" means after cancellation of unexpended appropriations under section 54-44.1-11.

~~(Effective July 1, 1999) Certain general fund revenues to be deposited in the budget stabilization fund. Notwithstanding any other provision of law except section 54-27.2-01, any amount in the state general fund in excess of forty million dollars at the end of any biennium must be transferred by the state treasurer to the budget stabilization fund. For purposes of this section, "at the end of any biennium" means after cancellation of unexpended appropriations under section 54-44.1-11.~~

**SECTION 35. AMENDMENT.** Section 54-44-04.6 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-44-04.6. State surplus property - Department heads to inform director - Disposition of property - Proceeds - Exchange of property.**

1. The person in charge of any department, agency, or institution of the state shall inform the director of the office of management and budget or the director's designee whenever that department, agency, or institution possesses property surplus to its needs, whether originally obtained with state or other funds.
2. State surplus property must be transferred at fair market value to state agencies, political subdivisions, and nonprofit organizations eligible to receive federal surplus property under the Federal Property Administrative Services Act of 1949, as amended. Eligible organizations must be notified of the availability of property on a regular basis.
3. If not disposed of under subsection 2, then by sale on sealed bids or at public auction to the highest and best bidder for property valued at more than three thousand dollars, with no money deposit required prior to sale, or by sealed bids, public auction, or negotiation at fair value for property valued at less than three thousand dollars.
4. All proceeds received from the transfer or sale of state surplus property must be deposited into the fund from which the property was originally purchased, less administrative expenses with the state treasurer for deposit in the surplus property operating fund. For each piece of property, the office of management and budget shall transfer to the agency from which the property was received an amount equal to the proceeds of the sale less the administrative expenses of the sale. The agency shall deposit the proceeds into the fund from which the property was originally purchased.
5. No department, agency, or institution may exchange items as part of a purchase price of new items until a detailed statement of the value of the items to be exchanged and request for approval have been submitted to the director of the office of management and budget. The director shall approve the exchange only if the director has determined that the item has been valued at fair value.

**SECTION 36.** A new section to chapter 57-34 of the North Dakota Century Code is created and enacted as follows:

**Tax commissioner to audit returns and state board of equalization to assess tax.** The tax commissioner shall proceed to audit the returns of telecommunications carriers not later than three years after the due date of the return, or three years after the return was filed, whichever period expires later. The state board of equalization shall assess the tax and, if any additional tax is found due, the tax commissioner shall notify the taxpayer in detail as to the reason for the increase.

**SECTION 37.** A new section to chapter 57-34 of the North Dakota Century Code is created and enacted as follows:

**Deficiency, protest, and appeal.**

1. When tax is understated on a return because of a mathematical or clerical error, the tax commissioner shall notify the telecommunications carrier of the error and the amount of additional tax due. This notice is not a notice of deficiency and the telecommunications carrier has no right to protest.
2. If upon audit the tax commissioner finds additional tax due, the tax commissioner shall notify the telecommunications carrier and the state

board of equalization of the deficiency in the tax amount. A notice of deficiency must be sent to the telecommunications carrier by first-class mail and must state the amount of additional tax due and set forth the reasons for the increase.

3. A telecommunications carrier has thirty days from the date of mailing of the notice of deficiency to file a written protest with the state board of equalization objecting to the assessment of additional tax due. The protest must set forth the basis for the protest and any other information that may be required by the state board of equalization. If a telecommunications carrier fails to file a written protest within the time provided, the amount of additional tax stated in the notice of deficiency becomes finally and irrevocably fixed. If a telecommunications carrier protests only a portion of the tax commissioner's finding, the portion that is not protested becomes finally and irrevocably fixed.
4. If a protest is filed, the state board of equalization shall reconsider the assessment of additional tax due.
5. Within six months after the protest is filed, the state board of equalization shall mail to the telecommunications carrier a notice of reconsideration and assessment which must respond to the telecommunications carrier's protest and assess the amount of any additional tax due. The amount set forth in that notice becomes finally and irrevocably fixed unless the telecommunications carrier brings an action against the state in district court within six months of the mailing of the notice of reconsideration and assessment.

**SECTION 38.** A new section to chapter 57-34 of the North Dakota Century Code is created and enacted as follows:

**Claims for credit or refund.**

1. A telecommunications carrier may file a claim for credit or refund of an overpayment of any tax imposed by this chapter within three years after the due date of the return or within three years after the return was filed, whichever period expires later.
2. A claim for credit or refund must be made by filing with the tax commissioner an amended return, or other report as prescribed by the tax commissioner, accompanied by a statement outlining the specific grounds upon which the claim for credit or refund is based.
3. The tax commissioner shall notify the telecommunications carrier if the state board of equalization disallows all or part of a claim for credit or refund. The decision of the state board of equalization denying a claim for credit or refund is final and irrevocable unless the telecommunications carrier brings an action against the state in district court within six months of the mailing of the notice denying the claim for credit or refund.

**SECTION 39.** A new section to chapter 57-34 of the North Dakota Century Code is created and enacted as follows:

**Preservation of records.** Every telecommunications carrier required to make a return and pay any tax under this chapter shall preserve records of the gross proceeds of sale as the commissioner may require and every carrier shall preserve for a period of three years and three months all invoices and other records of telecommunications services purchased for resale. All of these books, invoices, and other records must be open to examination at any time by the commissioner or any duly authorized agent of the commissioner.

**SECTION 40.** A new section to chapter 57-34 of the North Dakota Century Code is created and enacted as follows:

**Resale certificates.** A telecommunications carrier who receives a resale certificate certifying that another telecommunications carrier holds a North Dakota sales and use tax permit for sales or use tax purposes under section 57-39.2-14 is relieved from submitting the telecommunications gross receipts tax upon the sale of telecommunications services to be resold by the telecommunications carrier submitting the certificate. When a telecommunications carrier submits a false resale certificate to

another telecommunications carrier, the telecommunications carrier that submitted the certificate is liable for the telecommunications gross receipts tax on the sale. A hospital, hotel, motel, or similar place of temporary accommodation selling telecommunications service to its patients or guests is not a telecommunications carrier under this section.

**SECTION 41. AMENDMENT.** Section 57-34-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-34-01. Definitions.** The definitions in this section may not be construed to subject a telecommunications carrier or telecommunications service to the provisions of title 49. As used in this chapter, unless the context or subject matter otherwise clearly requires:

1. "Adjusted gross receipts" means telecommunications carrier gross receipts less all amounts paid by the reporting telecommunications carrier on telecommunications service that is taxable under this chapter in state and local sales and use taxes and federal excise taxes and less amounts paid by the reporting telecommunications carrier to another telecommunications carrier for directory assistance originated by a caller in this state.
2. "Company" includes any individual, copartnership, business trust, corporation, limited liability company, joint-stock company, association, or any other organization.
2. ~~3.~~ "Gross receipts" means all telecommunications carrier retail revenues from telecommunications service charges billed to any station in this state and from charges to another telecommunications carrier for directory assistance originated by a caller in this state.
3. ~~4.~~ "Station" means a subscriber service address located in this state with a distinct call number designation or distinct extension number designation. If this is not a defined location, "station" means the location of the primary use of telecommunications equipment as determined by telephone number, authorization code, or billing address.
4. ~~5.~~ "Telecommunications carrier" means a ~~person~~ company that is engaged in the business of furnishing telecommunications service within this state. The term includes a reseller of telecommunications service.
5. ~~6.~~ "Telecommunications service" means transmitting for consideration of two-way communication by wire, cable, fiber optics, radio, lightwave, microwave, satellite, or other means. The term includes:
  - a. Essential telecommunications service and nonessential telecommunications service as defined in section 49-21-01;
  - b. Telecommunications service that originates and terminates in this state and is billed to a station in this state;
  - c. Interstate telecommunications service that originates or terminates in this state and is billed to a station in this state; and
  - d. ~~A hospital, hotel, motel, or similar place of temporary accommodation selling telecommunications service to its patients or guests, if there is a separately stated charge for the service; and~~
  - e. Telegraph service.
6. ~~7.~~ "Telecommunications service charges" means the value of all consideration received by a telecommunications carrier for provision of telecommunications service and recovery within the year of telecommunications service charges written off in a prior year as uncollectible. For a telecommunications carrier operating on any form of mutual basis, the term includes all amounts assessed against the members for the operation and maintenance of the business. The term does not include revenue from merchandising, jobbing and contract work, maintenance or repair of customer premises equipment including equipment leased or rented by the customer from any source, operations not directly related to provision of telecommunications service, amounts charged for billing and collection on behalf of another telecommunications

carrier, proceeds from transfer of capital stock, or transfer, sale, or lease of property not directly related to telecommunications service. The term does not include amounts collected for or amounts collected from federal and state mechanisms to preserve and advance universal service.

**SECTION 42. AMENDMENT.** Section 57-34-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-34-02. Reports of telecommunications carriers - Penalty.**

1. Each telecommunications carrier that received intercarrier telecommunications revenue in the preceding calendar year shall make and file with the tax commissioner, on or before January fifteenth of each year, a list containing the name and mailing address of each telecommunications carrier from which the reporting telecommunications carrier received intercarrier telecommunications revenue in the preceding calendar year. This list is to be filed in addition to the report required by subsection 3.
2. Each telecommunications carrier that provided telecommunications service in the preceding calendar year to one or more pay telephones owned by another company shall make and file with the tax commissioner, on or before January fifteenth of each year, a list containing the name and mailing address for each company that owned a pay telephone served by the reporting telecommunications carrier in the preceding calendar year. This list is to be filed in addition to the report required by subsection 3.
3. Each telecommunications carrier subject to gross receipts taxes under this chapter shall make and file with the tax commissioner, on or before May first of each year, on the form as the tax commissioner may prescribe, a report containing a statement of its gross receipts in this state during the preceding calendar year, amounts paid by the carrier on telecommunications service that is taxable under this chapter during the preceding calendar year in state and local sales and use taxes and federal excise taxes, amounts received from or paid to another telecommunications carrier for directory assistance, and any other information as the tax commissioner may require. The form must include a notice of a telecommunications carrier's right to appeal its assessment to the state board of equalization prior to or at the August meeting of the state board of equalization. Each report must be signed, subject to section 12.1-11-02, by the president, secretary, or other official of the telecommunications carrier.

**SECTION 43. AMENDMENT.** Section 57-34-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-34-03. Computation of taxes by tax commissioner - Exemption for high-volume customers - Continuing appropriation.**

1. On or before July fifteenth of each year, the tax commissioner shall review the report under subsection 3 of section 57-34-02 and compute the ~~tentative~~ total tax to be assessed against each telecommunications carrier in this state at a rate of two and one-half percent of adjusted gross receipts. ~~The~~ If the tax commissioner's computation of the total tax differs from the amount computed by a telecommunications carrier, the tax commissioner shall give ~~ten days'~~ notice of the change by mail to each that telecommunications carrier of its tentative total tax under this section and of its right to contest the determination before the state board of equalization at its ~~August meeting on or before July fifteenth.~~ The state board of equalization shall assess the tax under this section after consideration of any contest presented.
2. A telecommunications carrier's retail customer in this state is entitled to a refund equal to two and one-half percent of the amount of telecommunications service charges paid to telecommunications carriers by that customer in excess of eight hundred thousand dollars in a calendar year. A refund claim under this subsection must be filed with the tax commissioner before July first of the year following the calendar year for which the refund is claimed. A claim for refund must be made in the manner prescribed by the tax commissioner. Refunds under this

subsection must be paid by the tax commissioner from tax collections under this chapter and are appropriated as a standing and continuing appropriation to the tax commissioner for that purpose.

**SECTION 44. AMENDMENT.** Section 57-34-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-34-06. Duties of county treasurer.** The county treasurer shall allocate taxes received under this chapter to the state, the county, and the various taxing districts within the county according to the proportion that taxes paid by telecommunications carriers in locally assessed property taxes and taxes assessed under chapter 57-06 and this chapter in 1997 and received by the state, the county, and each currently existing taxing district in the county bears to all taxes paid by telecommunications carriers in locally assessed property taxes and taxes assessed under chapter 57-06 and this chapter in 1997 and received by the state, the county, and all taxing districts in the county.

**SECTION 45. AMENDMENT.** Section 57-34-10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**57-34-10. Penalties - Interest - Lien for tax.**

1. If a telecommunications carrier refuses or neglects to make the reports required by this chapter, or refuses or neglects to furnish any information requested, the tax commissioner shall use the best available facts and estimates to determine taxation of the gross receipts of that carrier. The tax must be imposed upon the basis of that information, ~~and, if any company fails to make the report required under this chapter on or before the first day of May of any year, the state board of equalization shall add a penalty of one-quarter of the tax due for failure to make the required report which must be collected as a part of the tax, but the tax commissioner, upon application, may grant extensions of time within which the returns must be filed.~~
2. Taxes levied under this chapter are due and payable to the tax commissioner on January first following the year in which the taxes were assessed. ~~The unpaid principal balance of taxes on the following March first is subject to a penalty of three percent, on the following May first an additional penalty of three percent, on the following July first an additional penalty of three percent, and on the following October fifteenth an additional penalty of three percent. Beginning January first of the year following the year the taxes became due, simple interest at the rate of twelve percent per annum applies to the unpaid principal balance until the taxes and penalties are paid. Interest penalties must be prorated to the nearest full month for a fractional year of delinquency. A remittance of tax need not be made and any assessment or collection of tax may not be made unless the amount is at least five dollars, including penalty and interest.~~
3. ~~If any amount of tax imposed by this chapter is not paid on or before March first, or if upon audit an additional tax is found to be due, there must be added to the tax remaining due interest at the rate of one percent of the additional tax for each month or fraction of a month during which the tax remains unpaid, computed from March first to the date paid.~~
4. ~~Taxes under this chapter constitute a first and paramount lien in favor of the state upon all property and rights to property of the taxpayer. The lien may be foreclosed in the same manner provided by law for mortgages on real or personal property. Whenever any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the liability, the amount, including any interest, penalty, or addition to the tax, and the additional costs that may accrue are a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to the taxpayer. The lien attaches at the time the tax becomes due and payable and continues until the liability for the amount is satisfied.~~
5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the tax commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in subsection 4, takes

free of, or has priority over, the lien. The tax commissioner shall index in the central indexing system the following data:

- a. The name of the taxpayer.
- b. The tax identification number or social security number of the taxpayer.
- c. The name "State of North Dakota" as claimant.
- d. The date and time the notice of lien was indexed.
- e. The amount of the lien.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. The tax commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

6. Upon payment of the tax, and any accrued penalties and interest, as to which the tax commissioner has filed a notice of lien, the tax commissioner shall index a satisfaction of the lien in the central indexing system without fees or costs.

**SECTION 46.** A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

**Payments in lieu of taxes by bureau.** If a building and associated real property is purchased by the workers compensation bureau pursuant to a legislative grant of authority, the bureau shall make payments in lieu of property taxes in the manner and according to the conditions and procedures that would apply if the building and property were privately owned.

**SECTION 47. RETROACTIVE APPLICATION.** Section 25 of this Act is effective for all funds received and deposited into the risk management fund on or after July 1, 1997.

**SECTION 48. RETROACTIVE APPLICATION - EFFECTIVE DATE - EXPIRATION DATE.** Sections 36 through 45 of this Act apply retroactively to all tax years beginning after December 31, 1997. The amendments to subsections 1 and 3 of section 57-34-01 as amended by section 41 of this Act are effective for taxable years beginning after December 31, 1998. The amendments to subsections 1 and 2 of section 57-34-02 as amended by section 42 of this Act are effective for the first two taxable years beginning after December 31, 1999, and are thereafter ineffective.

**SECTION 49. APPLICATION.** North Dakota Century Code sections 54-16-04 and 54-44.1-11 do not apply to chapter 30 of the 1997 Session Laws.

**SECTION 50. EMERGENCY.** Sections 2, 24, 26, 27, 28, 29, 30, and 35 of this Act are declared to be an emergency measure."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 110 - OFFICE OF MANAGEMENT AND BUDGET

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
Administration	\$3,086,844	\$3,082,026	(\$100,000)	\$2,982,026	\$2,982,026	
Fiscal management	3,998,308	3,875,828		3,875,828	3,875,828	
Facility management	8,203,213	8,174,694	(100,000)	8,074,694	7,854,694	\$220,000
Central personnel	1,226,846	1,212,300		1,212,300	1,212,300	
Division of community services	42,055,293	42,035,197		42,035,197	42,035,197	
Risk managemnet	964,173	959,911		959,911	959,911	
Statewide compensation plan	5,400,000	5,400,000		5,400,000	5,400,000	
Total all funds	\$64,934,677	\$64,739,956	(\$200,000)	\$64,539,956	\$64,319,956	\$220,000
Less special funds	46,105,926	46,088,243		46,088,243	46,088,243	
General fund	\$18,828,751	\$18,651,713	(\$200,000)	\$18,451,713	\$18,231,713	\$220,000
FTE	122.00	121.00	1.00	122.00	120.60	1.40

Detail of Conference Committee changes to Senate version includes:

	REDUCE STATE CONTINGENCIES FUNDING	DECREASE FUNDING FOR SECURITY SYSTEM	RESTORE BUDGET ANALYST FTE POSITION WITHOUT FUNDING	TOTAL CONFERENCE COMMITTEE CHANGES
Administration	(\$100,000)			(\$100,000)
Fiscal management				
Facility management		(\$100,000)		(100,000)
Central personnel				
Division of community services				
Risk management				
Statewide compensation plan				
Total all funds	(\$100,000)	(\$100,000)	\$0	(\$200,000)
Less special funds				
General fund	(\$100,000)	(\$100,000)	\$0	(\$200,000)
FTE	0.00	0.00	1.00	1.00

The amendment also makes the following changes:

- Adds a new section appropriating \$6,000,000 of federal funds to the Division of Community Services for flood-related disasters (\$3,000,000) and weatherization of low-income homes (\$3,000,000). The amendment also adds a section making the \$6,000,000 appropriation an emergency measure.
- Provides a general fund appropriation of \$360,000 to the Emergency Commission for costs resulting from the settlement of a lawsuit relating to fees charged for handicapped parking permits.
- Provides a general fund appropriation of \$415,000 to the University System office for a grant to Prairie Public Broadcasting to be used as matching funds for Phase I of the conversion to digital broadcasting.
- Provides authority for the Attorney General to distribute an additional \$310,086 for local gaming enforcement grants if the funding is available within the Attorney General's appropriation. This amount is in addition to \$221,877 contained in Senate Bill No. 2003 for this purpose.
- Provides a general fund appropriation of \$25,000 to the Council on the Arts for a grant to the Plains Art Museum for the Lewis and Clark bicentennial event. The grant will not be distributed until the museum has raised \$25,000 of other funds as a match for the general fund grant.
- Changes compensation guidelines to 2 percent for the first year and 3 percent for the second year, if the additional 1 percent the second year is available from within agency appropriations.
- Adds a section limiting the incentives to only the Grafton plant.
- Authorizes the director of the Office of Management and Budget to sell up to \$2,150,000 of developmentally disabled facility loans to the Bank of North Dakota. The director shall sell such amount as may be necessary to reach the legislative estimate for the June 30, 2001, general fund balance.
- Adds a new section providing that if federal funding for a program is terminated during the 1999-2001 biennium, the administering state agency, department, or institution shall terminate the program. It also provides that if the federal government reduces federal funding by combining the funding for separate programs into a block grant, the agency, department, or institution shall prioritize or reprioritize programs as necessary.
- Adds a new section directing the Office of Management and Budget to discontinue the program-based performance budgeting pilot program.
- Adds a new section providing for a Legislative Council interim study of performance incentive pilot programs.
- Requires the University of North Dakota to establish a fund, which is to be used for repair and maintenance costs related to the proposed winter sports facility.
- Provides statutory changes to address potential problems with statutes authorizing public moneys to be deposited other than with the State Treasurer.

- Adds a new section clarifying that all deposits into the risk management fund may be spent for the purpose of the fund. The amendment also adds a section making this change retroactive to deposits after July 1, 1997.
- Amends Section 49-23-04, relating to time periods under the one-call excavation notice system and provides that this is an emergency measure.
- Adds two new sections clarifying which Emergency Commission approvals also need Budget Section approval.
- Adds sections relating to the audit and assessment of telecommunications carriers and telecommunications taxes.
- Requires the Workers Compensation Bureau to make payments in lieu of property taxes if the Bureau purchases a building.
- Provides that Sections 54-16-04 and 54-44.1-11, relating to the cancellation of unexpended appropriations, do not apply to the 1997-99 biennium appropriation for the legislative branch.
- Provides for special fund transfers to the general fund of \$200,000 from the financial institutions regulatory fund and \$1,500,000 from the Public Employees Retirement System life insurance program.
- Reduces Bank of North Dakota transfers to the general fund by \$10,000,000, from \$60,000,000 to \$50,000,000 and increases the contingent transfers by \$17,000,000, from \$23,000,000 to \$40,000,000. The amendment also adds language providing that contingent transfers can be made only after July 1, 2000, and then only to the extent necessary to achieve a June 30, 2001, general fund balance of \$10,000,000.
- Reduces the fiscal management division's carryover from the 1997-99 biennium by \$250,000, from \$950,000 to \$700,000.
- Removes the section appropriating \$100,000, \$50,000 of which was general fund moneys and \$50,000 of special funds, to the Department of Human Services for the purpose of providing network technical support to county social service boards.

## DEPARTMENT 112 - INFORMATION SERVICES DIVISION

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
Information resource management	\$46,282,960	\$45,709,295	\$3,950,000	\$49,659,295	\$49,409,295	\$250,000
Total all funds	\$46,282,960	\$45,709,295	\$3,950,000	\$49,659,295	\$49,409,295	\$250,000
Less special funds	<u>46,082,960</u>	<u>45,709,295</u>	<u>3,700,000</u>	<u>49,409,295</u>	<u>49,409,295</u>	
General fund	\$200,000	\$0	\$250,000	\$250,000	\$0	\$250,000
FTE	170.00	168.00	0.00	168.00	168.00	0.00

Detail of Conference Committee changes to Senate version includes:

	CONTRACT FUNDING FOR DHS MEDICAID/ TANF PROJECT	ADD FUNDING TO IMPLEMENT THE PROVISIONS OF 1999 SENATE BILL NO. 2043	TOTAL CONFERENCE COMMITTEE CHANGES
Information resource management	\$3,700,000	\$250,000	\$3,950,000
Total all funds	\$3,700,000	\$250,000	\$3,950,000
Less special funds	<u>3,700,000</u>		<u>3,700,000</u>
General fund	\$0	\$250,000	\$250,000
FTE	0.00	0.00	0.00

Engrossed SB 2015 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SEN. NETHING MOVED** that the conference committee report on Engrossed SB 2015 be adopted.

**REQUEST**

**SEN. T. MATHERN REQUESTED** a recorded roll call vote on the motion to adopt the conference committee report on Engrossed SB 2015, which request was granted.

**ROLL CALL**

The question being on the motion to adopt the conference committee report on Engrossed SB 2015, the roll was called and there were 27 YEAS, 21 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; Fischer; Flakoll; Freborg; Grindberg; Kilzer; Kinnoin; Klein; Kringstad; Lee; Lyson; Mutch; Naaden; Nelson, G.; Nething; Schobinger; Solberg; St. Aubyn; Tallackson; Thane; Traynor; Urlacher; Wanzek; Wardner

**NAYS:** DeMers; Heitkamp; Holmberg; Kelsh; Krauter; Krebsbach; Kroeplin; Lindaas; Mathern, D.; Mathern, T.; Mutzenberger; Nelson, C.; O'Connell; Redlin; Robinson; Sand; Stenehjem, B.; Stenehjem, W.; Thompson; Tomac; Watne

**ABSENT AND NOT VOTING:** Bercier

The conference committee report on Engrossed SB 2015 was adopted. Engrossed SB 2015, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2015:** 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 office of management and budget; to provide other appropriations; to provide for various transfers and financial transactions; to provide an exemption from the provisions of section 54-44.1-11 of the North Dakota Century Code; to provide statements of legislative intent; to provide for a legislative council study; to create and enact a new section to chapter 54-06, a new section to chapter 54-11, a new section to chapter 54-23.2, five new sections to chapter 57-34, and a new section to chapter 65-02 of the North Dakota Century Code, relating to the collection and receipt of public funds, mobile data terminal and 911 service fees, 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, and payments in lieu of taxes on workers compensation bureau property; to amend and reenact subsection 2 of section 4-14.1-07, section 15-39.1-26, subsection 2 of section 32-12.2-07, sections 34-15-07, 39-12-20, subdivision g of subsection 3 of section 49-23-04, sections 54-16-04.1, 54-16-04.2, 54-27.2-02, 54-44-04.6, 57-34-01, 57-34-02, 57-34-03, 57-34-06, and 57-34-10 of the North Dakota Century Code, relating to ethanol plants, the collection, investment, and deposit of state funds, time periods under the one-call excavation notice system, the risk management fund, emergency commission approvals, the budget stabilization fund, and telecommunications carriers gross receipts tax revenues; to provide a penalty; to provide a continuing appropriation; to provide an effective date; to provide an expiration date; to provide for retroactive application; to provide for application; and to declare an emergency.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 36 YEAS, 12 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**NAYS:** DeMers; Heitkamp; Kelsh; Kroeplin; Mutzenberger; Nelson, C.; O'Connell; Redlin; Robinson; Sand; Thompson; Tomac

**ABSENT AND NOT VOTING:** Bercier

Engrossed SB 2015, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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**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 2015.

**MOTION**

**SEN. G. NELSON MOVED** that the Senate stand in recess until 10:30 p.m., which motion prevailed.

**THE SENATE RECONVENED** at 11:00 p.m., with President Myrdal presiding.

**MOTION**

**SEN. G. NELSON MOVED** that the absent member be excused, which motion prevailed.

**MOTION**

**SEN. G. NELSON MOVED** that the Senate be on the Fifteenth and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 9:00 a.m., Saturday, April 17, 1999, which motion prevailed.

The Senate stood adjourned pursuant to Senator G. Nelson's motion.

**WILLIAM C. PARKER, Secretary**