

## JOURNAL OF THE HOUSE

## Sixty-second Legislative Assembly

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Bismarck, April 25, 2011

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

The prayer was offered by Representative Gary Sukut, District 1, Williston.

The roll was called and all members were present except Representatives Bellew, Boe, Headland, and Mueller.

A quorum was declared by the Speaker.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. KARLS MOVED** that the conference committee report on Engrossed HB 1248 as printed on HJ pages 1884-1900 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1248, as amended, was placed on the Eleventh order of business.

**SECOND READING OF HOUSE BILL**

**HB 1248:** A BILL for an Act to create and enact chapter 15.1-04.1 of the North Dakota Century Code, relating to entry into the compact on educational opportunity for military children; to amend and reenact sections 15.1-06-01 and 15.1-21-02.1 and subsection 1 of section 15.1-29-13 of the North Dakota Century Code, relating to the age of school admission, the issuance of high school diplomas, and the charging of tuition; to provide for a report; to provide a funding source; and to provide an expiration 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 90 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Belter; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Heilman; Heller; Hofstad; Hogan; Holman; Hunsakor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

**ABSENT AND NOT VOTING:** Bellew; Boe; Headland; Mueller

Reengrossed HB 1248 passed.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1248.

**ANNOUNCEMENT**

**SPEAKER DROVDAL ANNOUNCED** that the House will stand in recess until 1:00 p.m.

**THE HOUSE RECONVENED** pursuant to recess taken, with Speaker Drovdal presiding.

**CORRECTION AND REVISION OF THE JOURNAL**

**MR. SPEAKER:** Your **Committee on Correction and Revision of the Journal (Rep. Kretschmar, Chairman)** has carefully examined the Journal of the Sixty-fourth and Seventy-third Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1507, line 36, replace "Boe, Wrangham" with "Wrangham, Boe"

Page 1520, line 10, replace "Boe, Wrangham" with "Wrangham, Boe"

Page 1837, line 43, replace "**SEAKER**" with "**SPEAKER**"

Page 1839, line 8, replace "\$54,456,39" with "\$54,456,398"

Page 1856, line 25, replace "Engrossed" with "Reengrossed"

Page 1871, delete lines 42-44

**REP. KRETSCHMAR MOVED** that the report be adopted, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1044, as reengrossed:** Your conference committee (Sens. J. Lee, Uglen, Bowman and Reps. Weisz, Porter, Holman) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1509-1510, adopt amendments as follows, and place HB 1044 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1509 and 1510 of the House Journal and pages 855 and 856 of the Senate Journal and that Reengrossed House Bill No. 1044 be amended as follows:

Page 1, line 2, after the second comma insert "an emergency medical services advisory council,"

Page 1, line 3, after the semicolon insert "to amend and reenact subsection 1 of section 23-27-01 of the North Dakota Century Code, relating to emergency medical services operations service areas;"

Page 1, after line 6, insert:

**"SECTION 1. AMENDMENT.** Subsection 1 of section 23-27-01 of the North Dakota Century Code is amended and reenacted as follows:

1. The state department of health shall license emergency medical services operations. ~~After June 30, 2001, the and may designate their service areas. The~~ department shall limit the issuance of a license for any new emergency medical services operation based on the needs of the service area ~~if the applicant for the new license was licensed before July 1, 2001, and was subsequently relicensed under section 23-27-04.5.~~ A license for an emergency medical services operation is nontransferable."

Page 1, after line 18, insert:

**"Emergency medical services advisory council.**

The state department of health shall establish an emergency medical services advisory council. The council must include at least three representatives appointed by an emergency medical services organization, one individual to represent basic life support and one individual to represent advanced life support, both appointed by the state health officer, and other members designated by the state health officer, not to exceed a total of fourteen members. The department shall consider the recommendations of the council on the plan for integrated emergency medical services in the state, development of emergency medical services funding areas, development of the emergency medical services funding areas application

process and budget criteria, and other issues relating to emergency medical services as determined by the state health officer. Council members are entitled to reimbursement for expenses in the manner provided in section 44-08-04. The department shall establish by policy the length of terms and the method for rotation of membership."

Page 2, line 18, replace "one-half" with "one million two hundred fifty thousand dollars"

Page 2, line 21, replace "\$2,000,000" with "\$3,000,000"

Page 2, line 22, replace "4" with "5"

Page 2, line 22, after "the" insert "\$1,250,000"

Page 2, line 26, replace "\$2,000,000" with "\$3,000,000"

Page 2, line 29, remove "The department may spend"

Page 2, remove lines 30 and 31

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

Page 3, line 1, replace "January 1" with "June 30"

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1044 - State Department of Health - Conference Committee Action

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Emergency medical services grants		\$2,000,000	\$1,000,000	\$3,000,000	\$4,000,000	(\$1,000,000)
Total all funds	\$0	\$2,000,000	\$1,000,000	\$3,000,000	\$4,000,000	(\$1,000,000)
Less estimated income	0	0	0	0	0	0
General fund	\$0	\$2,000,000	\$1,000,000	\$3,000,000	\$4,000,000	(\$1,000,000)
FTE	0.00	0.00	0.00	0.00	0.00	0.00

#### Department No. 301 - State Department of Health - Detail of Conference Committee Changes

	Adds Funding for EMS Grants <sup>1</sup>	Total Conference Committee Changes
Emergency medical services grants	\$1,000,000	\$1,000,000
Total all funds	\$1,000,000	\$1,000,000
Less estimated income	0	0
General fund	\$1,000,000	\$1,000,000
FTE	0.00	0.00

<sup>1</sup> The conference committee increased funding for emergency medical services assistance grants from \$2,000,000 provided by the House to \$3,000,000. The Senate provided \$4,000,000.

The conference committee included changes made by the Senate to create an emergency

medical services advisory council, provide that the State Department of Health designate emergency medical services service areas, and limit the state financial assistance for emergency medical services in the first year of the biennium to \$1.25 million. In addition, the conference committee provided that three representatives of the emergency medical services advisory council be appointed by an emergency medical services organization, this is changed from the North Dakota EMS Association.

Reengrossed HB 1044 was placed on the Seventh order of business on the calendar.

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. WEISZ MOVED** that the conference committee report on Reengrossed HB 1044 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1044, as amended, was placed on the Eleventh order of business.

#### **SECOND READING OF HOUSE BILL**

**HB 1044:** A BILL for an Act to create and enact a new chapter to title 23 of the North Dakota Century Code, relating to ambulance operations areas, an emergency medical services advisory council, emergency medical services funding areas, and state financial assistance for emergency medical services; to amend and reenact subsection 1 of section 23-27-01 of the North Dakota Century Code, relating to emergency medical services operations service areas; to repeal chapter 23-40 of the North Dakota Century Code, relating to emergency medical services allocations; to provide a statement of legislative intent; to provide an appropriation; 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 73 YEAS, 18 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Nelson, J.; Nelson, M.; Onstad; Owens; Pietsch; Porter; Rohr; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Sukut; Vigesaa; Wall; Weisz; Williams; Winrich; Zaiser; Speaker Drovda

**NAYS:** Belter; Boehning; Brabandt; Delzer; Headland; Kasper; Koppelman; Kreidt; Nathe; Paur; Pollert; Ruby; Streyle; Thoreson; Trotter; Weiler; Wieland; Wrangham

**ABSENT AND NOT VOTING:** Bellew; Boe; Mueller

Reengrossed HB 1044 passed.

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#### **REPORT OF CONFERENCE COMMITTEE**

**SB 2042, as engrossed:** Your conference committee (Sens. Miller, Hogue, Dotzenrod and Reps. Owens, Grande, S. Kelsh) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 898, adopt amendments as follows, and place SB 2042 on the Seventh order:

That the House recede from its amendments as printed on page 898 of the Senate Journal and page 1083 of the House Journal and that Engrossed Senate Bill No. 2042 be amended as follows:

Page 1, line 3, after "expenses" insert "; and to provide for a legislative management study"

Page 3, remove lines 3 through 30

Page 4, replace lines 1 through 9 with:

**"SECTION 3. AMENDMENT.** Section 53-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-12. Gaming and excise taxes – Exception tax - Deposits and allocations.**

1. A gaming tax is imposed on the total-adjusted gross proceeds earned~~received~~ by a licensed organization in a quarter and it must be computed and paid to the attorney general on a quarterly basis on the tax return. This tax must be paid from adjusted gross proceeds and is not part of the allowable expenses. The tax rates are:
  - a. ~~On adjusted gross proceeds not exceeding two hundred thousand dollars, a tax of five percent.~~
  - b. ~~On adjusted gross proceeds exceeding two hundred thousand dollars but not exceeding four hundred thousand dollars, a tax of ten percent.~~
  - c. ~~On adjusted gross proceeds exceeding four hundred thousand dollars but not exceeding six hundred thousand dollars, a tax of fifteen percent.~~
  - d. ~~On adjusted gross proceeds exceeding six hundred thousand dollars, a tax of twenty percent.~~
2. ~~Except as provided in subsection 3, in addition to any other tax provided by law and in place of sales or use taxes, there is imposed on a licensed organization an excise tax of three percent on the gross proceeds from the sale at retail of pull tabs and three percent on the gross proceeds from the sale at retail of bingo cards to final users. This includes pull tabs or bingo cards provided to a player in exchange for redeemed winning pull tabs or bingo cards.~~ rate for a licensed organization with gross proceeds:
  - a. Not exceeding five hundred thousand dollars is one percent of gross proceeds.
  - b. Exceeding five hundred thousand dollars but not exceeding one million dollars is one and one-half percent of gross proceeds.
  - c. Exceeding one million dollars but not exceeding one million five hundred thousand dollars is two percent of gross proceeds.
  - d. Exceeding one million five hundred thousand dollars is two and one-half percent of gross proceeds.
2. The tax must be paid to the attorney general at the time tax returns are filed.
3. ~~For organizations whose gross proceeds of pull tabs do not exceed four thousand dollars per calendar quarter, no excise tax may be imposed on the gross proceeds from the sale at retail of pull tabs to final users.~~
4. Except as provided in subsection 54, the attorney general shall deposit gaming and excise taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.
- 5.4. The attorney general shall deposit ~~three~~six percent of the total taxes, less refunds, collected under this section into a gaming and excise tax allocation fund. Pursuant to legislative appropriation, moneys in the fund must be distributed quarterly to cities and counties in proportion to the taxes collected under this section from licensed organizations conducting

games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation under this subsection is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter."

Page 5, after line 10, insert:

**"SECTION 5. LEGISLATIVE MANAGEMENT STUDY - CHARITABLE GAMING ORGANIZATION ELIGIBILITY.** During the 2011-12 interim, the legislative management shall consider studying the eligibility requirements for the veterans', charitable, educational, religious, fraternal, civic and service, public safety, and public-spirited organizations that conduct charitable gaming. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

Engrossed SB 2042 was placed on the Seventh order of business on the calendar.

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. OWENS MOVED** that the conference committee report on Engrossed SB 2042 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2042, as amended, was placed on the Fourteenth order of business.

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

**SB 2042:** A BILL for an Act to amend and reenact subsection 1 of section 53-06.1-01 and sections 53-06.1-11, 53-06.1-12, and 53-06.1-12.3 of the North Dakota Century Code, relating to consolidation of gaming taxes and allowable expenses; and to provide for a legislative management study.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 74 YEAS, 17 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Beadle; Belter; Boehning; Brandenburg; Carlson; Clark; Conklin; Dahl; DeKrey; Delmore; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kilichowski; Kingsbury; Klemin; Kreidt; Kretschmar; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pollert; Porter; Rohr; Sanford; Schatz; Schmidt; Streyle; Sukut; Thoreson; Trottier; Wall; Weiler; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

**NAYS:** Anderson; Brabandt; Damschen; Delzer; Heller; Keiser; Kempenich; Klein; Koppelman; Kreun; Pietsch; Ruby; Rust; Skarphol; Steiner; Vigasaa; Weisz

**ABSENT AND NOT VOTING:** Bellew; Boe; Mueller

Engrossed SB 2042, as amended, passed.

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#### **REPORT OF CONFERENCE COMMITTEE**

**SB 2129, as engrossed:** Your conference committee (Sens. Burckhard, Miller, Dotzenrod and Reps. Weiler, Trottier, Winrich) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 790-792, adopt amendments as follows, and place SB 2129 on the Seventh order:

That the House recede from its amendments as printed on pages 790-792 of the Senate Journal and pages 998-1000 of the House Journal and that Engrossed Senate Bill No. 2129 be amended as follows:

Page 1, line 1, replace the first comma with "and"

Page 1, line 1, remove ", 57-51.1-07.2, and"

Page 1, line 2, remove "57-51.1-07.3"

Page 1, remove line 4

Page 1, line 5, remove "fund"

Page 1, line 9, overstrike "**Apportionment and use of proceeds of**" and insert immediately thereafter "**Gross production**"

Page 1, line 9, after "**tax**" insert "**allocation**"

Page 1, line 10, overstrike "provided for in this chapter"

Page 1, line 10, overstrike "apportioned" and insert immediately thereafter "allocated monthly"

Page 1, line 14, overstrike "Credit thirty-three and one-third percent of the revenues to the oil and gas impact"

Page 1, overstrike line 15

Page 1, line 16, overstrike "b."

Page 1, line 22, overstrike "and"

Page 1, after line 22, insert:

"b. Allocate thirty-three and one-third percent of the revenues to the oil and gas impact grant fund, but not in an amount exceeding eight million dollars per biennium; and"

Page 1, line 23, overstrike "Credit" and insert immediately thereafter "Allocate"

Page 1, line 23, overstrike "to the"

Page 1, line 23, remove "permanent oil tax trust"

Page 1, line 23, overstrike "fund" and insert immediately thereafter "under subsection 3"

Page 2, line 14, replace "f." with "3."

Page 2, line 14, replace "deduction of the amount allocated to counties" with "the allocations"

Page 2, line 14, replace "this subsection" with "subsections 1 and 2"

Page 2, line 18, replace "deposited in" with "allocated to"

Page 2, line 18, replace "permanent oil tax trust" with "state general"

Page 2, line 18, after the underscored period insert "If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund."

Page 2, line 19, overstrike "3." and insert immediately thereafter "4."

Page 2, line 21, overstrike "4" and insert immediately thereafter "5"

Page 2, line 23, overstrike "5" and insert immediately thereafter "6"

Page 2, line 24, overstrike "4." and insert immediately thereafter "5."

Page 2, line 27, remove the overstrike over "~~state-general~~"

Page 2, line 27, remove "permanent oil tax trust"

Page 4, line 18, overstrike "5" and insert immediately thereafter "6"

Page 4, line 30, overstrike "5." and insert immediately thereafter "6."

Page 4, line 31, overstrike "3" and insert immediately thereafter "4"

Page 4, line 31, overstrike "4" and insert immediately thereafter "5"

Page 5, line 2, remove the overstrike over "~~state-general~~"

Page 5, line 2, remove "permanent oil tax trust"

Page 5, line 6, overstrike "3" and insert immediately thereafter "4"

Page 5, line 6, overstrike "4" and insert immediately thereafter "5"

Page 5, line 23, overstrike "3" and insert immediately thereafter "4"

Page 5, line 23, overstrike "4" and insert immediately thereafter "5"

Page 5, line 27, overstrike "4" and insert immediately thereafter "5"

Page 6, line 4, overstrike "6." and insert immediately thereafter "7."

Page 6, line 4, overstrike "sixty" and insert immediately thereafter "thirty"

Page 6, line 4, overstrike "fiscal" and insert immediately thereafter "calendar"

Page 6, line 6, overstrike "fiscal" and insert immediately thereafter "calendar"

Page 6, line 6, overstrike the first "tax"

Page 6, line 6, overstrike the second "tax"

Page 6, line 7, overstrike "showing" and insert immediately thereafter "including"

Page 6, line 8, overstrike "The amount received by the county in its own behalf, the amount of those funds"

Page 6, overstrike lines 9 and 10

Page 6, line 11, overstrike "amount of those funds unexpended at the end of the fiscal year" and insert immediately thereafter "The county's statement of revenues and expenditures"

Page 6, line 20, overstrike "sixty" and insert immediately thereafter "fifteen"

Page 6, line 21, overstrike "tax"

Page 6, line 21, overstrike "a report" and insert immediately thereafter "the reports"

Page 6, overstrike lines 23 through 25

Page 7, line 26, remove the overstrike over "~~state's-general~~"



Page 7, line 26, remove "permanent oil tax"

Page 7, line 27, remove "trust"

Page 7, remove lines 28 and 29

Page 8, remove lines 1 through 27

Renumber accordingly

Engrossed SB 2129 was placed on the Seventh order of business on the calendar.

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. WEILER MOVED** that the conference committee report on Engrossed SB 2129 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2129, as amended, was placed on the Fourteenth order of business.

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

**SB 2129:** A BILL for an Act to amend and reenact sections 57-51-15 and 57-51.1-07 of the North Dakota Century Code, relating to legacy fund deposits of oil and gas tax collections and holding political subdivisions harmless against related allocation reductions; 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 91 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Belter; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

**ABSENT AND NOT VOTING:** Bellew; Boe; Mueller

Engrossed SB 2129, as amended, passed.

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#### **ANNOUNCEMENT**

**SPEAKER DROVDAL ANNOUNCED** that Rep. Williams will replace Rep. Dosch on the Conference Committee on SB 2057.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1044.

#### **ANNOUNCEMENT**

**SPEAKER DROVDAL ANNOUNCED** that the House will stand in recess until 5:00 p.m.

**THE HOUSE RECONVENED** pursuant to recess taken, with Speaker Drovdal presiding.

#### **COMMUNICATION FROM GOVERNOR JACK DALRYMPLE**

This is to inform you that on April 22, 2011, I have signed the following: HB 1465.

Also, on April 25, 2011, I have signed the following: HB 1162, HB 1169, HB 1175, HB 1177, HB 1182, HB 1188, HB 1204, HB 1209, HB 1214, HB 1217, HB 1224, HB 1225, HB 1232, HB 1241, HB 1244, HB 1246, HB 1249, HB 1251, HB 1254, HB 1259, HB 1318, HB 1417,

HB 1418, HB 1421, HB 1423, HB 1425, HB 1426, HB 1428, HB 1433, HB 1435, HB 1442, HB 1452, HB 1456, HB 1467, and HB 1468.

### REPORT OF CONFERENCE COMMITTEE

**HB 1011, as engrossed:** Your conference committee (Sens. Krebsbach, Wanzek, O'Connell and Reps. Kempenich, Thoreson, Glassheim) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1327-1328, adopt amendments as follows, and place HB 1011 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1327 and 1328 of the House Journal and pages 1059 and 1060 of the Senate Journal and that Engrossed House Bill No. 1011 be amended as follows:

Page 1, line 1, after "patrol" insert "; and to provide for a legislative management study"

Page 1, replace lines 10 through 16 with:

"Administration	\$2,926,419	\$233,423	\$3,159,842
Field operations	37,198,354	4,007,915	41,206,269
Law enforcement training academy	<u>1,496,942</u>	<u>105,546</u>	<u>1,602,488</u>
Total all funds	\$41,621,715	\$4,346,884	\$45,968,599
Less estimated income	<u>10,893,730</u>	<u>631,595</u>	<u>11,525,325</u>
Total general fund	\$30,727,985	\$3,715,289	\$34,443,274
Full-time equivalent positions	194.00	0.00	194.00"

Page 2, replace line 1 with:

"Weigh station repairs	100,000	0"
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Page 2, replace line 3 with:

"Total all funds	\$280,000	\$1,237,000"
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Page 2, replace line 5 with:

"Total general fund	\$280,000	\$1,076,000"
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Page 2, line 11, replace "\$4,849,220" with "\$5,025,762"

Page 2, after line 22, insert:

**"SECTION 5. LEGISLATIVE MANAGEMENT STUDY - HIGHWAY PATROL TRAINING ACADEMY.** During the 2011-12 interim, the legislative management shall consider studying the feasibility and desirability of relocating the highway patrol training academy or portions of the training academy. The study, if conducted, must review options for relocating the training academy, options for relocating the emergency operations vehicle training course, and options for constructing a highway patrol shooting range. The legislative management shall report its findings and recommendations, together with any legislation needed to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

### STATEMENT OF PURPOSE OF AMENDMENT:

### House Bill No. 1011 - Highway Patrol - Conference Committee Action

Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
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Administration	\$3,159,842	\$3,157,382	\$2,460	\$3,159,842	\$3,162,302	(\$2,460)
Field operations	41,539,957	40,258,516	947,753	41,206,269	42,019,826	(813,557)
Law Enforcement Training Academy	5,692,488	1,601,309	1,179	1,602,488	3,593,669	(1,991,181)
Total all funds	\$50,392,287	\$45,017,207	\$951,392	\$45,968,599	\$48,775,797	(\$2,807,198)
Less estimated income	12,100,404	11,348,783	176,542	11,525,325	11,878,449	(353,124)
General fund	\$38,291,883	\$33,668,424	\$774,850	\$34,443,274	\$36,897,348	(\$2,454,074)
FTE	197.00	191.00	3.00	194.00	197.00	(3.00)

### Department No. 504 - Highway Patrol - Detail of Conference Committee Changes

	Restores Funding for State Fleet Services Mileage Rates <sup>1</sup>	Restores Trooper Positions <sup>2</sup>	Adds Funding for Vacant FTE Positions <sup>3</sup>	Removes Funding for Weigh Station Repairs <sup>4</sup>	Total Conference Committee Changes
Administration	\$2,460				\$2,460
Field operations	229,869	567,884	400,000	(250,000)	947,753
Law Enforcement Training Academy	1,179				1,179
Total all funds	\$233,508	\$567,884	\$400,000	(\$250,000)	\$951,392
Less estimated income	51,045	73,497	52,000	0	176,542
General fund	\$182,463	\$494,387	\$348,000	(\$250,000)	\$774,850
FTE	0.00	3.00	0.00	0.00	3.00

<sup>1</sup> Funding for State Fleet Services mileage is restored to reflect an estimated mileage rate of 61 cents per mile for Highway Patrol vehicles. The executive recommendation provided funding for an estimated mileage rate of 61 cents per mile, the House reduced funding to reflect an estimated mileage rate of 58 cents per mile, and the Senate provided funding to reflect an estimated mileage rate of 64 cents per mile.

<sup>2</sup> Three FTE trooper positions and related funding removed by the House are restored. The Senate also restored the positions.

<sup>3</sup> Funding is added to allow the Highway Patrol to fill vacant FTE positions for which funding is currently not available.

<sup>4</sup> Funding added by the House for weigh station repairs is removed. The Senate version did not remove the funding.

This amendment also:

- Adjusts Section 2 regarding one-time funding for the Highway Patrol.
- Adjusts Section 3 regarding the amount of funding provided to the Highway Patrol from the highway tax distribution fund.
- Provides for a Legislative Management study of options to relocate the Highway Patrol training academy or portions of the academy.

Engrossed HB 1011 was placed on the Seventh order of business on the calendar.

### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**REP. KEMPENICH MOVED** that the conference committee report on Engrossed HB 1011 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1011, as amended, was placed on the Eleventh order of business.

### SECOND READING OF HOUSE BILL

**HB 1011:** A BILL for an Act to provide an appropriation for defraying the expenses of the highway patrol; and to provide for a legislative management study.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 84 YEAS, 6 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Belter; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Devlin; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemm; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Nathe; Nelson, J.; Nelson, M.; Paur; Pietsch; Pollert; Porter; Ruby; Rust; Sanford; Schatz; Schmidt; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Zaiser; Speaker Drovda

**NAYS:** Delzer; Dosch; Owens; Rohr; Skarphol; Wrangham

**ABSENT AND NOT VOTING:** Bellew; Boe; Mueller; Onstad

Reengrossed HB 1011 passed.

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**REPORT OF CONFERENCE COMMITTEE**

**HB 1134, as engrossed:** Your conference committee (Sens. Sorvaag, Schaible, Nelson and Reps. Grande, Streyle, Amerman) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ pages 1510-1514 and place HB 1134 on the Seventh order.

Engrossed HB 1134 was placed on the Seventh order of business on the calendar.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. GRANDE MOVED** that the conference committee report on Engrossed HB 1134 be adopted, which motion prevailed on a verification vote.

Engrossed HB 1134, as amended, was placed on the Eleventh order of business.

**SECOND READING OF HOUSE BILL**

**HB 1134:** A BILL for an Act to create and enact two new subsections to section 15-39.1-04 of the North Dakota Century Code, relating to definitions of member tiers under the teachers' fund for retirement; to amend and reenact subsection 1 of section 15-39.1-09, subsection 1 of section 15-39.1-10, and sections 15-39.1-12, 15-39.1-18, 15-39.1-19.1, and 15-39.1-19.2 of the North Dakota Century Code, relating to employee and employer contribution requirements, eligibility for normal unreduced retirement benefits, eligibility for early reduced retirement benefits, eligibility for disability benefits, and retiree reemployment under the teachers' fund for retirement; 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 60 YEAS, 30 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Heilman; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kilichowski; Kingsbury; Klemm; Koppelman; Kretschmar; Kreun; Kroeber; Maragos; Martinson; Metcalf; Meyer, S.; Mock; Monson; Nelson, J.; Nelson, M.; Pietsch; Porter; Rust; Sanford; Schatz; Sukut; Thoreson; Wall; Weisz; Wieland; Williams; Winrich; Zaiser; Speaker Drovda

**NAYS:** Belter; Boehning; Brabandt; Brandenburg; Carlson; Delzer; Devlin; Dosch; Headland; Heller; Kasper; Kempenich; Klein; Kreidt; Louser; Meier, L.; Nathe; Owens; Paur; Pollert; Rohr; Ruby; Schmidt; Skarphol; Steiner; Streyle; Trottier;

Vigesaa; Weiler; Wrangham

**ABSENT AND NOT VOTING:** Bellew; Boe; Mueller; Onstad

Reengrossed HB 1134 passed.

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

**MR. SPEAKER:** The Senate has failed to pass: SB 2320.

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

**MR. PRESIDENT:** The Speaker has appointed Rep. Williams to replace Rep. Dosch on the Conference Committee on SB 2057.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1011, HB 1134.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2042, SB 2129.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2276.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1044.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1248.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report, subsequently passed, and the emergency clause failed to pass: HB 1126.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently failed to pass: HB 1447.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1014, HB 1025, HB 1047, HB 1194.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2056.

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

**MR. SPEAKER:** The President has signed: HB 1014, HB 1025, HB 1047, HB 1194.

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

**MR. PRESIDENT:** The Speaker has signed: HB 1093, HB 1094, HB 1095, HB 1099, HB 1103, HB 1112, HB 1124, HB 1127, HB 1133, HB 1138, HB 1142, HB 1144, HB 1152, HB 1154, HB 1155, HB 1174, HB 1194, HB 1199, HB 1252, HB 1266, HB 1269, HB 1424.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2056.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 25, 2011: HB 1093, HB 1094, HB 1095, HB 1099, HB 1103, HB 1112, HB 1124, HB 1127, HB 1133, HB 1138, HB 1142, HB 1144, HB 1152, HB 1154, HB 1155, HB 1174, HB 1194, HB 1199, HB 1252,

HB 1266, HB 1269, HB 1424.

**MOTION**

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

**MOTION**

**REP. VIGESAA MOVED** that the House be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the House stand adjourned until 8:30 a.m., Tuesday, April 26, 2011, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1289, as engrossed:** Your conference committee (Sens. Cook, Hogue, Dotzenrod and Reps. Belter, Headland, S. Kelsh) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1576, adopt amendments as follows, and place HB 1289 on the Seventh order:

That the Senate recede from its amendments as printed on page 1576 of the House Journal pages 1347 and 1348 of the Senate Journal and that Engrossed House Bill No. 1289 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-15-01.1, 57-35.3-03, 57-35.3-05, 57-35.3-07, 57-35.3-08, and 57-38-30, subsection 1 of section 57-38-30.3, and sections 57-64-01, 57-64-02, 57-64-03, and 57-64-04 of the North Dakota Century Code and section 13 of chapter 520 of the 2007 Session Laws, relating to reduction of the rate of the financial institutions tax and adjustment of the allocation of the tax, a reduction in income tax rates for corporations, individuals, estates, and trusts, and allocation of state funding to school districts for mill levy reduction grants and property tax levies of school districts; to repeal chapter 57-16 of the North Dakota Century Code, relating to certain excess levies of school districts; to provide an appropriation; to provide for a transfer; to provide for legislative management studies; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-01.1. Protection of taxpayers and taxing districts.**

Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:
  - a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. For a park district general fund, the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;
  - b. "Budget year" means the taxing district's year for which the levy is being determined under this section;

- c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and
  - d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.
- 3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
  - a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
  - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
  - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
  - d. Increased, for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the base year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year.
  - e. Reduced for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the budget year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the base year.
- 4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
- 5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:

- a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
  - b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.
  7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

**SECTION 2. AMENDMENT.** Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-35.3-03. Imposition and basis of tax.**

An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is sevensix and one-half percent of taxable income, but the amount of tax may not be less than fifty dollars.

**SECTION 3. AMENDMENT.** Section 57-35.3-05 of the North Dakota Century Code is amended and reenacted as follows:

**57-35.3-05. Credits.**

1. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.
- b. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of secondary education located within the state. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.
- c. For the purposes of this subsection, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term



"nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through twelfth grades.

- d. For the purposes of this subsection, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed for filing the return for the taxable year.
2. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to any overpayment of tax paid pursuant to chapter 57-35 or 57-35.1, for a taxable year beginning before January 1, 1997, to the extent that the overpayment would have been an allowable deduction from tax payable for the current taxable year, under section 57-35-12 or 57-35.1-07, if chapters 57-35 and 57-35.1 applied to the current taxable year. The amount allowable as a credit under this subsection for any taxable year may not exceed five-sevenths of the tax before credits allowed under this section.
- b. For purposes of determining distributions to and from the counties under section 57-35.3-09:
  - (1) The balance in the financial institution tax distribution fund and the amount of the payment received by each county from the state shall be determined as if any credit allowed under subdivision a had not been claimed and the full amount of the tax otherwise due had been timely paid;
  - (2) The credited amount must be deducted from the distributions that would otherwise be made to and from the county that received the tax overpayment until the sum of the deductions equals the credit; and
  - (3) The deductions from distributions made by a county to each distributee must be proportionate to the overpayment of tax received by each distributee.
3. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

**SECTION 4. AMENDMENT.** Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

**57-35.3-07. Payment of tax.**

~~Two-sevenths~~ Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 1 of section 57-35.3-05, must be paid to the commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. ~~Five-sevenths~~ Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the commissioner on or before January fifteenth

of the year after the return is due. Payment must be made by check, draft, or money order, payable to the commissioner, or as prescribed by the commissioner under subsection 15 of section 57-01-02.

**SECTION 5. AMENDMENT.** Section 57-35.3-08 of the North Dakota Century Code is amended and reenacted as follows:

**57-35.3-08. Disposition of tax.**

The commissioner shall deposit the portion of the tax payable in the year the return is due in the general fund of the state treasury and shall deposit the portion of the tax payable in the year after the return is due in the financial institution tax distribution fund of the state treasury, ~~which is hereby created~~. Interest, penalty, and late tax payments attributable to each portion of the tax must be deposited in the appropriate fund.

**SECTION 6. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-30. Imposition and rate of tax on corporations.**

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~two one~~ and ~~one-tenth~~ sixty-eight hundredths percent.
- b. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~five four~~ and ~~twenty-five~~ twenty-three hundredths percent.
- c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~six five~~ and ~~four-tenth~~ fifteen hundredths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

**SECTION 7. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.
  - a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:      The tax is equal to:

Not over ~~\$33,950~~ \$34,500      ~~1.84%~~ 1.51%

Over ~~\$33,950~~\$34,500 ~~\$624.68~~\$520.95 plus ~~3.44%~~2.82%

but not over ~~\$82,250~~\$83,600 of amount over ~~\$33,950~~\$34,500

Over ~~\$82,250~~\$83,600 ~~\$2,286.20~~\$1,950.57 plus ~~3.81%~~3.13%

but not over ~~\$171,550~~\$174,400 of amount over ~~\$82,250~~\$83,600

Over ~~\$171,550~~\$174,400 ~~\$5,688.53~~\$4,747.61 plus ~~4.42%~~3.63%

but not over ~~\$372,950~~\$379,150 of amount over ~~\$171,550~~\$174,400

Over ~~\$372,950~~\$379,150 ~~\$14,590.41~~\$12,180.04 plus ~~4.86%~~3.99%

of amount over ~~\$372,950~~\$379,150

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$56,750~~\$57,700 ~~1.84%~~1.51%

Over ~~\$56,750~~\$57,700 ~~\$1,044.20~~\$871.27 plus ~~3.44%~~2.82%

but not over ~~\$137,050~~\$139,350 of amount over ~~\$56,750~~\$57,700

Over ~~\$137,050~~\$139,350 ~~\$3,806.52~~\$3,173.80 plus ~~3.81%~~3.13%

but not over ~~\$208,850~~\$212,300 of amount over ~~\$137,050~~\$139,350

Over ~~\$208,850~~\$208,850 ~~\$6,542.10~~\$5,457.14 plus ~~4.42%~~3.63%

but not over ~~\$372,950~~\$379,150 of amount over ~~\$208,850~~\$212,300

Over ~~\$372,950~~\$379,150 ~~\$13,795.32~~\$11,513.79 plus ~~4.86%~~3.99%

of amount over ~~\$372,950~~\$379,150

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$28,375~~\$28,850 ~~1.84%~~1.51%

Over ~~\$28,375~~\$28,850 ~~\$522.10~~\$424.10 plus ~~3.44%~~2.81%

but not over ~~\$68,525~~\$69,675 of amount over ~~\$28,375~~\$28,850

Over ~~\$68,525~~\$69,675 ~~\$1,903.26~~\$1,586.90 plus ~~3.81%~~3.13%

but not over ~~\$104,425~~\$106,150 of amount over ~~\$68,525~~\$69,675

Over ~~\$104,425~~\$106,150 ~~\$3,271.05~~\$2,728.57 plus ~~4.42%~~3.63%

but not over ~~\$186,475~~\$189,575 of amount over ~~\$104,425~~\$69,675

Over ~~\$186,475~~\$189,575 ~~\$6,897.66~~\$5,756.90 plus ~~4.86%~~3.99%

of amount over ~~\$186,475~~\$189,575

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$45,500~~\$46,250 ~~1.84%~~1.51%

Over ~~\$45,500~~\$46,250 ~~\$837.20~~\$698.38 plus ~~3.44%~~2.82%

but not over ~~\$117,450~~\$119,400 of amount over ~~\$45,500~~\$46,250

Over ~~\$117,450~~\$119,400 ~~\$3,312.28~~\$2,761.21 plus ~~3.81%~~3.13%

but not over ~~\$190,200~~\$193,350 of amount over ~~\$117,450~~\$119,400

Over ~~\$190,200~~\$193,350 ~~\$6,084.06~~\$5,075.84 plus ~~4.42%~~3.63%

but not over ~~\$372,950~~\$379,150 of amount over ~~\$190,200~~\$193,350

Over ~~\$372,950~~\$379,150 ~~\$14,161.61~~\$11,820.38 plus ~~4.86%~~3.99%

of amount over ~~\$372,950~~\$379,150

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over \$2,300 ~~1.84%~~1.51%

Over \$2,300 ~~\$42.32~~\$34.73 plus ~~3.44%~~2.82%

but not over ~~\$5,350~~\$5,450 of amount over \$2,300

Over ~~\$5,350~~\$5,450 ~~\$147.24~~\$123.56 plus ~~3.81%~~3.13%

but not over ~~\$8,200~~\$8,300 of amount over ~~\$5,350~~\$5,450

Over ~~\$8,200~~\$8,300 ~~\$255.83~~\$212.77 plus ~~4.42%~~3.63%

but not over ~~\$11,150~~\$11,350 of amount over ~~\$8,200~~\$8,300

Over ~~\$11,150~~\$11,350 ~~\$386.22~~\$323.48 plus ~~4.86%~~3.99%

of amount over ~~\$11,150~~\$11,350

- f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. ~~For taxable years beginning after December 31, 2009, the~~The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the

cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.

- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

**SECTION 8. AMENDMENT.** Section 57-64-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-64-01. Definitions.**

For purposes of this chapter:

1. "Combined education mill rate" means the combined number of mills levied by a school district for the general fund, high school tuition, and high school transportation.
2. "Qualifying school district" means a school district that meets the conditions and requirements of this chapter to receive a mill levy reduction grant.
3. ~~"Weighted student unit" means weighted student unit as determined for the school district under chapter 15.1-27.~~

**SECTION 9. AMENDMENT.** Section 57-64-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-64-02. Mill levy reduction allocation and grant.**

Each qualifying school district in the state is entitled to a mill levy reduction allocation and grant as provided in this chapter, subject to legislative appropriation to the superintendent of public instruction.

1. The mill levy reduction allocation rate for each qualifying school district is equal to the payments to the school district based on the per student payment rate as determined for the school year under chapter 15.1-27.
2. The grant to a qualifying school district may not exceed the smallest of:
  - a. The allocation determined under subsection 1;
  - b. The taxable valuation of property in the school district in the previous taxable year times the number of mills determined by subtracting one hundred mills from the combined education mill rate of the school district for taxable year 2008; or
  - c. The taxable valuation of property in the school district in the previous taxable year times seventy-five mills.
3. The grant to a qualifying school district may not be less than the grant to that school district in the preceding school year.
4. The grant to a qualifying school district may not exceed the grant to that school district in the preceding school year by a percentage that is more than the percentage increase in statewide taxable valuation which was determined for the previous taxable year.
5. For purposes of this section, "taxable valuation" means the valuation to which the mill rate is applied to determine the amount of ad valorem taxes or payments in lieu of taxes, and includes taxable valuation determined for agricultural, residential, and commercial property; gas company property, pipeline property, power company property, and railroad property assessed by the state board of equalization under

chapter 57-06; mobile homes under chapter 57-55; land controlled by the game and fish department subject to valuation under chapter 57-02.1; land owned by the board of university and school lands or the state treasurer subject to valuation under chapter 57-02.3; national guard land subject to valuation under chapter 37-07.3; farmland or ranchland owned by nonprofit organizations for conservation purposes subject to valuation under section 10-06.1-10; land acquired by the state water commission for the Devils Lake project subject to valuation under chapter 61-02; a workforce safety and insurance building and associated real property subject to valuation under section 65-02-32; and carbon dioxide pipeline property subject to valuation under section 57-06-17.2. For purposes of this section, "taxable valuation" includes the taxable valuation of the homestead credit reimbursed by the state under section 57-02-08.2 and the disabled veterans' credit reimbursed by the state under section 57-02-08.8.

- 4-6. The superintendent of public instruction shall report to each qualifying school district by July fifteenth of each year the mill levy reduction grant in dollars available to that school district during the upcoming school year.
- 5-7. By December first, January first, February first, and March first of each school year, the superintendent of public instruction shall forward to each qualifying school district installments equal to twenty-five percent of the total mill levy reduction grant the district is eligible to receive during that school year.
- 6-8. Allocations to a school district under this chapter are not considered per student payments or state aid for purposes of chapter 15.1-27.
- 7-9. For all purposes under law relating to allocation of funds among political subdivisions based on property tax levies, property taxes levied by a school district are the amount that would have been levied without the mill reduction grant provided to the school district under this chapter.

**SECTION 10. AMENDMENT.** Section 57-64-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-64-03. School district levy compliance.**

- 1. To be eligible to receive a grant under this chapter, a qualifying school district must establish a spending level that does not result in a general fund mill rate exceeding one hundred ten mills. The certificate of levy form filed with the county auditor by a qualifying school district must reflect the revenue to be received by the school district under this chapter and that the general fund mill rate for the school district will not exceed one hundred ten mills unless:
  - a. The district has approval of a majority of the electors of the school district for a higher levy;
  - b. The higher levy is the result of a school district reorganization in compliance with chapter 15.1-12; ~~or~~
  - c. The higher levy does not produce an amount in dollars exceeding the amount allowed under section 57-15-01.1 ~~for taxable year 2008~~ reduced by the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year; or
  - d. The district has authority for a higher levy under subdivision b of subsection 2.
- 2. The authority under subdivision a or b of subsection 1 for a school district to levy a general fund mill rate exceeding one hundred ten mills applies for not more than ten taxable years at a time after taxable year 2008

unless a majority of the electors of the school district approve an extension of that authority. Approval by electors of extension of levy authority under subdivision a or b of subsection 1 is effective for not more than ten taxable years at a time. A ballot measure for approval by electors of extension of levy authority under subdivision a or b of subsection 1 is subject to the following:

- a. The ballot measure must specify the number of mills for the general fund mill rate for which approval is sought.
- b. If a ballot measure for approval of extension of levy authority to levy a specific number of mills under this section is not approved by a majority of the electors of the school district voting on the question, the school district general fund levy limitation for subsequent years is subject to the limitations as determined for the school district's budget year under section 57-15-01.1 or 57-15-14, whichever produces the higher levy limitation.

**SECTION 11. AMENDMENT.** Section 57-64-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-64-04. Levy reduction priority.**

In setting mill rates for qualified school districts, the county auditor shall apply funds allocated to a school district under this chapter for mill levy reduction first to reduce the number of mills levied for general fund purposes and, if allocation funds remain after the general fund mill rate is reduced to zero, the balance must be applied to reduce the high school tuition levy and, if allocation funds remain after the high school tuition levy mill rate is reduced to zero, then to reduce the high school transportation levy of the qualified school district.

**SECTION 12. REPEAL.** Chapter 57-16 of the North Dakota Century Code is repealed.

**SECTION 13. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$341,790,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of allocation of mill levy reduction grants to school districts under chapter 57-64, for the biennium beginning July 1, 2011, and ending June 30, 2013.

**SECTION 14. TRANSFER - PROPERTY TAX RELIEF SUSTAINABILITY FUND - GENERAL FUND.** The office of management and budget shall transfer the sum of \$295,000,000 from the property tax relief sustainability fund to the general fund on July 1, 2011.

**SECTION 15. AMENDMENT.** Section 13 of chapter 520 of the 2007 Session Laws is amended and reenacted as follows:

**SECTION 13. LEGISLATIVE COUNCIL MANAGEMENT STUDY.**

The legislative ~~council~~management shall study in each interim through 2012 the feasibility and desirability of property tax reform and providing property tax relief to taxpayers of the state, with the goal of reduction of each taxpayer's annual property tax bill to an amount that is not more than one and one-half percent of the true and full value of property, and including examination of the proper measure of education funding from local taxation and state resources and the variability of funding resources among taxing districts and examination of improved collection and reporting of property tax information to identify residency of property owners with minimized administrative difficulty. The legislative management shall consider the sustainability of state-funded property tax relief in view of the compounding effect of ongoing property taxable valuation increases. The legislative ~~council~~management shall report its findings and recommendations, together with any legislation necessary to

implement the recommendations, to the legislative assembly subsequent to each interim.

**SECTION 16. LEGISLATIVE MANAGEMENT STUDY - FINANCIAL INSTITUTIONS AND CORPORATE INCOME TAXATION.** During the 2011-12 interim, the legislative management shall consider studying the feasibility and desirability of revision of the financial institutions taxes, including the feasibility of taxing financial institutions under the state corporate income tax laws. The study under this section must include consideration of corporate income taxes, including corporate income apportionment factors and potential impact of federal legislation on state corporate income taxes. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

**SECTION 17. EFFECTIVE DATE.** Sections 1 through 7 of this Act are effective for taxable years beginning after December 31, 2010. The remainder of this Act is effective July 1, 2011."

Renumber accordingly

Engrossed HB 1289 was placed on the Seventh order of business on the calendar.

#### **REPORT OF CONFERENCE COMMITTEE**

**HB 1451, as engrossed:** Your conference committee (Sens. Cook, Stenehjem, Dotzenrod and Reps. Carlson, Delzer, Kroeber) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1586, adopt amendments as follows, and place HB 1451 on the Seventh order:

That the Senate recede from its amendments as printed on page 1586 of the House Journal and pages 1349 and 1350 of the Senate Journal and that Engrossed House Bill No. 1451 be amended as follows:

Page 1, line 3, after the third comma insert "6-09.7-05,"

Page 1, line 3, after the fifth comma insert "54-27.2-01,"

Page 1, line 4, after "fund" insert ", the budget stabilization fund,"

Page 1, line 6, replace "a transfer" with "transfers"

Page 1, line 19, replace "state infrastructure" with "strategic investment and improvements"

Page 1, line 21, replace "state infrastructure" with "strategic investment and improvements"

Page 2, line 1, replace "state infrastructure" with "strategic investment and improvements"

Page 2, line 17, replace "state infrastructure" with "strategic investment and improvements"

Page 3, line 12, replace "state infrastructure" with "strategic investment and improvements"

Page 3, after line 14, insert:

**"SECTION 4. AMENDMENT.** Section 6-09.7-05 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.7-05. Establishment and maintenance of adequate guarantee funds**  
**- Use of ~~lands and minerals trust~~strategic investment and improvements fund.**

The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The guarantee reserve fund must be maintained from the ~~lands and minerals trust~~strategic investment and improvements fund created by section 15-08.1-08 and any moneys transferred from the ~~lands and minerals trust~~strategic investment and improvements fund to maintain the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund



may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula which will assure, as determined by the Bank, an adequate amount of reserve."

Page 3, line 18, replace "state infrastructure" with "strategic investment and improvements"

Page 3, line 18, after "intent" insert "- Contingent transfer to legacy fund"

Page 3, line 22, replace "state infrastructure" with "strategic investment and improvements"

Page 3, line 24, after "infrastructure" insert "or for initiatives to improve the efficiency and effectiveness of state government"

Page 3, line 28, after the period insert "If the unobligated balance in the fund at the end of any month exceeds three hundred million dollars, twenty-five percent of any revenues received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund. For purposes of this section, "unobligated balance in the fund" means the balance in the fund reduced by appropriations or transfers from the fund authorized by the legislative assembly, guarantee reserve fund requirements under section 6-09.7-05, and any fund balance designated by the board of university and school lands relating to potential title disputes related to certain riverbed leases."

Page 4, line 1, replace "State infrastructure" with "Strategic investment and improvements"

Page 4, line 4, replace "state infrastructure" with "strategic investment and improvements"

Page 4, after line 6, insert:

**"SECTION 7. AMENDMENT.** Section 54-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-27.2-01. (Effective through June 30, 2009) Budget stabilization fund.**

The budget stabilization fund is a special fund in the state treasury. The state investment board shall supervise investment of the budget stabilization fund in accordance with chapter 21-10. Any interest or other budget stabilization fund earnings must be deposited in the fund. Any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund to an amount greater than five percent of the current biennial state general fund budget, as finally approved by the most recently adjourned special or regular session of the legislative assembly, may not be deposited or retained in the fund but must be deposited instead in the state general fund.

**(Effective after June 30, 2009) Budget stabilization fund.** The budget stabilization fund is a special fund in the state treasury. The state investment board shall supervise investment of the budget stabilization fund in accordance with chapter 21-10. Any interest or other budget stabilization fund earnings must be deposited in the fund. Any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund to an amount greater than ~~ten~~nine and one-half percent of the current biennial state general fund budget, as finally approved by the most recently adjourned special or regular session of the legislative assembly, may not be deposited or retained in the fund but must be deposited instead in the state general fund."

Page 4, line 12, after "fund" insert ", property tax relief sustainability, strategic investment and improvements fund."

Page 4, line 12, replace "infrastructure" with "disaster relief"

Page 4, replace lines 20 through 25 with "From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium as follows:

1. The first two hundred million dollars into the state general fund;
2. The next three hundred forty-one million seven hundred ninety thousand dollars into the property tax relief sustainability fund;
3. The next one hundred million dollars into the state general fund;
4. The next one hundred million dollars into the strategic investment and improvements fund;
5. The next twenty-two million dollars into the state disaster relief fund; and
6. Any additional revenues into the strategic investment and improvements fund."

Page 4, line 31, replace "state infrastructure" with "strategic investment and improvements"

Page 5, after line 10, insert:

**"SECTION 13. TRANSFER.** As soon as feasible after June 30, 2011, the state treasurer shall close out the lands and minerals trust fund and transfer any remaining unobligated balance to the strategic investment and improvements fund."

Renumber accordingly

Engrossed HB 1451 was placed on the Seventh order of business on the calendar.

#### **REPORT OF CONFERENCE COMMITTEE**

**SB 2276, as reengrossed:** Your conference committee (Sens. J. Lee, Uglem, Mathern and Reps. Weisz, Devlin, Holman) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1022-1024, adopt amendments as follows, and place SB 2276 on the Seventh order:

That the House recede from its amendments as printed on pages 1022-1024 of the Senate Journal and pages 1135-1137 of the House Journal and that Reengrossed Senate Bill No. 2276 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 23 of the North Dakota Century Code, relating to the North Dakota immunization program; to amend and reenact section 23-01-05.3 of the North Dakota Century Code, relating to reporting immunization data; to provide for a legislative management study; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

##### **23-01-05.3. Immunization data.**

1. The state department of health may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The state department of health may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.

2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
  - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
  - b. The state department of health shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.

**SECTION 2.** A new chapter to title 23 of the North Dakota Century Code is created and enacted as follows:

**Definitions.**

As used in this chapter:

1. "Department" means the state department of health.
2. "Health insurance coverage" means any hospital and medical expense-incurred policy, nonprofit health care service plan contract, health maintenance organization subscriber contract, or any other health care plan or arrangement that pays for or furnishes benefits that pay the costs of or provide medical, surgical, or hospital care or, if selected by the eligible individual, chiropractic care.
  - a. Health insurance coverage does not include any one or more of the following:
    - (1) Coverage only for accident or disability income insurance, or any combination of the two;
    - (2) Coverage issued as a supplement to liability insurance;
    - (3) Liability insurance, including general liability insurance and automobile liability insurance;
    - (4) Workers' compensation coverage or insurance;
    - (5) Automobile medical payment insurance;
    - (6) Credit-only insurance;
    - (7) Coverage for onsite medical clinics; and
    - (8) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.
  - b. Health insurance coverage does not include the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:
    - (1) Limited scope dental or vision benefits;

- (2) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination of this care; and
  - (3) Other similar limited benefits specified under federal regulations issued under the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.].
- c. Health insurance coverage does not include any of the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance; there is no coordination between the provision of the benefits; any exclusion of benefits under any group health insurance coverage maintained by the same plan sponsor; and the benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same sponsor:
  - (1) Coverage only for specified disease or illness; and
  - (2) Hospital indemnity or other fixed indemnity insurance.
- d. Health insurance coverage does not include the following if offered as a separate policy, certificate, or contract of insurance:
  - (1) Coverage supplemental to the coverage provided under chapter 55 of United States Code title 10 [10 U.S.C. 1071 et seq.] relating to armed forces medical and dental care; and
  - (2) Similar supplemental coverage provided under a group health plan.
- 3. "Insurer" means any insurance company, nonprofit health service organization, fraternal benefit society, and health maintenance organization and any other entity providing or selling health insurance coverage or health benefits that are subject to state insurance regulation.
- 4. "North Dakota immunization program" means the program administered by the department to provide vaccinations to North Dakota children consistent with state and federal law.
- 5. "Program-eligible child" means any child who is under nineteen years of age, whose custodial parent or legal guardian resides in this state, who receives vaccinations from a North Dakota provider, and who is not eligible for the vaccines for children program.
- 6. "Third-party administrator" means a person that administers payments for health care services on behalf of a client health plan in exchange for an administrative fee.
- 7. "Vaccine" means any vaccine recommended by the federal advisory committee on immunization practices of the centers for disease control and prevention.
- 8. "Vaccines for children program" is a federally funded program that provides vaccines at no cost to eligible children pursuant to section 1928 of the Social Security Act [42 U.S.C. 1396S].

#### **Immunization program - Provider choice.**

As part of the North Dakota immunization program the department shall implement a provider choice system as part of the state's implementation of the vaccines for children program. This provider choice system must provide a health care provider participating in the state's vaccines for children program or in any other immunization program for children, adolescents, or adults which is administered

through the state using federal or state funds may select any licensed vaccine, including combination vaccines, and any dosage forms that have in effect a recommendation from the federal advisory committee on immunization practices. This section does not apply in the event of a disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

**Immunization program - Vaccine ordering program - Funding - Limitations.**

1. As part of the North Dakota immunization program the department shall establish a program through which the department orders vaccines through the federal government.
  - a. The department shall supply all providers with the ordered vaccines. A provider that receives vaccines under this vaccine ordering program shall administer the vaccines to program-eligible children.
  - b. A provider that receives vaccines under this vaccine ordering program may not bill an insurer for the cost of the vaccine but may charge an administration fee.
2. The department shall fund this vaccine ordering program first through participation in the vaccines for children program and the federal section 317 immunization grant program and then through assessments collected from insurers and third-party administrators. The department shall identify methodology and procedures for determining assessments that are fair and equitable for insurers and third-party administrators, including a third-party administrator for a self-insurance plan. The department may assess a subgroup of insurers and third-party administrators based on immunization volume or other factors as approved by the department. The department shall provide for any additional matters necessary for the implementation and administration of the fund.
3. In addition to the vaccines supplied to providers under the vaccines for children program and the federal section 317 immunization grant program under the federal vaccine purchasing contract, no more than ten percent of the remaining vaccines the department supplies under this section may be purchased under the federal vaccine purchasing contract.

**Vaccine ordering program - Assessment.**

1. An insurer or third-party administrator shall pay the insurer's or third-party administrator's annual assessment on the dates specified by the department. The department shall establish payment dates that are at least quarterly but which may be more frequent.
2. Within sixty days of the department sending the notice of assessment to the insurer or third-party administrator, that insurer or third-party administrator shall pay the department the assessment.
3. For late or nonpayment of an assessment by an insurer or third-party administrator, the department shall impose interest at the rate of one percent of the unpaid assessment due for each month or fraction of a month during which the assessment remains unpaid, computed from the due date of the assessment to the date paid, excepting the month in which the assessment was required to be paid or the assessment became due. If an insurer's or third-party administrator's assessment remains partly or fully unpaid for more than ninety days from the due date, the department may impose a penalty not to exceed two times the amount of the unpaid assessment. In addition, the department may refer the insurer or third-party administrator to the insurance commissioner who may use any sanctions available to penalize for nonpayment of the assessment.

4. For good cause, an insurer or third-party administrator may request that the department grant a deferment from all or part of an assessment. The department may defer all or part of the assessment if the department determines the payment of the assessment would place the insurer or third-party administrator in a financially impaired condition, as provided under title 26.1. If all or part of an assessment against an insurer or third-party administrator is deferred, the amount deferred may be assessed against the other insurers and third-party administrators in a manner consistent with the basis for assessment provided under this section. The insurer or third-party administrator receiving the deferment remains liable to the North Dakota vaccine fund for the amount deferred and may be referred to the insurance commissioner who may use any sanctions available.
5. The department shall use all funds received through these assessments for the purposes expressly authorized by this chapter. The department may not use these assessment funds for any purpose that is not expressly authorized under this chapter.

#### **North Dakota vaccine fund.**

There is created in the state treasury the North Dakota vaccine fund. Moneys in the North Dakota vaccine fund must be appropriated by the legislative assembly solely for purposes established by this chapter. All interest and earnings of the North Dakota vaccine fund must be retained in the fund. Any entity subject to this assessment is not entitled to a credit for this assessment against tax due under section 26.1-03-17. Administrative costs associated with establishing and operating the North Dakota vaccine fund must be paid out of the fund.

#### **SECTION 3. LEGISLATIVE MANAGEMENT IMMUNIZATION STUDY.**

During the 2011-12 interim, the legislative management shall consider studying the North Dakota immunization program. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

**SECTION 4. EFFECTIVE DATE.** Sections 1 and 2 of this Act become effective October 1, 2011."

Renumber accordingly

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

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

**Buell J. Reich, Chief Clerk**