

## JOURNAL OF THE SENATE

## Sixty-seventh Legislative Assembly

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Bismarck, April 27, 2021

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

The prayer was offered by Senator Kathy Hogan, District 21.

The roll was called and all members were present.

A quorum was declared by the President.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. ERBELE MOVED** that the conference committee report on Engrossed SB 2020 as printed on SJ pages 1681-1687 be adopted, which motion prevailed on a voice vote.

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

**SECOND READING OF SENATE BILL**

**SB 2020:** A BILL for an Act to provide an appropriation for defraying the expenses of the North Dakota state university extension service, northern crops institute, upper great plains transportation institute, main research center, branch research centers, and agronomy seed farm; to provide for a report; and to provide an exemption.

**ROLL CALL**

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

**YEAS:** Anderson; Bakke; Bekkedahl; Bell; Burckhard; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Fors; Heckaman; Heitkamp; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, D.; Larsen, O.; Larson, D.; Lee; Lemm; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Patten; Piepkorn; Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Wardner; Weber; Wobbema

Reengrossed SB 2020 passed.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. KREBSBACH MOVED** that the conference committee report on Engrossed HB 1023 as printed on SJ pages 1687-1689 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1023, as amended, was placed on the Fourteenth order of business.

**SECOND READING OF HOUSE BILL**

**HB 1023:** A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; to provide for a report; 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 45 YEAS, 2 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bakke; Bekkedahl; Bell; Burckhard; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Heckaman; Heitkamp; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, D.; Larson, D.; Lee; Lemm; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Patten; Piepkorn; Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Wardner; Weber; Wobbema

**NAYS:** Fors; Larsen, O.

Engrossed HB 1023, as amended, passed.

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

**SEN. WANZEK MOVED** that the conference committee report on Engrossed HB 1009 as printed on SJ pages 1697-1702 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1009, as amended, was placed on the Fourteenth order of business.

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

**HB 1009:** A BILL for an Act to provide an appropriation for defraying the expenses of the agriculture commissioner; to provide for a transfer; to amend and reenact sections 4.1-01-02, 4.1-01-17, 4.1-83-22, 4.1-83-23, 4.1-83-28, and 54-12-08 of the North Dakota Century Code and section 7 of chapter 34 of the 2019 Session Laws, relating to the salary of the agriculture commissioner, the pipeline restoration and reclamation oversight program, insolvency of livestock dealers, the ability of state agencies to employ attorney positions, and the waterbank program; to provide for a report; to provide for a legislative management 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 46 YEAS, 1 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bakke; Bekkedahl; Bell; Burckhard; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Fors; Heckaman; Heitkamp; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, D.; Larson, D.; Lee; Lemm; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Patten; Piepkorn; Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Wardner; Weber; Wobbema

**NAYS:** Larsen, O.

Engrossed HB 1009, as amended, passed and the emergency clause was declared carried.

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#### **MOTION**

**SEN. KLEIN MOVED** that HB 1213 be moved to the bottom of the Seventh order, which motion prevailed on a voice vote.

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

**SEN. MYRDAL MOVED** that the conference committee report on Engrossed HB 1437 as printed on SJ pages 1729-1731 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1437, as amended, was placed on the Fourteenth order of business.

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

**HB 1437:** A BILL for an Act to create and enact section 61-32-03.2 of the North Dakota Century Code, relating to small subsurface water management systems; to amend and reenact subsection 3 of section 61-02-01.4 and section 61-32-03.1 of the North Dakota Century Code, relating to large subsurface water management system permits and the state water commission cost-share policy; to provide a penalty; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bakke; Bekkedahl; Bell; Burckhard; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Fors; Heckaman; Heitkamp; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, D.; Larsen, O.; Larson, D.; Lee; Lemm; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Patten; Piepkorn;

Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Wardner; Weber; Wobbema

Engrossed HB 1437, as amended, passed and the emergency clause was declared carried.

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#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. KREBSBACH MOVED** that the conference committee report on Engrossed HB 1016 as printed on SJ pages 1690-1697 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1016, as amended, was placed on the Fourteenth order of business.

#### SECOND READING OF HOUSE BILL

**HB 1016:** A BILL for an Act to provide an appropriation for defraying the expenses of the office of the adjutant general; to amend and reenact section 37-17.1-14.6 of the North Dakota Century Code, relating to the northern emergency management assistance compact; to provide an exemption; to provide a report; to provide legislative intent; to provide for a transfer; 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 46 YEAS, 1 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bakke; Bekkedahl; Bell; Burckhard; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Fors; Heckaman; Heitkamp; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, D.; Larson, D.; Lee; Lemm; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Patten; Piepkorn; Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Wardner; Weber; Wobbema

**NAYS:** Larsen, O.

Engrossed HB 1016, as amended, passed and the emergency clause was declared carried.

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#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. K. ROERS MOVED** that the conference committee report on Engrossed HB 1213 as printed on SJ pages 1702-1729 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1213, as amended, was placed on the Fourteenth order of business.

#### SECOND READING OF HOUSE BILL

**HB 1213:** A BILL for an Act to create and enact section 19-24.1-04.1 of the North Dakota Century Code, relating to medical marijuana designated caregivers; to amend and reenact section 19-03.1-01, subsection 5 of section 19-03.1-05, subsection 1 of section 19-03.1-22.2, section 19-03.1-22.3, subsections 1, 7, and 9 of section 19-03.1-23, subsection 12 of section 19-03.4-01, sections 19-03.4-03, 19-03.4-04, and 19-24.1-01, subdivision a of subsection 2 of section 19-24.1-03, subsection 3 of section 19-24.1-04, sections 19-24.1-10 and 19-24.1-13, paragraph 2 of subdivision d of subsection 1 of section 19-24.1-14, subdivision a of subsection 1 of section 19-24.1-15, subdivision a of subsection 2 of section 19-24.1-16, section 19-24.1-17, subsection 4 of section 19-24.1-18, subsection 2 of section 19-24.1-20, subsection 3 of section 19-24.1-26, subsection 2 of section 19-24.1-37, section 19-24.1-39, and subsection 1 of section 39-20-01 of the North Dakota Century Code, relating to the medical marijuana program; to provide for a legislative management report; to provide a penalty; 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 44 YEAS, 3 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bakke; Bekkedahl; Bell; Burckhard; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Heckaman; Heitkamp; Hogan; Hogue; Holmberg; Kannianen;

Klein; Krebsbach; Kreun; Larsen, D.; Larson, D.; Lee; Lemm; Luick; Marcellais; Mathern; Meyer; Oban; Oehlke; Patten; Piepkorn; Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Wardner; Weber; Wobbema

**NAYS:** Fors; Larsen, O.; Myrdal

Engrossed HB 1213, as amended, passed and the emergency clause was declared carried.

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#### **MOTION**

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

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

#### **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 1022.

#### **MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**

**MR. SPEAKER:** The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2145, SB 2245.

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

**MR. PRESIDENT:** The House has not adopted the conference committee report on: SB 2245.

#### **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 2256.

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

**SB 2245, as engrossed:** Your conference committee (Sens. Krebsbach, Davison, Rust and Reps. J. Nelson, Kempenich, Brandenburg) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1223-1225, adopt amendments as follows, and place SB 2245 on the Seventh order:

That the House recede from its amendments as printed on pages 1223-1225 of the Senate Journal and pages 1403-1405 of the House Journal and that Engrossed Senate Bill No. 2245 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 to the agriculture commissioner for an intermodal facility grant program; and to declare an emergency.

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

#### **SECTION 1. APPROPRIATION - FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND - INTERMODAL FACILITY CONSTRUCTION GRANT PROGRAM - ONE-TIME FUNDING.**

There is appropriated from federal funds derived from the federal coronavirus capital projects fund, not otherwise appropriated, the sum of \$2,000,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of an intermodal facility grant program for capital construction projects that will expand rail capacity to support economic and workforce development and growth and enhance the value of agriculture and commercial products exported through an intermodal facility in North Dakota for the period beginning with the effective date of this Act and ending June 30, 2023. This funding is considered a one-time funding item.

1. The agriculture commissioner shall establish guidelines for awarding grants under the program.
2. Grants may be awarded only to an organization dedicated to the expansion of rail capacity at an existing intermodal facility in the state

connected to and served by a class I railroad. Grant funds may be used only to pay for capital costs associated with engineering, labor, equipment, and materials related to rail track expansion.

3. The funding provided under this section may be spent only to the extent the director of the office of management and budget, in consultation with the budget section, determines the use of the funding complies with federal guidance for the federal coronavirus capital projects fund.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### Senate Bill No. 2245 - Summary of Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Department of Commerce						
Total all funds	\$0	\$10,000,000	(\$10,000,000)	\$0	\$0	\$0
Less estimated income	0	10,000,000	(10,000,000)	0	0	0
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00
Department of Agriculture						
Total all funds	\$0	\$0	\$2,000,000	\$2,000,000	\$2,500,000	(\$500,000)
Less estimated income	0	0	2,000,000	2,000,000	2,500,000	(500,000)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00
Bill total						
Total all funds	\$0	\$10,000,000	(\$8,000,000)	\$2,000,000	\$2,500,000	(\$500,000)
Less estimated income	0	10,000,000	(8,000,000)	2,000,000	2,500,000	(500,000)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00

#### Senate Bill No. 2245 - Department of Commerce - Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Intermodal transportation assistance		\$10,000,000	(\$10,000,000)			
Total all funds	\$0	\$10,000,000	(\$10,000,000)	\$0	\$0	\$0
Less estimated income	0	10,000,000	(10,000,000)	0	0	0
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00

#### Department 601 - Department of Commerce - Detail of Conference Committee Changes

	Removes Funding for Intermodal Transportation Assistance Program <sup>1</sup>	Total Conference Committee Changes
Intermodal transportation assistance	(\$10,000,000)	(\$10,000,000)
Total all funds	(\$10,000,000)	(\$10,000,000)
Less estimated income	(10,000,000)	(10,000,000)
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> One-time funding of \$10 million from the strategic investment and improvements fund appropriated by the Senate to the Department of Commerce for an intermodal transportation assistance program is removed. The House also removed this appropriation.

**Senate Bill No. 2245 - Department of Agriculture - Conference Committee Action**

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Intermodal facility grants			\$2,000,000	\$2,000,000	\$2,500,000	(\$500,000)
Total all funds	\$0	\$0	\$2,000,000	\$2,000,000	\$2,500,000	(\$500,000)
Less estimated income	0	0	2,000,000	2,000,000	2,500,000	(500,000)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00

**Department 602 - Department of Agriculture - Detail of Conference Committee Changes**

	Adds One-Time Funding for Intermodal Grant Program <sup>1</sup>	Total Conference Committee Changes
Intermodal facility grants	\$2,000,000	\$2,000,000
Total all funds	\$2,000,000	\$2,000,000
Less estimated income	2,000,000	2,000,000
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> One-time funding of \$2 million from the federal Coronavirus Capital Projects Fund is appropriated to the Agriculture Commissioner for an intermodal facility construction grant program. Grants may be awarded only to an organization dedicated to the expansion of rail capacity at an existing intermodal facility in the state connected to and served by a Class I railroad. Grant funds may be used only to pay for capital costs associated with engineering, labor, equipment, and materials related to rail track expansion. An emergency clause is added.

The House provided a \$2.5 million appropriation to the Agriculture Commissioner from the beginning farmer revolving loan fund. The House's amendments, which were not approved by the Conference Committee, included a provision that if facility assets are sold, all or a portion of the grant amount must be repaid.

Engrossed SB 2245 was placed on the Seventh order of business on the calendar.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. KREBSBACH MOVED** that the conference committee report on Engrossed SB 2245 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2245, as amended, was placed on the Eleventh order of business.

**SECOND READING OF SENATE BILL**

**SB 2245:** A BILL for an Act to provide an appropriation to the agriculture commissioner for an intermodal facility grant program; and to declare an emergency.

**ROLL CALL**

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

**YEAS:** Anderson; Bakke; Bekkedahl; Bell; Burckhard; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Fors; Heckaman; Heitkamp; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, D.; Larsen, O.; Larson, D.; Lee; Lemm; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Patten; Piepkorn; Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Wardner; Weber; Wobbema

Reengrossed SB 2245 passed and the emergency clause was declared carried.

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**REPORT OF CONFERENCE COMMITTEE**

**SB 2256, as engrossed:** Your conference committee (Sens. Lee, Clemens, Hogan and

Reps. Rohr, Tveit, Schneider) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1313-1314, adopt amendments as follows, and place SB 2256 on the Seventh order:

That the House recede from its amendments as printed on page 1313 of the Senate Journal and pages 1437 and 1438 of the House Journal and that Engrossed Senate Bill No. 2256 be amended as follows:

Page 1, line 1, after "developmental" insert "disability"

Page 1, line 2, replace "an appropriation" with "a statement of legislative intent"

Page 1, line 13, after "sources" insert "including the federal Medicaid 1915(i) state plan amendment"

Page 1, remove lines 22 through 24

Page 2, replace lines 1 and 2 with:

**"SECTION 2. LEGISLATIVE INTENT - STATE FISCAL RECOVERY FUND.** It is the intent of the sixty-seventh legislative assembly that the department of human services seek an appropriation during any special session of the sixty-seventh legislative assembly from, or subsequent to, the state fiscal recovery fund received through H.R. 1319 of the 117<sup>th</sup> Congress, also known as the federal American Rescue Plan Act, for the purpose of selecting a consultant to assist the legislative management in the study related to the state's services to individuals with developmental disabilities."

Renumber accordingly

Engrossed SB 2256 was placed on the Seventh order of business on the calendar.

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

**SEN. LEE MOVED** that the conference committee report on Engrossed SB 2256 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2256, as amended, was placed on the Eleventh order of business.

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

**SB 2256:** A BILL for an Act to provide for a legislative management study of the state's developmental disability services and autism spectrum disorder waiver and voucher programs.

#### **ROLL CALL**

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

**YEAS:** Anderson; Bakke; Bekkedahl; Bell; Burckhard; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Fors; Heckaman; Heitkamp; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, D.; Larsen, O.; Larson, D.; Lee; Lemm; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Patten; Piepkorn; Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Wardner; Weber; Wobbema

Reengrossed SB 2256 passed.

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

**SB 2145, as engrossed:** Your conference committee (Sens. K. Roers, O. Larsen, Hogan and Reps. Tveit, Skroch, Rohr) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1318-1319, adopt amendments as follows, and place SB 2145 on the Seventh order:

That the House recede from its amendments as printed on page 1318 of the Senate Journal

and page 1436 of the House Journal and that Engrossed Senate Bill No. 2145 be amended as follows:

Page 1, line 1, after "50-10.3" insert "and a new section to chapter 50-11"

Page 1, line 2, after "facilities" insert "and unaccompanied undocumented children"

Page 1, line 14, remove "assisted"

Page 1, line 15, remove "living facility."

Page 1, line 24, after "establish" insert "basic"

Page 2, line 3, after the underscored period insert:

"a. If a declaration of disaster or emergency results in restricted access to a long-term care facility, the department shall review and update the protocols every thirty days during the period of restriction, including an assessment of the need for continuation of the restriction.

b."

Page 2, line 11, after the underscored semicolon insert "and"

Page 2, line 13, remove "; and"

Page 2, remove lines 14 and 15

Page 2, line 16, remove "residents of the long-term care facility and essential caregivers"

Page 2, line 19, remove "of the long-term care facility if the requirements and cost are not so burdensome or"

Page 2, remove line 20

Page 2, line 21, remove "physical, spiritual, or emotional support to a resident of the long-term care facility"

Page 2, line 21, after the underscored period insert "The facility may require an essential caregiver to provide personal protective equipment for the essential caregiver and undergo any related training or assume the cost of the personal protective equipment and any related training provided by the facility to allow the essential caregiver to provide in-person physical, spiritual, or emotional support to a resident of the long-term care facility."

Page 2, after line 26, insert:

**"50-10.3-06. Liability.**

A long-term care facility, facility employee, or facility contractor that, in good faith, implements or complies with this chapter may not be held civilly liable for damages, including punitive damages, for any act or omission related to the implementation of this chapter. This section does not apply to any act or omission that constitutes gross negligence or willful or wanton misconduct.

**SECTION 2.** A new section to chapter 50-11 of the North Dakota Century Code is created and enacted as follows:

**Unaccompanied undocumented children.**

A person may not arrange for or promote care provided in a facility for unaccompanied undocumented children unless the facility has a license or approval issued by the department.



Renumber accordingly

Engrossed SB 2145 was placed on the Seventh order of business on the calendar.

### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. K. ROERS MOVED** that the conference committee report on Engrossed SB 2145 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2145, as amended, was placed on the Eleventh order of business.

### SECOND READING OF SENATE BILL

**SB 2145:** A BILL for an Act to create and enact chapter 50-10.3 and a new section to chapter 50-11 of the North Dakota Century Code, relating to access to long-term care facilities and unaccompanied undocumented children; and to declare an emergency.

### ROLL CALL

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

**YEAS:** Anderson; Bakke; Bekkedahl; Bell; Burckhard; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Fors; Heckaman; Heitkamp; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, D.; Larsen, O.; Larson, D.; Lee; Lemm; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Patten; Piepkorn; Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Wardner; Weber; Wobbema

Reengrossed SB 2145 passed and the emergency clause was declared carried.

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### REPORT OF CONFERENCE COMMITTEE

**HB 1022, as engrossed:** Your conference committee (Sens. Bekkedahl, Poolman, Rust and Reps. Kempenich, Meier, Brandenburg) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1481-1482, adopt amendments as follows, and place HB 1022 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1481 and 1482 of the House Journal and page 1201 of the Senate Journal and that Reengrossed House Bill No. 1022 be amended as follows:

Page 1, replace lines 11 through 15 with:

"Salaries and wages	\$4,928,230	\$125,747	\$5,053,977
Operating expenses	888,934	359,594	1,248,528
Contingencies	52,000	48,000	100,000
Total special funds	\$5,869,164	\$533,341	\$6,402,505
Full-time equivalent positions	20.00	(1.00)	19.00"

Renumber accordingly

### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1022 - Retirement and Investment Office - Conference Committee Action

	Base Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$4,928,230	\$5,231,805	(\$177,828)	\$5,053,977	\$5,001,612	\$52,365
Operating expenses	888,934	783,203	465,325	1,248,528	1,248,528	
Contingencies	52,000	52,000	48,000	100,000	125,000	(25,000)
Total all funds	\$5,869,164	\$6,067,008	\$335,497	\$6,402,505	\$6,375,140	\$27,365
Less estimated income	5,869,164	6,067,008	335,497	6,402,505	6,375,140	27,365
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	20.00	20.00	(1.00)	19.00	19.00	0.00

**Department 190 - Retirement and Investment Office - Detail of Conference Committee Changes**

	Adjusts Funding for Salary Increases <sup>1</sup>	Adds Investment Program Analyst <sup>2</sup>	Adds Salary Equity Funding <sup>3</sup>	Transfers Positions for IT Unification <sup>4</sup>	Increases Funding for Contingencies <sup>5</sup>	Total Conference Committee Changes
Salaries and wages	\$347	\$210,000	\$52,365	(\$440,540)		(\$177,828)
Operating expenses		15,000		450,325		465,325
Contingencies					\$48,000	48,000
Total all funds	\$347	\$225,000	\$52,365	\$9,785	\$48,000	\$335,497
Less estimated income	347	225,000	52,365	9,785	48,000	335,497
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	1.00	0.00	(2.00)	0.00	(1.00)

<sup>1</sup> Funding is adjusted to provide salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100, and 2 percent on July 1, 2022, the same as the Senate version. The House provided salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250.

<sup>2</sup> Funding of \$225,000 from special funds, including \$210,000 for salaries and wages and \$15,000 for related operating costs, is added for 1 FTE investment program analyst position, the same as the Senate version. The House did not include this position and the related funding.

<sup>3</sup> Funding is added to provide a 10.5 percent salary equity increase for the chief investment officer position. Neither the House nor the Senate included funding for this salary equity increase.

<sup>4</sup> Two FTE positions are transferred to the Information Technology Department for the IT unification project, reducing salaries and wages by \$440,540 and increasing operating expenses by \$450,325. The Senate included the IT unification project, but the House did not.

<sup>5</sup> Funding for contingencies is increased by \$48,000 to provide total contingency funding of \$100,000. The Senate provided an increase of \$73,000 for a total of \$125,000. The House did not increase funding for contingencies.

Engrossed HB 1022 was placed on the Seventh order of business on the calendar.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. BEKKEDAH** **MOVED** that the conference committee report on Reengrossed HB 1022 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1022, as amended, was placed on the Fourteenth order of business.

**SECOND READING OF HOUSE BILL**

**HB 1022:** A BILL for an Act to provide an appropriation for defraying the expenses of the retirement and investment office; and to provide an exemption.

**ROLL CALL**

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

**YEAS:** Anderson; Bakke; Bekkedahl; Bell; Burckhard; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Fors; Heckaman; Heitkamp; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, D.; Larsen, O.; Larson, D.; Lee; Lemm; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Patten; Piepkorn; Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Wardner; Weber; Wobbema

Reengrossed HB 1022, as amended, passed.

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**MOTION**

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

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

**VETO MEASURE**

Dear President Sanford:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed Senate Bill 2290 and return it to the Senate unsigned.

Three years ago, the North Dakota Supreme Court affirmed the separation of powers and resolved a dispute between the legislature and executive branches in North Dakota Legislative Assembly v. Burgum, 2018 ND 189, 916 N.W.2d 83. In this opinion, the Court held the State Legislature "may not delegate to another body the power to make law - to legislate." The Constitution grants the Legislature the authority to create law and appropriate funds. These duties cannot be delegated to a subset of legislators, such as the Budget Section, comprised of 42 of the legislature's 141 members.

Senate Bill 2290 not only ignore the holding of Assembly v. Burgum, it attempts to expand the Budget Section's authority, allowing it to reject an Emergency Commission approval and issue a revised decision. SB 2290 states any changes made by the budget section are "deemed to be approve by the emergency commission." The power to reject an Emergency Commission decision "with out the further action of the passage by both houses of the Legislature and signing by the Governor" violates the separation of powers doctrine and is an unconstitutional exercise of authority. 2007 N.D. Op. Atty. Gen. No. L-08.

Senate Bill 2290 also creates operational issues between sessions for state government by limiting the aggregate amount of approvals each biennium by the Emergency Commission to \$50 million.

The total state biennial budget is over \$14 billion, including general, special, and general funds. Once percent of this budget would be over \$140 million. SB 2290 has a cap of \$50 million per biennium that can be approved by the Emergency Commission and Budget Section, and amounts greater than this would require the governor to call a special session. The cap is set so low that even a variance of less than 1/2 of one percent over the two-year budget cycle would trigger the need for a special session.

Special sessions are for addressing special circumstances as they arise, not for receiving incremental amounts of federal dollars in the normal execution of state business.

North Dakota has received approximately \$1.25 billion in CARES Act funding in the last year. Receipt and disbursement of these funds was handled through requests to the Emergency Commission. This long-established framework worked well to quickly distribute aid for COVID-19 relief for citizens, businesses, education and health care, within the designated federal guidelines under the Coronavirus Relief Fund rules.

North Dakota stands to receive additional federal funds under President Biden's "American Rescue Plan." Coronavirus Relief Fund and American Rescue Plan dollars are specifically referenced in a number of 2021-2023 appropriations bills.

The significant expansion of powers in Senate Bill 2290 clearly violates the separation of powers doctrine and attempts, via an unconstitutional \$50 million trigger, to force the Governor to call a special session to authorize expenditures of known or foreseeable federal funds. It may further result in the Legislative Assembly circumventing its constitutionally authorized 80-day limit per biennium.

For the reasons explained herein, i return Senate Bill 2290 to the Senate, unsigned.

Regards,

Doug Burgum

Governor

### CONSIDERATION OF VETOED MEASURE

**SB 2290:** AN ACT to amend and reenact sections 54-16-04.1 and 54-16-04.2 of the North Dakota Century Code, relating to emergency commission and budget section approval to accept and disburse federal and other funds; and to declare an emergency.

### ROLL CALL

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

**YEAS:** Anderson; Bakke; Bekkedahl; Bell; Burckhard; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Fors; Heckaman; Heitkamp; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, D.; Larsen, O.; Larson, D.; Lee; Lemm; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Patten; Piepkorn; Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Wardner; Weber; Wobbema

The Senate overrode the Governor's veto of SB 2290, as enrolled.

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### REPORT OF CONFERENCE COMMITTEE

**SB 2018, as engrossed:** Your conference committee (Sens. Bekkedahl, Holmberg, Heckaman and Reps. Nathe, Martinson, Boe) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1581-1587, adopt amendments as follows, and place SB 2018 on the Seventh order:

That the House recede from its amendments as printed on pages 1581-1587 of the Senate Journal and pages 1827-1833 of the House Journal and that Engrossed Senate Bill No. 2018 be amended as follows:

Page 1, line 5, replace "section" with "sections 54-34.3-13 and"

Page 1, line 6, after the first "to" insert "the rural growth incentive program and"

Page 1, line 8, remove "and"

Page 1, line 9, after "exemption" insert "; to provide a statement of legislative intent; to provide for a legislative management study; and to declare an emergency"

Page 1, remove lines 18 through 24

Page 2, replace lines 1 through 4 with:

"Salaries and wages	\$13,217,286	(\$381,855)	\$12,835,431
Operating expenses	14,873,203	9,009,989	23,883,192
Grants	52,638,527	40,193,803	92,832,330
Discretionary funds	2,150,000	0	2,150,000
North Dakota trade office	1,600,000	(1,600,000)	0
Partner programs	1,562,531	0	1,562,531
Entrepreneurship grants and vouchers	<u>948,467</u>	<u>0</u>	<u>948,467</u>
Total all funds	\$86,990,014	\$47,221,937	\$134,211,951
Less estimated income	<u>54,123,293</u>	<u>46,421,086</u>	<u>100,544,379</u>
Total general fund	\$32,866,721	\$800,851	\$33,667,572
Full-time equivalent positions	61.80	(3.00)	58.80"

Page 2, replace lines 15 through 25 with:

"Workforce safety grant	1,000,000	1,500,000
Entrepreneurship grants and vouchers	2,000,000	0
Sculpture maintenance grants	75,000	0
Nonresident nurse employment recruitment	500,000	0

Intermodal container transportation shipping fees	1,300,000	0
Economic development, growth, and diversification grant	0	5,000,000
Job development and economic growth grant	25,000	1,500,000
Tourism marketing	0	7,000,000
Technical skills training grants	0	1,000,000
Motion picture production and recruitment grant	0	100,000
Travel agent and tour operator emergency resiliency grants	0	2,000,000
Event center emergency resiliency grants	0	2,000,000
Tourism transportation improvement grant	0	<u>565,432</u>
Total all funds	\$11,625,000	\$49,165,432
Less estimated income	<u>4,300,000</u>	<u>47,000,000</u>
Total general fund	\$7,325,000	\$2,165,432"

Page 3, line 2, replace "11" with "15"

Page 3, line 3, replace "\$28,000,000" with "\$5,000,000"

Page 3, line 4, remove "tower"

Page 3, line 7, remove "tower"

Page 3, after line 20, insert:

**"SECTION 6. RURAL HEALTH CARE GRANT PROGRAM - MATCHING FUNDS REQUIREMENT.** The grants line item in section 1 of this Act includes \$250,000 from the general fund for providing matching funds to an organization assisting in the recruitment, distribution, and supply, and enhancing the quality and efficiency of personnel providing health services in rural areas of the state. The department of commerce may spend the funds appropriated in this section only to the extent the organization has secured matching funds from nonstate sources on a dollar-for-dollar basis.

**SECTION 7. LOAN AUTHORIZATION - ECONOMIC DEVELOPMENT, GROWTH, AND DIVERSIFICATION GRANT PROGRAM - MATCHING REQUIREMENT - ONE-TIME FUNDING.** The department of commerce may borrow from the Bank of North Dakota, the sum of \$5,000,000, or so much of the sum as may be necessary, which is appropriated to the department of commerce in the grants line item in section 1 of this Act for the purpose of providing a grant to an organization dedicated to expanding economic development, growth, and diversification. This funding is considered a one-time funding item. The department of commerce shall request an appropriation from the sixty-eighth legislative assembly to repay any outstanding loan authorized in this section. To qualify for a grant under this program, an organization must have:

1. Secured a loan or qualified investment from the state investment board through the provisions established in House Bill No. 1425 as approved by the sixty-seventh legislative assembly for construction of an event and entertainment venue focused on highlighting North Dakota history and attractions;
2. Obtained \$5,000,000 of matching funds from nonstate sources; and
3. Entered a lease with the state of North Dakota for use of land for the event and entertainment venue.

Grant funds awarded may be used only for the operating costs of an event and entertainment venue used to promote the expansion of tourism and economic development and growth in the state."

Page 3, line 23, replace "\$26,000,000" with "\$29,000,000"

Page 3, line 24, replace "and" with a comma

Page 3, line 25, after "grants" insert ", \$1,500,000 is for a job development grant to an organization dedicated to promoting job development and economic growth, and

\$1,500,000 is for a workforce safety grant to an organization that provides workforce safety"

Page 3, after line 25, insert:

**"SECTION 9. ESTIMATED INCOME - FEDERAL CORONAVIRUS RELIEF FUND - ONE-TIME FUNDING.** The estimated income line item in section 1 of this Act includes the sum of \$12,000,000 from the federal coronavirus relief fund, which is provided for the purposes identified in this section. The department of commerce shall establish guidelines for awarding funding under this section. This funding is considered a one-time funding item and is available for the following:

1. \$7,000,000 for tourism marketing and branding initiatives, of which \$6,565,432 is for tourism marketing and branding operating expenses and \$434,568 is for the tourism transportation improvement grant program for a grant to be provided to an organization dedicated to preserving and promoting a historic, tourism destination North Dakota city.
2. \$1,000,000 for technical skills training grants.
3. \$2,000,000 for travel agent and tour operator emergency resiliency grants. Grants may be awarded only to travel agents that book commission-based travel for private individuals or companies, tour companies that schedule tour details and itineraries in North Dakota, or transportation companies providing transportation services to tour planners for tours originating in North Dakota or operators bringing tours into North Dakota. The department of commerce shall establish additional eligibility requirements for the program. The following organizations are ineligible for a grant under this subsection:
  - a. National companies that provide travel services to individuals in North Dakota but do not employ at least one individual in the state;
  - b. Corporations with staff dedicated to purchasing and arranging travel for employees;
  - c. Military-based travel agents or other individuals employed by government entities; and
  - d. Organizations that only offer guided services and tours of their attraction.
4. \$2,000,000 for event center emergency resiliency grants."

Page 5, after line 6, insert:

**"SECTION 12. AMENDMENT.** Section 54-34.3-13 of the North Dakota Century Code is amended and reenacted as follows:

**54-34.3-13. Rural growth incentive program.**

1. The department shall manage and administer the rural growth incentive program. A city with a population of less than two thousand five hundred may apply to the department to be designated as a rural growth incentive city. A rural growth incentive city may be eligible for a loan, grant, or both under this section.
2. The department shall designate an applicant city as a rural growth incentive city eligible for a loan if the city raises funds in the amount of a dollar-for-dollar match for the amount requested in the loan and meets any additional program requirements provided by rule. The source of city funds used for loan matching funds may be any combination of public and private funds. If the department designates a city as a rural growth incentive city eligible for a loan under this section, subject to the

- availability of funds, the state shall make a loan to the city in an amount not less than twenty-five thousand dollars and not more than seventy-five thousand dollars. The department shall establish the amount of the interest rate for loans provided to a city under this subsection. The funding source of the state loan is the North Dakota development fund. The city shall distribute the city and state funds to qualifying new or expanded ~~primary-sector~~ businesses in the city. A qualifying business in the city includes a business that provides essential services to the city. For purposes of this subsection, a business that provides essential services does not include a public utility. The governing body of the city determines whether a new or expanded ~~primary-sector~~ business qualifies for funding, and the director of the department determines whether a business that provides essential services to the city qualifies for funding. The state shall distribute a loan to a rural growth incentive city once the city establishes the city has chosen a specified qualified business to receive funding.
3. The department shall designate an applicant city as a rural growth incentive city eligible for a grant if the city raises funds in the amount of a dollar-for-dollar match for the amount requested in the grant application and meets any additional program requirements provided by rule. The source of city funds used for grant matching funds may be any combination of public and private funds. If the department designates a city as a rural growth incentive city eligible for a grant under this section, subject to availability of funds, the state shall make a grant to the city in an amount not to exceed ten thousand dollars. The recipient rural growth incentive city shall use the grant money received to conduct a feasibility study for the location of a new business, including an expansion of a business with the primary place of business outside the rural growth incentive city. ~~The business under this subsection is not limited to primary-sector businesses.~~ The funding source of the state grant is the North Dakota development fund. Total grants awarded by the department under this subsection may not exceed one hundred thousand dollars per biennium.
  4. The city may not use city or state funds raised or provided under this section for costs associated with administering the rural growth incentive city. The department shall provide the rural growth incentive city with training to assist the city in expanding ~~primary-sector~~ businesses, locating new businesses, and working with state economic development programs."

Page 5, line 23, replace "The amount of" with "Of the"

Page 5, line 25, replace "and" with ", up to \$5,000,000 of unexpended funds may be continued and"

Page 5, line 27, replace "\$28,000,000" with "\$5,000,000"

Page 5, line 28, remove "tower"

Page 6, remove lines 11 through 15

Page 6, line 28, after the period insert "Of this amount, up \$200,000 must be used to retrain up to ten displaced energy industry workers to enhance programmer development and engineering skills."

**SECTION 20. LEGISLATIVE INTENT - NORTHERN PLAINS UNMANNED AIRCRAFT SYSTEM TEST SITE.** It is the intent of the sixty-seventh legislative assembly that the northern plains unmanned aircraft system test site maximize earned revenue to the extent possible while operating and conducting business of the test site.

**SECTION 21. LEGISLATIVE MANAGEMENT STUDY - DATA STORAGE.** During the 2021-22 interim, the legislative management shall consider studying data

storage by state entities. The study must include input from the information technology department, North Dakota university system, and kindergarten through grade twelve education coordination council. The study must consider data security, geographical locations of storage, geographical locations of corporate contractors, state and federal laws that may affect North Dakota data, ownership and control of data storage, and current and estimated data storage costs related to cloud-based, out-of-state data storage of North Dakota state and local government data. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 22. EMERGENCY.** The \$12,000,000 appropriated from the federal coronavirus relief fund, of which \$6,565,432 is in the operating expenses line item and \$5,434,568 is in the grants line item in section 1 and identified in sections 2 and 9, and the \$100,000 appropriated from the general fund for a motion picture production and recruitment grant in the grants line item in section 1 and identified in section 2 of this Act are declared to be an emergency measure."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### Senate Bill No. 2018 - Summary of Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Department of Commerce						
Total all funds	\$86,990,014	\$122,425,241	\$11,786,710	\$134,211,951	\$129,547,101	\$4,664,850
Less estimated income	54,123,293	80,548,067	19,996,312	100,544,379	83,544,379	17,000,000
General fund	\$32,866,721	\$41,877,174	(\$8,209,602)	\$33,667,572	\$46,002,722	(\$12,335,150)
FTE	61.80	58.80	0.00	58.80	59.80	(1.00)
Department of Transportation						
Total all funds	\$0	\$28,000,000	(\$23,000,000)	\$5,000,000	\$5,000,000	\$0
Less estimated income	0	28,000,000	(23,000,000)	5,000,000	5,000,000	0
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00
Bill total						
Total all funds	\$86,990,014	\$150,425,241	(\$11,213,290)	\$139,211,951	\$134,547,101	\$4,664,850
Less estimated income	54,123,293	108,548,067	(3,003,688)	105,544,379	88,544,379	17,000,000
General fund	\$32,866,721	\$41,877,174	(\$8,209,602)	\$33,667,572	\$46,002,722	(\$12,335,150)
FTE	61.80	58.80	0.00	58.80	59.80	(1.00)

#### Senate Bill No. 2018 - Department of Commerce - Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Salaries and wages	\$13,217,286	\$12,864,153	(\$28,722)	\$12,835,431	\$12,989,330	(\$153,899)
Operating expenses	14,873,203	24,317,760	(434,568)	23,883,192	24,064,443	(181,251)
Grants	52,638,527	81,182,330	11,650,000	92,832,330	87,832,330	5,000,000
Discretionary funds	2,150,000	1,550,000	600,000	2,150,000	2,150,000	
North Dakota Trade Office	1,600,000					
Entrepreneurship grants and vouchers	948,467	948,467		948,467	948,467	
Partner programs	1,562,531	1,562,531		1,562,531	1,562,531	
Total all funds	\$86,990,014	\$122,425,241	\$11,786,710	\$134,211,951	\$129,547,101	\$4,664,850
Less estimated income	54,123,293	80,548,067	19,996,312	100,544,379	83,544,379	17,000,000
General fund	\$32,866,721	\$41,877,174	(\$8,209,602)	\$33,667,572	\$46,002,722	(\$12,335,150)
FTE	61.80	58.80	0.00	58.80	59.80	(1.00)



## Department 601 - Department of Commerce - Detail of Conference Committee Changes

	Adjusts Funding for Salary and Benefit Increases <sup>1</sup>	Transfers Early Childhood Education Program to DHS <sup>2</sup>	Adds Funding for Rural Health Care Grants <sup>3</sup>	Restores Funding for Discretionary Funds <sup>4</sup>	Adds One- Time Funding for Film and Theater Production Grant <sup>5</sup>	Adds One- Time Funding for Economic Development and Growth Grant <sup>6</sup>
Salaries and wages	(\$28,722)					
Operating expenses						
Grants		(\$1,500,000)	\$50,000		\$100,000	\$5,000,000
Discretionary funds				\$600,000		
North Dakota Trade Office						
Entrepreneurship grants and vouchers						
Partner programs						
Total all funds	(\$28,722)	(\$1,500,000)	\$50,000	\$600,000	\$100,000	\$5,000,000
Less estimated income	(3,688)	0	0	0	0	5,000,000
General fund	(\$25,034)	(\$1,500,000)	\$50,000	\$600,000	\$100,000	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00

  

	Adds One- Time Funding for Job Development Grant <sup>7</sup>	Adds One- Time Funding for Workforce Safety Grant <sup>8</sup>	Adjusts One- Time Funding to the Coronavirus Relief Fund <sup>9</sup>	Adds One- Time Funding from the Coronavirus Relief Fund <sup>10</sup>	Adds One- Time Funding for Tourism Improvement Grant <sup>11</sup>	Total Conference Committee Changes
Salaries and wages						(\$28,722)
Operating expenses			(\$434,568)			(434,568)
Grants	\$1,500,000	\$1,500,000	434,568	\$4,000,000	\$565,432	11,650,000
Discretionary funds						600,000
North Dakota Trade Office						
Entrepreneurship grants and vouchers						
Partner programs						
Total all funds	\$1,500,000	\$1,500,000	\$0	\$4,000,000	\$565,432	\$11,786,710
Less estimated income	1,500,000	1,500,000	8,000,000	4,000,000	0	19,996,312
General fund	\$0	\$0	(\$8,000,000)	\$0	\$565,432	(\$8,209,602)
FTE	0.00	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> Salaries and wages funding is adjusted for salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100 and 2 percent on July 1, 2022, the same as the House. The Senate provided salary adjustments of 2 percent with a minimum monthly increase of \$80 and a maximum monthly increase of \$300 on July 1, 2021, and 2 percent on July 1, 2022.

<sup>2</sup> Funding of \$1.5 million from the general fund for the early childhood education program is removed in the Department of Commerce budget. The House and Senate have added \$1.5 million for this program in the Department of Human Services budget relating to the changes in House Bill No. 1466.

<sup>3</sup> Funding of \$50,000 is added from the general fund for rural health care grants to provide a total of \$250,000 from the general fund, the same as the House. The Senate provided \$200,000 from the general fund. A separate section is added to the bill requiring a dollar-for-dollar match.

<sup>4</sup> Funding of \$600,000 from the general fund, removed by the Senate, is restored to provide a total of \$2.15 million from the general fund in the discretionary funds line item, the same as the base level and as provided by the House. The Senate provided a total of \$1.55 million.

<sup>5</sup> One-time funding of \$100,000 is added from the general fund to provide a film and theater production grant directly to Canticle Productions, which is an organization dedicated to the preservation and honor of North Dakota land, history, and citizens, the same as provided by the House.

<sup>6</sup> One-time funding of \$5 million is added from Bank of North Dakota loan proceeds for providing a grant to an organization dedicated to expanding economic development, growth,

and diversification for the 2021-23 biennium. A separate section of the bill is added to provide the organization receiving the grant funding must have:

- Secured a loan or qualified investment from the State Investment Board through the provisions established in House Bill No. 1425 as approved by the 67th Legislative Assembly for construction of an event and entertainment venue focused on highlighting North Dakota history and attractions;
- Obtained \$5 million of matching funds from nonstate sources; and
- Entered a lease with the State of North Dakota for use of land for the event and entertainment venue.

Grant funds awarded may be used only for the operating costs of an event and entertainment venue used to promote the expansion of tourism and economic development and growth in the state. The department is required to request a deficiency appropriation from the 68th Legislative Assembly to repay any outstanding loan related to this program.

The House provided a general fund appropriation for this item. The Senate did not provide funding for this item.

<sup>7</sup> One-time funding of \$1.5 million is added from the strategic investment and improvements fund to provide a job development and economic growth grant directly to the Cavalier County Job Development Authority, which is an organization dedicated to promoting job development and economic growth in the state, the same as provided by the House.

<sup>8</sup> One-time funding of \$1.5 million is added from the strategic investment and improvements fund to provide a workforce safety grant directly to the North Dakota Safety Council, which is an organization that provides workforce safety, the same as provided by the House.

<sup>9</sup> One-time funding of \$8 million, of which \$7 million is for tourism marketing and branding initiatives and \$1 million is for technical skills training grants, is removed from the general fund and added from the federal Coronavirus Relief Fund. Of the \$7 million for tourism marketing and branding initiatives, \$434,568 is for the tourism transportation improvement grant program and \$6,565,432 is for tourism marketing and branding initiative operating expenses. The \$434,568 for the tourism transportation improvement grant program is to be provided directly to the Theodore Roosevelt Medora Foundation, which is an organization dedicated to preserving and promoting a historic, tourism destination North Dakota city.

The House approved \$6.9 million for tourism marketing and branding operating expenses and \$1 million for technical skills training grants from the general fund. The Senate approved \$7 million for tourism marketing and branding operating expenses and \$1 million for technical skills training grants from the general fund.

<sup>10</sup> One-time funding of \$4 million is added from the federal Coronavirus Relief Fund, of which \$2 million is for travel agent and tour operator emergency resiliency grants and \$2 million is for event center emergency resiliency grants. A separate section of the bill is added to identify all funding from the federal Coronavirus Relief Fund. Funding from the federal Coronavirus Relief Fund is declared an emergency measure.

<sup>11</sup> One-time funding of \$565,432 is added from the general fund for a tourism transportation improvement grant to be provided directly to the Theodore Roosevelt Medora Foundation, which is an organization dedicated to preserving and promoting a historic, tourism destination North Dakota city, to provide a total of \$1,000,000 for the tourism transportation improvement grant program, including \$434,568 from the federal Coronavirus Relief Fund.

The Conference Committee version includes the transfer of 1 FTE information technology position and related funding to the Information Technology Department (ITD) for the information technology unification initiative, the same as the Senate. The House amendments did not transfer the FTE position to ITD.

This amendment also:

- Amends a section that provides an exemption for the \$28 million 2017-19 biennium supplemental appropriation for the beyond visual line of sight unmanned aircraft system (UAS) program that was continued into the 2019-21 biennium to continue

into the 2021-23 biennium. The Department of Commerce may provide grants of up to \$5 million from this funding to the Department of Transportation for infrastructure construction of the beyond visual line of sight UAS program during the 2021-23 biennium. This section was included by the House. The Senate authorized the Department of Commerce to provide a grant of up to \$28 million to the Department of Transportation.

- Amends a section identifying \$29 million provided from the strategic investment and improvements fund in Section 1, the same as provided by the House. The Senate provided a total of \$26 million.
- Adds a section to amend North Dakota Century Code Section 54-34.3-13 to remove the requirement that businesses be "primary sector" businesses to qualify for the rural growth incentive program, which is administered by the North Dakota Development Fund in the rural growth incentive fund. The House included this section.
- Removes a section added by the Senate that provided an exemption to the Department of Commerce to continue 2019-21 biennium funding for the early childhood education program into the 2021-23 biennium. The House also removed this section. The Department of Commerce anticipates \$565,432 related to the early childhood education grant program will not be used and will be canceled at the end of the 2019-21 biennium. This amount is included in the 2021-23 biennium general fund beginning balance.
- Amends a section to require of the 2019-21 biennium funding in the discretionary funds line item the Department of Commerce is authorized to continue into the 2021-23 biennium, \$200,000 must be used retrain up to 10 displaced energy industry workers to enhance programmer development and engineering skills. The Senate and House authorized the exemption for the discretionary funds line time but did not previously provide a designation for the \$200,000.
- Adds a section of legislative intent that the Northern Plains UAS Test Site maximize earned revenue when possible. The House included this section.
- Adds a section providing for a Legislative Management study of data storage by state entities. The House included this section.
- Declares \$12 million appropriated from the federal Coronavirus Relief Fund for various programs and \$100,000 from the general fund for a motion picture production and recruitment grant to be an emergency measure.

#### Senate Bill No. 2018 - Department of Transportation - Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Grants		\$28,000,000	(\$23,000,000)	\$5,000,000	\$5,000,000	
Total all funds	\$0	\$28,000,000	(\$23,000,000)	\$5,000,000	\$5,000,000	\$0
Less estimated income	0	28,000,000	(23,000,000)	5,000,000	5,000,000	0
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00

#### Department 801 - Department of Transportation - Detail of Conference Committee Changes

	Reduces One-Time Funding for UAS <sup>1</sup>	Total Conference Committee Changes
Grants	(\$23,000,000)	(\$23,000,000)
Total all funds	(\$23,000,000)	(\$23,000,000)
Less estimated income	(23,000,000)	(23,000,000)
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> A separate section of the bill is amended to provide one-time funding of \$5 million to the Department of Transportation from grant funds received from the Department of Commerce pursuant to an exemption provided in the bill for infrastructure construction expenses of the beyond visual line of sight UAS program during the 2021-23 biennium. The Senate provided one-time funding of \$28 million. The Conference Committee reduced this amount by \$23

million to reflect the most recent estimate of unspent funding the Department of Commerce will have available at the end of the 2019-21 biennium, the same as provided by the House.

Engrossed SB 2018 was placed on the Seventh order of business on the calendar.

#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. BEKKEDAHL MOVED** that the conference committee report on Engrossed SB 2018 be adopted.

#### REQUEST

**SEN. HEITKAMP REQUESTED** a recorded roll call vote, which request was granted.

#### ROLL CALL

The question being on the motion to adopt the conference committee report on Engrossed SB 2018, the roll was called and there were 11 YEAS, 36 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Bekkedahl; Conley; Dwyer; Erbele; Heckaman; Luick; Marcellais; Meyer; Patten; Wanzek; Weber

**NAYS:** Anderson; Bakke; Bell; Burckhard; Clemens; Davison; Dever; Elkin; Fors; Heitkamp; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, D.; Larsen, O.; Larson, D.; Lee; Lemm; Mathern; Myrdal; Oban; Oehlke; Piepkorn; Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wardner; Wobbema

The conference committee report on Engrossed SB 2018 was rejected on a recorded roll call vote.

#### REPORT OF CONFERENCE COMMITTEE

**SB 2139, as engrossed:** Your conference committee (Sens. Burckhard, Bell, Oban and Reps. Steiner, Headland, Dockter) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1557-1559, adopt amendments as follows, and place SB 2139 on the Seventh order:

That the House recede from its amendments as printed on pages 1557-1559 of the Senate Journal and pages 1545-1547 of the House Journal and that Engrossed Senate Bill No. 2139 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 54-27.2 and a new section to chapter 57-01 of the North Dakota Century Code, relating to an income tax rate reduction fund and an income tax rate adjustment; and to provide for a transfer.

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

**SECTION 1.** A new section to chapter 54-27.2 of the North Dakota Century Code is created and enacted as follows:

#### Certain general fund revenues to be deposited in the income tax rate reduction fund.

After any required transfers from the general fund to the budget stabilization fund under section 54-27.2-02, the office of management and budget shall certify to the state treasurer the ending fund balance of the state general fund and if the amount in the general fund exceeds sixty-five million dollars at the end of the biennium, also shall certify the amount to be transferred to the income tax rate reduction fund. The state treasurer shall transfer the excess over sixty-five million dollars up to one hundred fifty million dollars from the general fund to the income rate reduction fund under section 2 of this Act.

**SECTION 2.** A new section to chapter 57-01 of the North Dakota Century Code is created and enacted as follows:

**Income tax rate reduction fund - Income tax rate adjustment - Tax commissioner - Transfer.**

1. There is created in the state treasury the income tax rate reduction fund. The fund consists of all moneys deposited in the fund under section 1 of this Act.
2. If money is transferred into the income tax rate reduction fund under section 1 of this Act and the balance in the fund is over fifty million dollars, the tax commissioner shall publish reduced individual and corporate income tax rates and notify taxpayers of the reduced rates by November first of the first fiscal year of the biennium. The tax commissioner may determine the form and manner for publishing the reduced rates and notifying taxpayers, including any notification that taxpayers are not required to file returns or pay taxes. The tax commissioner shall reduce the individual income tax rates and the corporate income tax rates based on the following:
  - a. The percentage reduction to the individual and corporate income tax rates is equal to the balance in the rate reduction fund divided by the total estimated tax collections.
  - b. Any reductions to the individual income tax rates and the corporate income tax rates apply to taxable years beginning after a rate reduction is calculated and published under this section.
  - c. The reductions to the individual income tax rates and the corporate income tax rates must be proportional to the estimated tax collections for each tax relative to the combined total estimated tax collections for both taxes.
  - d. The reductions to the individual income tax rates and corporate income tax rates must be applied equally to all tax brackets for each tax.
  - e. The reduced individual income tax rates and corporate income tax rates must be rounded to the nearest one-hundredth of a percent.
  - f. The tax commissioner shall calculate the reduced individual income tax rates and corporate income tax rates until the rates are reduced to zero.
  - g. "Estimated tax collections" means the income tax collection amounts included in the revenue forecast of the current biennial state budget as approved by the most recently adjourned special or regular session of the legislative assembly.
3. If the income tax rate reduction results in a disproportionate amount of tax to be deducted and withheld under section 57-38-59, the tax commissioner may adjust the percentage that, when withheld, will as closely as possible pay the income tax liability imposed.
4. This section does not limit or suspend any provision in chapter 57-38 which is not in conflict with this section, including provisions for assessment and refund under sections 57-38-34.4, 57-38-38, and 57-38-40.
5. In April of the first fiscal year of the biennium, if a rate reduction is made under subsection 2, the state treasurer shall transfer the amounts certified by the tax commissioner from the income tax rate reduction fund to the general fund.
6. The tax commissioner shall certify to the state treasurer that the individual income tax and corporate income tax rates have been reduced to zero. Upon receiving the certification from the tax commissioner, the

state treasurer immediately shall transfer any moneys remaining in the income tax reduction fund to the state general fund."

Renumber accordingly

Engrossed SB 2139 was placed on the Seventh order of business on the calendar.

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

**SEN. BELL MOVED** that the conference committee report on Engrossed SB 2139 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2139, as amended, was placed on the Eleventh order of business.

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

**SB 2139:** A BILL for an Act to create and enact a new section to chapter 54-27.2 and a new section to chapter 57-01 of the North Dakota Century Code, relating to an income tax rate reduction fund and an income tax rate adjustment; and to provide for a transfer.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 6 YEAS, 41 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Conley; Larsen, D.; Larsen, O.; Larson, D.; Meyer; Wanzek

**NAYS:** Anderson; Bakke; Bekkedahl; Bell; Burckhard; Clemens; Davison; Dever; Dwyer; Elkin; Erbele; Fors; Heckaman; Heitkamp; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Lee; Lemm; Luick; Marcellais; Mathern; Myrdal; Oban; Oehlke; Patten; Piepkorn; Poolman; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Vedaa; Wardner; Weber; Wobbema

Reengrossed SB 2139 failed.

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#### **MOTION**

**SEN. KLEIN MOVED** that Sen. Weber replace Sen. Meyer on the Conference Committee on SB 2046, which motion prevailed on a voice vote.

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

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

**SB 2245:** Reps. J. Nelson; Brandenburg; Kempenich

#### **MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**

**MR. SPEAKER:** The President has appointed Sen. Weber to replace Sen. Meyer on the Conference Committee on SB 2046.

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

**MR. PRESIDENT:** The Speaker has appointed Rep. Vigesaa to replace Rep. Brandenburg on the Conference Committee on SB 2014.

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

**MR. PRESIDENT:** The Speaker has appointed Rep. Vigesaa to replace Rep. Bellevue on the Conference Committee on HB 1453.

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

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

**HB 1253:** Reps. Kasper; Louser; Schneider

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has not adopted the conference committee report on: SB 2018.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has not adopted the conference committee report on: HB 1253.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2020.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2256.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1022.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1023.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1009, HB 1016, HB 1213, HB 1437.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently failed to pass: SB 2139.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has adopted the conference committee report on: SB 2030.

**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 2010.

**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 2020.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1008.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2145.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** Your signature is respectfully requested on: SB 2010, SB 2030.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** Your signature is respectfully requested on: SB 2020.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1003, HB 1010, HB 1018.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1009, HB 1016, HB 1023, HB 1213, HB 1437.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1022.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: SB 2010, SB 2030.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: SB 2020.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The President has signed: SB 2010, SB 2030.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The President has signed: HB 1003, HB 1010, HB 1018.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The President has signed: HB 1009, HB 1016, HB 1022, HB 1023, HB 1213, HB 1437.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: HB 1003, HB 1010, HB 1018.

#### **DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 27, 2021: SB 2010, SB 2030.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has overridden the Governor's veto on SB 2290. The vote was 47 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING, and your favorable consideration is requested.

#### **MOTION**

**SEN. KLEIN MOVED** that the Senate be on the Fourth, Fifth, Thirteenth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Wednesday, April 28, 2021, which motion prevailed.

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

**SB 2248, as engrossed:** Your conference committee (Sens. K. Roers, Clemens, Hogan and Reps. Rohr, Skroch, Schneider) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 974-975, adopt amendments as follows, and place SB 2248 on the Seventh order:

That the House recede from its amendments as printed on pages 974 and 975 of the Senate Journal and pages 1186 and 1187 of the House Journal and that Engrossed Senate Bill No. 2248 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 23-01-05.2 of the North Dakota Century Code, relating to epinephrine prescription, distribution, possession, or use and immunity from liability; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 23-01-05.2 of the North Dakota Century Code is amended and reenacted as follows:

#### **23-01-05.2. Administration of epinephrine -- Liability** **Epinephrine prescription, distribution, possession, or use - Immunity from liability.**

1. ~~The state health officer shall adopt rules to authorize a layperson to administer epinephrine to an individual who has a severe allergic reaction.~~
2. ~~An individual authorized to administer epinephrine by the state health officer may obtain premeasured doses of epinephrine and the necessary paraphernalia for epinephrine administration from any licensed physician or pharmacist.~~



3. An individual authorized to administer epinephrine by the state health officer, and the employer of such an individual, is not civilly or criminally liable for any act or omission of that individual when acting in good faith while rendering emergency treatment to an individual who has a severe adverse reaction, except when the conduct amounts to gross negligence. As used in this section:
  - a. "Epinephrine" means a single-use disposable device that automatically injects a premeasured dose of epinephrine.
  - b. "Health care professional" means a licensed or certified health care professional who is working within the scope of practice for that profession. The term may include a physician, physician assistant, advanced practice registered nurse, and pharmacist acting in the professional's scope of practice.
2. A health care professional acting in good faith may directly or by standing order prescribe, distribute, or dispense epinephrine, if the health care professional provides training to:
  - a. An individual at risk of experiencing a severe allergic reaction; or
  - b. A family member, friend, or other person in a position to assist an individual at risk of experiencing a severe allergic reaction.
3. A person acting in good faith may receive or possess epinephrine if that person is:
  - a. An individual at risk of experiencing a severe allergic reaction; or
  - b. A family member, friend, or other person in a position to assist an individual at risk of experiencing a severe allergic reaction.
4. An individual acting in good faith may self-administer epinephrine or administer epinephrine to another individual who the administering individual suspects is at risk of experiencing a severe allergic reaction.
5. A person may receive, possess, or administer epinephrine under subsection 3 or 4, regardless of whether the person is the individual for or the person to which the epinephrine is prescribed, distributed, or dispensed. A person in possession of epinephrine which is acting in good faith may provide training on how to use epinephrine.
6. A health care professional who prescribes, distributes, trains on the use of, or dispenses epinephrine as authorized under this section is not subject to professional discipline for such action. This section does not expand the scope of practice of a health care professional.
7. A person that prescribes, distributes, dispenses, receives, possesses, trains in the use of, or administers epinephrine as authorized under this section is immune from civil and criminal liability for such action. This subsection provides immunity to the person responsible for the site on which the epinephrine is located. Immunity from liability or discipline under this subsection does not apply if the person's actions constitute recklessness, gross negligence, or intentional misconduct.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Engrossed SB 2248 was placed on the Seventh order of business on the calendar.

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

**HB 1008, as engrossed:** Your conference committee (Sens. Wanzek, Poolman, Krebsbach

and Reps. Brandenburg, Kempenich, Mock) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1331-1333, adopt amendments as follows, and place HB 1008 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1331-1333 of the House Journal and pages 999-1001 of the Senate Journal and that Engrossed House Bill No. 1008 be amended as follows:

Page 1, line 10, remove "and"

Page 1, line 10, after "transfer" insert "; and to declare an emergency"

Page 1, replace lines 20 and 21 with:

"Salaries and wages	\$9,495,560	\$495,928	\$9,991,488
Operating expenses	1,763,826	37,744	1,801,570"

Page 2, replace line 3 with:

"Railroad safety program	589,018	25,706	614,724"
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Page 2, replace lines 5 through 7 with:

"Total all funds	\$18,887,404	\$1,005,378	\$19,892,782
Less estimated income	12,172,476	1,289,219	13,461,695
Total general fund	\$6,714,928	(\$283,841)	\$6,431,087"

Page 3, line 18, remove "twice the amount of the current biennium's"

Page 3 line 19, replace "appropriation" with "one million one hundred thousand dollars"

Page 3, line 25, replace "public utility fee" with "of the combined assessments"

Page 3, line 26, replace "two hundred twenty-five" with "three hundred"

Page 4, line 8, remove the overstrike over "~~six hundred~~"

Page 4, line 8, replace "thirty-four" with "ten"

Page 4, line 31, replace "ninety-six" with "ninety-seven"

Page 4, line 31, replace "eight" with "three"

Page 4, line 31, replace "thirteen" with "sixty-two"

Page 6, after line 21 insert:

**"SECTION 13. EMERGENCY.** Sections 4, 7, 8, and 12 of this Act are declared to be an emergency measure."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1008 - Public Service Commission - Conference Committee Action

	Base Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$9,495,560	\$9,694,646	\$296,842	\$9,991,488	\$9,991,488	
Operating expenses	1,763,826	1,766,570	35,000	1,801,570	1,801,570	
Capital assets	25,000	145,000		145,000	145,000	
Grants	20,000	20,000		20,000	20,000	
Abandoned mined lands contractual	6,000,000	6,000,000		6,000,000	6,000,000	
Rail rate complaint case	900,000	900,000		900,000	900,000	

Railroad safety program	589,018	613,626	1,098	614,724	614,724	
Specialized legal services	94,000	420,000		420,000	420,000	
Total all funds	\$18,887,404	\$19,559,842	\$332,940	\$19,892,782	\$19,892,782	\$0
Less estimated income	12,172,476	13,379,326	82,369	13,461,695	13,236,695	225,000
General fund	\$6,714,928	\$6,180,516	\$250,571	\$6,431,087	\$6,656,087	(\$225,000)
FTE	43.00	43.00	0.00	43.00	43.00	0.00

### Department 408 - Public Service Commission - Detail of Conference Committee Changes

	Adds Funding for Salary and Benefit Increases <sup>1</sup>	Restores Funding for Salaries and Wages <sup>2</sup>	Provides Funding for Pipeline Inspector <sup>3</sup>	Total Conference Committee Changes
Salaries and wages	\$14,295	\$150,000	\$132,547	\$296,842
Operating expenses			35,000	35,000
Capital assets				
Grants				
Abandoned mined lands contractual				
Rail rate complaint case				
Railroad safety program	1,098			1,098
Specialized legal services				
Total all funds	\$15,393	\$150,000	\$167,547	\$332,940
Less estimated income	7,369	75,000	0	82,369
General fund	\$8,024	\$75,000	\$167,547	\$250,571
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> Funding is adjusted to provide salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100, and 2 percent on July 1, 2022, the same as the Senate. The House provided salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250.

<sup>2</sup> Funding of \$75,000 from the general fund is restored for salaries and wages and other funds are increased by \$75,000 relating to the self-funding of the agency. The House had reduced funding from the general fund by \$700,000 and added funding from revenues deposited in the Public Service Commission program fund by \$550,000. The Senate restored \$300,000 from the general fund and reduced other funds by \$150,000.

<sup>3</sup> In addition to \$167,548 of federal funds provided by the House, matching funds from the general fund are added for the reclassification of an unfunded administrative support FTE position to a natural gas pipeline inspector position (\$132,547) and related operating expenses (\$35,000), the same as the Senate version. The House had provided funding from federal funds for the reclassification for the natural gas pipeline inspector position (\$132,548) and related operating expenses (\$35,000).

This amendment also:

- Provides the statutory changes to increase the salary of the Public Service Commissioners. The Public Service Commissioners' annual salary would increase from the current level of \$113,600 to \$115,304, effective July 1, 2021, and to \$117,610, effective July 1, 2022, to reflect the 1.5 percent and 2 percent salary increase respectively, the same as the Senate. The House provided for a 1.5 percent annual salary increase.
- Amends North Dakota Century Code Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to continue the allocation to the rail safety fund and to increase the allocation amount from \$294,509 per year to \$297,362 per year and adds an expiration date of June 30, 2025. The Senate had removed the expiration date. The House provided \$296,813 per year and provided an expiration date for the allocation.
- Changes the public utilities assessments maximum from \$225,000 to \$300,000. Both the Senate and the House included an assessment maximum of \$225,000.
- Declares Sections 4, 7, 8, and 12 to be an emergency relating to the deposit of certain revenues in the Public Service Commission program fund rather than the general fund. Neither the Senate nor the House included an emergency clause. This change will result in an estimated reduction to 2019-21 biennium general fund

revenues of \$12,000.

Engrossed HB 1008 was placed on the Seventh order of business on the calendar.

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

**Shanda Morgan, Secretary**